Commonwealth

Vs.

Maximilian Hirsch.

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In the Circuit Court of Rockingham County, Virginia.
September ~~Octo~~. Term 1909.

Commonwealth

Vs). Bill of Exception No. 6.

Maximilian Hirsh.

BE IT REMEMBERED that upon the trial of this cause the Commonwealth, to maintain the issue upon its behalf, introduced the following witnesses who testified:

MRS. LOUIS ISAACS: Examined by Mr. Conrad for the Commonwealth:

Q You are Mrs. Emma Isaacs? A Yes, sir.

Q You are the widow of Mr. Louis Isaacs? A Yes, sir.

Q You are a sister of Maximilian Hirsh, who is upon trial here? A Yes, sir.

Q Mrs. Isaacs, will you state to the jury, in your own way, the occurrences of this night in which your husband was struck by Mr. Hirsh? A On the 29th day of June we were at supper and the baby was very cross, and the girl who had been cooking for us, Jennie Croomer, had taken her out on the porch in a swing, and the baby was very cross and she was trying every thing in the world to pacify her, and Mox came around the corner of German street and Water street on a gray horse, and she says "There comes your Uncle Mox." He says, "Don't call me Uncle to that damn brat." Of course, I had every reason to believe this from the way Mox had treated me from the very day I was married. I had every reason to

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believe that from the very way he treated me since I have been married. He treated me more like a dog than a sister. Of course this hurt our feelings very much, but we dropped it right there. Mr. Isaacs taken the baby out for a ride, and I had gone with my sister-in-law to pay for the washing, and we came back and I had gone into the house and came out again, and both of us had the baby walking up the street and he came down the street and I stopped him and asked him what he meant by talking about the baby that way. The first thing he done was the way he looked at me; I saw he was mad enough to kill me; he threw up his open hand at me ready to strike me in the face and had I been a little closer he would have struck me. Then is when my husband struck him.

Q Now, can you state anything that followed that, then?

A And, then,the first thing he done when I spoke to him— my husband stepped back a little after he hit him -- and the first thing he done when I spoke to him was to look around to see where he could get a club or something to throw, and then he threw something.

Q Then he threw something? A Yes, sir. I don't know whether he threw at me or my husband. In fact it struck the baby carriage, glanced off, struck the baby on this side of the head (indicating) and raised a large knot on the baby's head and she cried dreadfully, and struck Arthur Hirsh's house. And just as soon as he threw the rock he ran out in the road and my husband ran after him.

Q (Mr. Harris) Did what? A I don't know whether it was a rock or a club. Whatever he had struck the house.

Q He threw something? A He threw something.

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Q (Mr. Harris) Did what? A I don't know whether it was a rock or a club. Whatever he had struck the house.

Q He threw something? A He threw something.

Q Was Mox on good terms or bad terms with Mr. Isaacs before this time? A He had been on bad terms with both of us ever since we have been married. We tried to make friends with him and he said he was done with us for life.

Q Had he,at any time shortly after you were married, made any statement or threat of any kind towards Mr. Isaacs, if so what did he say? A I always signed the checks on Saturday night when I bought provisions for Sunday, and after I was married I thought I had no right to do that. So one Saturday I asked at the table whether I should sign the checks and my father and Leon told me "Yes" but he said "No, damn your soul, you don't belong to this family any more." So another time I didn't have enough money by a few cents to pay for the laundry after I came back from down the street that night. I sent down to the stable to ask my father for it and my father wasn't down there, and I was sitting out on the porch --

MR. LEE: I don't like to interrupt the lady, but I don't think this is relevant and proper testimony.

MR. CONRAD: It is not, but it is preliminary.

MR. LEE: But it is an immaterial introduction.

COURT: I think the statement, judging from her remark, may be relevant. Let her answer.

MR. LEE: We note an exception.

A (Continuing) So he came up there instead of papa -- papa wasn't at the stable -- and he said,"What do you want with that money? --

Q Who was that? A Mox. (Continuing) I said, "I want to get the laundry and finish paying for some things," and he says to me, "If I ever catch you spending a cent of my

money on Isaacs I'll make short work of both of you.

Answer objected to; objection overruled, and exception noted for defendant.

Q I will ask you a question in a leading form, if these gentlemen do not object to it. In your mother's estate you had an equal interest, or had an interest, at least, along with Mox and Leon and Arthur and the balance of the children and your father? A You mean at that time?

Q Well, at the time you were married? A At the time we were married, certainly.

Q Was your interest drawn out after you were married?

A Part of it was.

Q I may be anticipating a little but only to save you from coming back later I will ask you this: Did Mr. Isaacs, at the time of this report to him about what Mox had said make any threat against Mox? A No, sir.

Q Did he make any effort to go after Mox? A No, sir.

Q What was the weight of Mr. Isaacs? A About one hundred and twenty-six pounds,--somewhere along there he told me, but I never saw him weighed.

Q What was his height? A I can't exactly tell you. I know I was over a head taller than he was.

Q Your height is what? A I don't remember. About 4 feet 4 inches.

MR. LEE: You mean five feet, don't you? A Five feet 4 inches, somewhere along there. I don't know exactly.

Q What was Mr. Isaacs' age? A 30 years of age the 12th day of May.

Q What is "Mox's" name? You familiarly call him "Mox". I suppose that is a sort of nickname. I believe his real name is Maximilian? A "Mox" ever since I have known him.

Q Do you recall Mr. Issacs' testimony that Mr. Fox had been
made a target against Mox? A No, sir.

Q Did he make any effort to go after Mox? A No, sir.

Q What was the weight of Mr. Issacs? A About one
hundred and twenty-six pounds--somewhere along there he
told me, but I never saw him weighed.

Q What was the height? A I don't exactly know.

I know I saw over a head taller than he was.

Q You're height is what? A I don't remember. About
4 feet 4 inches.

MR. DAY: You mean five feet, don't you?
You? A Five feet 4 inches.
Somewhere around there. I don't
know exactly.

Q When saw Mr. Issacs, sir? A So very close to the time I left
you.

Q What is "Mox?" Name? You familiarly call him "Mox."

I suppose that is a sort of nickname. I believe his name
is Maximilian? A "Mox" ever since I have known him.

Q His real name is Maximilian? A All I knew was "Mox".

Q Now, this occurred over here on German Street, in Harrisonburg? A Yes, sir.

Q This difficulty in which your husband was killed?

A Yes, sir.

Q His real name is Maximilian? A All I knew was "Max".

Q Now, this occurred over here on German Street, in Harrisonburg? A Yes, sir.

Q This difficulty in which your husband was killed?

A Yes, sir.

MRS. EMMA ISAACS.

CROSS-EXAMINATION BY MR. LEE:

XQ Mrs. Isaacs, if I understand you correctly, you did not hear any of the supposed conversation between Mox and your nurse about the baby? A No, sir.

XQ All you know about that is what the nurse told you?

A Yes, sir, and the strength of that was in the way he treated me before. That is the reason I believed it. If he hadn't treated me so mean I might have thought different.

XQ I understand you heard the nurse say that, but none of that took place in your presence? A No, sir -- only what she told me.

XQ All you know about it is what the nurse told you had happened, and she told you that Mox had cursed your little baby? A Yes, sir, and other things she had told me that I do not now remember.

XQ And other things that she told you that you do not now remember? A No, sir.

XQ Now, about what time in the evening was that A Was what?

XQ Was it that the nurse reported this to you? A We generally ate supper quarter after six o'clock -- must have been somewhere between six and seven o'clock.

XQ It must have been somewhere between six and seven o'clock: did she report it to you as soon as she came in the house or sometime later? A As soon as she came in.

XQ As soon as she came in with the little one she told you about it, and that was between six and seven o'clock? A Yes, sir.

XQ Was your husband present when she reported it to you?

A We were standing together.

XQ When that was reported to your husband did he not evince a purpose to go after Mox about it then and there? A No, sir, he did not. No, sir.

XQ Did not you have to talk to him and persuade him not to go?

A No, sir.

A No, sir.

XQ You did not? A Only thing I tried to persuade them was when they got together I tried to persuade them not to fight.

XQ Before they met that evening you did not try to persuade ~~them~~ your husband not to go? A No, sir. (Indicated.)

MR. CONRAD: Miss Flossie, she shook her head in the negative.

STENOGRAPHER: All right.

XQ Mrs. Isaacs, simply for the purpose of refreshing your memory: don't you remember that your husband started out to go after Mox, when the nurse made this statement to you, and that you undertook to restrain him, and that Mr. Ed. Snell was present at that time? A No, sir, ~~xxxxxxxx~~ he was not. He didn't start out.

XQ He didn't start out? A No, sir, he did not. He did not say anything.

XQ Didn't he say he was going out? A No.

XQ Did not you try to restrain him and did not Mr. Ed. Snell say "Go on; let him go on"? A No, sir, not to my knowledge he did not.

XQ Didn't you turn around to him and tell him to shut up? A No, sir, not to my knowledge did I say anything.

XQ Was Mr. Ed. Snell present? A No, sir.

XQ He was not present? A No, sir.

XQ Was he present in your kitchen any time that evening -- Mr. Snell? A No, sir.

XQ And no such conversation as that took place in the presence of Mr. Ed. Snell? A No, sir, I didn't see Mr. Snell at all.

XQ You did not see Mr. Snell at all? A No, sir.

XQ And did not hear him at all? A No, sir.

XQ Now, later that evening you and your husband were on the street with the baby? A Yes, sir.

XQ With the baby-carriage? A Yes, sir.

XQ That was on German Street, was it? A Yes, sir.

XQ With the baby-carriage? A Yes, sir.

XQ That was on German Street, was it? A Yes, sir.

XQ About where were you when your brother Mox came along?

A A little above Arthur Hirsh's house -- not above, but a little the other side of the door.

XQ You were practically almost in front of Arthur Hirsh's house? A Not exactly.

XQ But diagonally in front of it?

MR. CONRAD: Towards where you live or towards where your father lives?

WITNESS: More towards where I live.

XQ More towards where you live. In what direction was your brother coming? A Coming down the street this way.

XQ Was he going North? A Yes, sir.

XQ And he was on the same side of the side-walk you were on?

A Yes, sir.

XQ There had recently been some building going on, or some repairs to a building, had there not? A Yes, sir.

XQ And there was lying out in the street next to the sidewalk, or lying out into the street, quite a pile of pieces of lumber that had been left there, were there not? A Some few pieces left there.

XQ When Mr. Mox Hirsh approached you and your husband and little baby, the baby was in the carriage, I believe? A Yes, sir.

XQ As soon as he came up you spoke to him, didn't you?

A I spoke to him.

XQ You asked him what he meant by cursing -- by making remarks about the baby? A By making remarks about the baby.

XQ And you say he raised up his hand? A Just threw it towards me.

XQ Did he raise up one or both hands? A One.

XQ Was the hand open? A Yes, sir, like he was going to strike me in the face.

XQ The hand was open in this shape (indicating)? A Yes,sir.

Q With the baby-carriage? A Yes, sir.

Q That was on Gorham Street, was it? A Yes, sir.

Q About where were you when your brother Max came along?

A A little above Arthur Hirsh's house -- not above, but a little the other side of the door.

Q You were practically almost in front of Arthur Hirsh's house? A Not exactly.

Q Not diagonally in front of it?

MR. CONRAN: Towards where you live or towards where your father lives?

WITNESS: More towards where I live.

Q More towards where you live. In what direction was your brother coming? A Coming down the street this way.

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Q When Mr. Max Hirsh approached you and your husband and little baby, the baby was in the carriage, I believe? A Yes, sir.

Q As soon as he came up you spoke to him, didn't you?

A I spoke to him.

Q You asked him what he meant by cursing -- by making remarks about the baby? A By making remarks about the baby.

Q And you say he raised up his hand? A Just threw it towards me.

Q Did he raise up one or both hands? A One.

Q Was the hand open? A Yes, sir, like he was going to strike me in the face.

Q The hand was open in this shape (indicating)? A Yes, sir.

XQ What did he say when he raised up his hand? A He said something. I don't remember what it was. It was something rough, too.

XQ He said something to you but you cannot recall what it was? A I cannot recollect what it was; I was too excited at the time.

XQ Mrs. Isaacs, isn't it a fact, when you asked him why he had cursed your little child he said he had not cursed your little child at all? A No, sir, it is not a fact, because I do not know what he said.

XQ If you do not know what he said how do you know that is not a fact? A What he said?

XQ If you don't know what he said? A I don't remember what he said. I don't know what he said. He said something, but I wont say he said he didn't curse the child for I don't know what he said.

XQ Then you are not prepared to say that he didn't say that? A No, I dont say he didn't say so because, I say, I don't know what he said. You asked me if it was a fact he said it?

XQ You understand me, I asked you if he said that and I understand you to say you cannot answer for you do not know what he said? A I do not know what he said.

XQ When you spoke to him and asked him why he cursed your child, how close was he to you? A I know if I had been a little closer to him he would have struck me in the face. I could not say how close.

XQ Was he as close as I am to you now? A I believe he was a little further away. I can't exactly tell you. I don't know.

XQ Well, where was your husband standing? A He was standing on the other side of me with the baby-carriage.

XQ He was standing by the side of you? A On the other side of me.

XQ Were you standing next to the curb or next to the house?

A

Q. Have did he see when he entered the front hall? A. He said

Q. Did he say anything? A. No.

Q. Did you hear that statement to see that he didn't see that

A. No. I don't see he didn't, he seemed, I see, I don't know.

Q. Then you did not hear the statement of the man he didn't see that

statement he said. You making the statement, I mean, he said that

Q. You understand, I mean, he said you did not hear the statement

I mean.

Q. Then you spoke to him and asked him why he committed that

murder? A. I do not think that he said.

Q. Then you spoke to him and asked him why he committed that

murder? A. That of course he said he was drunk.

Q. Did you ever see him before that? A. I know I had been a little

close of him he known great as it was there. I could not

see exactly how close.

Q. Are he as close as I am of you from? A. I believe he was

a little further away. I don't exactly tell you. I don't know.

Q. Well, where was your husband standing? A. He was standing

on the other side of me in the hall-passage.

Q. He was standing to the side of you? A. On the right

side of me.

Q. You were not standing next to the door of your bedroom?

A.

A Next to the curb.

XQ You were nearer the curb? A Yes, sir -- No, he was closest nearest to the curbing.

XQ Who was closest to the curbing? A Mox.

XQ Mox was closest to the curbing, and then you came, and then your husband with the baby-carriage? A Yes, sir.

XQ Then Mox was a good deal nearer to you than was your husband? A Certainly he was nearer to me than my husband.

XQ He was nearer to you than he was to your husband at the time he raised his hand? A Yes, sir.

XQ How far did your husband have to move to get near enough to strike Mox? A I cannot exactly tell you. The curb is very wide.

XQ If Mox was next to the gutter and you came next and your husband was with the baby-carriage beside you --

A My husband was next to the side of the house. The baby carriage was that distance between us.

XQ He must have been two or three steps from Mox? A I can't say. You know how wide the pavement is, don't you?

XQ I am not very familiar with it. I should say eight or nine feet, something of that sort. I am trying to get the facts before the jury. Was your husband as far as from here to that table to Mox? A Which table?

XQ That table right there? (indicating) A No, sir. I suppose he was as far as from here over to that chair.

XQ About as far as from where you are sitting to which chair?

A This chair (indicating).

XQ Then he was about two steps, I imagine, away from Mox at the time Mox raised his open hand and said something which you cannot recall. Did your husband strike him immediately? A After he saw him strike at me.

XQ After he saw him strike at you? You hav'n't told the jury that he struck at you [illegible]

that he struck at you, have you? A When he struck at me.

XQ Madam, you hav'nt told the jury that he struck at you, have you? A I said he threw up his open hand like he was going to strike me, when he made the motion at me.

XQ He threw up his open hand this way (indicating)? A He made a motion at me.

XQ He made a motion at you? A Yes, sir.

XQ If Mox had wanted to strike you there was nothing to have prevented his doing it? A I was a little further away that his hand didn't strike me.

XQ Do I understand you now to tell the jury that he raised his hand as if he was going to strike you? A Yes, sir.

XQ Did he actually strike at you? A He raised his hand like he was going to strike at me. If I had been a little closer he would have hit me in the face.

XQ There was nothing between you and Mox? A There has been something between us ever since we had been married.

XQ You do not understand me. I mean there was no obstacle intervening between you and him? A I was a little distance away from him.

XQ There was nothing to prevent him from striking you?

A You mean nothing in the way?

XQ Yes. A No, there was nothing in the way, if I had been closer to him.

XQ But while his hand was raised in that position your husband advanced upon him and struck him? A Yes, sir.

XQ Did your husband make any remark at the time he struck him? A No, sir, he never opened his mouth.

XQ He never said anything at all? A No, sir, never said anything.

XQ Where did he strike him? A I don't know where he struck him.

XQ Do you know whether he struck him in the face or not?

A I don't know.

XQ What was the effect of that blow on Mox? A I don't know.

XQ You don't know. Did he knock him down? A No, I don't think he knocked him down because he picked up something and threw then.

XQ And while it may not have knocked him down perfectly flat, didn't it knock him in a stooping position? A No, sir.

XQ Did not? A No, sir.

XQ What did he pick up? A Either a piece of board or a rock, I don't know which it was, but he stooped to pick up something. He stooped and picked up something as soon as I spoke to him.

XQ You say he stooped to pick up something? A Yes, sir.

XQ Was he going away? A He stooped over to pick up something.

XQ He stooped over to pick up something? A Yes, sir.

XQ What was your husband doing while he was stooping over?

A He stepped back.

XQ Do you mean to say that your husband struck him and --

A (Interposing) -- He stepped back.

XQ (Contd) -- and stepped back and allowed him to pick up something? A He picked up something and threw it.

XQ He picked up this something, whatever it was, a piece of a board or a rock you don't know which? A I don't know which it was.

XQ And threw it. At the time he threw that piece of board how far were you from him? A To him?

XQ Yes. A I had stepped up a little and I was a little ahead of him -- a little to the South -- a little ahead of him.

XQ You had stepped up a little ahead of him? A Yes, sir.

XQ How far was your husband from him at the time the piece of board was thrown? A He stepped right in front of the baby-car-

Q Do you know whether he struck him in the face or not?

A I don't know.

Q What was the effect of that blow on Ford? A I don't know.

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Q Do you mean to say that your husband struck him and -- A (Interposing) -- He stepped back.

Q (Contd) -- and stepped back and allowed him to pick up something? A He picked up something and threw it.

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Q And threw it. At the time he threw that piece of board how far were you from him? A To him?

Q Yes. A I had stepped up a little and I was a little ahead of him -- a little to the south -- a little ahead of him.

Q You had stepped up a little ahead of him? A Yes, sir.

Q How far was your husband from him at the time the piece of board was thrown? A He stepped right in front of the baby-car-

riage.

XQ When the piece of board was thrown was Mox on the sidewalk or in the street? A There is a little place out in front where the water drains down.

XQ That is the gutter, you mean? A Yes, sir. He was right there.

XQ Right in the gutter? A Yes, sir.

XQ When he threw the piece of board or rock, you don't know which it was, you say he turned and ran? A Yes, sir.

XQ And that your husband ran after him? A Yes, sir.

XQ After he saw him throw this? A Yes, sir.

XQ After your husband saw him throw the piece of board or rock, whatever it was, Mox turned and ran and your husband ran after him? A Yes, sir.

XQ How far did Mox run before your husband overtook him?

A I don't know. I don't know anything after that.

XQ The last you saw, then, was Mox running and your husband running after him? A Yes, sir, running after him -- after he threw this.

XQ Now, Mrs. Isaacs, I want to ask you this question, isn't it a fact that when you asked Mox why he had cursed your baby he told you he had not done so? A I don't remember what he told me. I don't know what he said.

XQ He did say something? A He did say something.

XQ I will ask you this other question: isn't it true that after Mox had said this something which you did not understand that your husband said, "You are a damn liar or a Son-of-a-bitch?

A No, sir, he did not.

XQ Isn't it true that when your husband said that and advanced upon him, Mox raised his hand and said, "Go away, I don't want to have any trouble with you?" A I don't know what he said. He raised his hand.

XQ When was it he raised his hand? Had your husband started towards him? A No, sir. It was when I said this to him -- when I approached him and asked him about talking about the baby.

XQ What did he do when your husband approached him to strike at him? A I don't know what he done.

XQ Now, you have told the jury that when he had raised --

A Let's see! After I said this to him he looked around to see what he could find to throw.

XQ He looked around after you had said what to him? A After I had asked him, you know, what he meant by talking about the baby, making remarks, and he turned around and looked around to see what he could throw.

XQ I thought you said he immediately raised his hand? A He immediately raised his hand and looked around to see what he could find to throw.

XQ He raised his hand and looked around to see what he could throw? A Yes, sir.

XQ He then looked around to see what he could find to throw?

A Yes, sir. And my husband, when he was going to strike me, or struck at me, then my husband struck him.

XQ What was Mox doing at the time your husband struck him?

A At the time he struck him?

XQ Yes. A Well he was standing out there. Standing there.

XQ Was he making any effort to strike Mox? A I don't know. I didn't see that.

XQ You didn't see him make any effort to strike Mox at all?

A Yes, sir.

XQ The only blows you saw struck were the blows you say your husband struck Mox? A Yes, sir.

XQ And those were the only blows you saw to amount to anything?

A Yes, sir.

XQ The last time you saw your husband and Mox, to remember anything, Mox was running and your husband was running after him? Had they gotten out into the carriage-drive at that time? A What do you mean?

XQ I mean, had they gotten out into the middle of the road?

A I don't know; I didn't see that.

XQ You don't know. Where was Mox when he was running?

A He was going across the pile of lumber.

XQ He was going across the pile of lumber when he was running and your husband after him? A Yes, sir.

XQ How close to him was your husband? A I don't know. I can't tell you that.

XQ Now, when you saw there was going to be trouble between your husband and Mox, didn't you beg your husband not to fight?

A I begged them not to fight. I said "Please, for God's sake, don't you all fight.

XQ When was that, before or after your husband struck him?

A When I seen them start towards the road.

XQ When you saw them start towards the road? A Yes, sir.

XQ Then, you must must have begged your husband not to fight because Mox was doing the running? A I said, "For God's sake, don't you all fight. I didn't say it to him.

XQ At the time you said that your ~~husband~~ brother was running and your husband chasing him? A Mox just crossed the ~~lumber~~ pile of lumber and my husband was after him. I said it loud enough for both to hear. I didn't specially mention my husband. I said, "For God's sake, don't fight.

XQ At the time you said "For God's sake, don't you all fight," Mox was running and your husband after him? A Mox was running and my husband was after him.

XQ Do you know where Mrs. Arthur Hirsh was when the difficulty

took place? A She was in the house as far as I know.

XQ Did you see her out there at all before your husband struck Mox? A No, sir.

XQ She was not out there then? A Not that I seen her.

XQ If she had been there you would have seen her? A I don't know. I was so excited.

XQ Before the fight started you were not excited,were you?

A I had not been very well all that day.

XQ But you were not excited before the fight took place?

A Not to amount to anything; I was really excited for I had been sick all day.

XQ I understand your health has not been good: but you did not see her there at that time? A No, sir.

XQ When did you first see her there? A I don't remember seeing her at all.

XQ You don't recollect seeing her at all? A No.

XQ Were there any other persons about on the sidewalk or that immediate neighborhood at the time the trouble began? A Not that I saw. Lots of people were sitting out that I don't know who they were. I don't remember.

XQ Mrs. Isaacs, didn't you state on the day after the trouble, in the presence of your brother Leon and Mr. George E. Sipe, that you thought Mox raised his hand but you didn't know whether he intended to strike you or not? A I don't know what I said to them for they bothered me so. My mind was not clear.

XQ Do you think, Mrs. Isaacs, your mind is perfectly clear about this whole transaction? A Now it is. After I went away where I got peace I feel like a different person.

DIRECT EXAMINATION RESUMED BY MR. CONRAD:

Q Just one question Mrs. Isaacs, Mr. Lee has indicated with his hand ~~this~~ in reference to this movement Mox made and some-

thing has been said about his raising his right hand. I wish you would just show the jury by your own arm and your own movement the way Mox did. A (Indicating) He was right this way towards me. He done right this way — right at me that way.

Q Right this way (indicating)? A Yes, sir.

Q Then it wasn't simply holding his hand up? A No, sir.

Q The motion was with the open palm of the hand thrust right towards your face? A Yes, sir.

Q The length of his arm? A Yes, sir.

Q I want to ask you as to Mr. Isaacs' occupation since he lived here, what business was he in? A First he had a grocery store, you know, and then was salesman in Showalter's for a little while.

Q He had been in the store of Mr. Abel Miller's? A Yes, sir.

Q Was he a man of unusual strength,or not? A He didn't have so much strength. He seemed pretty well but didn't have much strength.

Q He did not have? A He never done anything --

Q He never had any out-door work or exercise to strengthen his muscles? A No, sir.

Q What kind of work has Mox been engaged in all of his life, outdoor work or indoor work? A Outdoor work.

Q Did he have any connection with the dray business for many years? A Well, he used to run it on occasions when the other boys were away.

Q He ran a dray on the street -- A Yes, sir -- attended to horses and hauling wood and things of that sort.

Q In speaking about your husband, Mr. Lee may inadvertently have made use of the word "blows"; when Mox was out on the edge of the pavement, did your husband strike him blows or strike a blow?

A Struck him a blow.

Q Struck him a blow and not blows? A Yes, sir.

RECROSS-EXAMINATION BY MR. LEE.

XQ Just one question. Mrs. Isaacs, do you recall whether or not, when you met your brother that night, he had his coat off and hanging over his arm? A I cannot say but it seems to me he had his coat hanging on his arm.

XQ It seems to you that he had his coat hanging on his arm? A Yes, sir.

MEMO: Recess taken for dinner until 1:45 P.M.

RECROSS-EXAMINATION BY MR. LEE.

XQ Just one question. Mrs. Isaacs, do you recall whether or not, when you met your brother that night, he had his coat off and hanging over his arm? A I cannot say but it seems to me he had his coat hanging on his arm.

XQ It seems to you that he had his coat hanging on his arm? A Yes, sir.

MRS: Recess taken for dinner until 1:45 P.M.

Dr. T. C. Firebaugh, sworn by Col. Martz.

Q Doctor, you are a practicing physician in Harrisonburg? A Yes, sir.

Q How long have you practiced here? A About 13 years.

Q You are a graduate of the University of Virginia, I believe? A Yes, sir.

Q And afterwards took a post-graduate course at Johns Hopkins? A I was there two years.

Q Are you the Coroner of this county, Dr. Firebaugh? A I am.

Q Did you make a post-mortem examination of Louis Isaacs' body? A I did.

Q Will you state to the jury the nature of the injury you found,-- the cause of his death? A I found a fracture of the skull on the left side just above the left ear. This fracture extended downward and forward -- I will describe it as near as I can -- on the inside of the skull for probably half or three quarters of an inch, and then divided into to fractures. One went do nward and backward, and the other went downward and forward. I could go into that; if you understood the anatomy of the skull, I could tell you more definitely. I don't suppose you want that. Those were the main fractures, just in what we call the base of the skull. The skull is divided into three fossae, the anterior, the middle and the ~~anterior~~ posterior. In the middle fossa, ~~and~~ you might say the lowest point, there were numerous smaller fractures on the left side. These fractures extended across to the right side of the skull and continuing on the base. There were a few smaller fractures on the right side. I could point them out to you. I made a snapp shot of the base of the skull at the time and I expect I could show it to you better that way than describe it to you.

Q I hand you a photograph. The photographer will be here. I am perhaps anticipating.

Q I hand you a photograph. The photographer will be here. I am perhaps anticipating.

MR. LEE: We have seen the picture and we have no objections.

Q I show you a picture of the skull, of which you have been speaking, of Louis Isaacs. Will you indicate to the jury which is the front part.

The Court: Who made the photograph?

Witness: Mr. Lupton Kaylor made it, at Mr. Dean's. It is a picture of the base of the skull with the brain removed.

(Described photograph to Jury.)

Q Do those fractures extend practically clear across the top of the head? A No, not at all,-_They extend up on the vault of the cranium about an inch. You could see nothing on the outside.

Q This represents the forehead of the front part of the head, this point there does (indicating)? A Yes, sir.

Q And the head of the person is here; that is just the top of the skull sawed off and turned back that way? A The top is.

Q The top is laid back. A The scalp is removed. First removed the scalp and then the skull is sawed.

Q I am trying to get at a position to show the right and left hand sides of the head. That is the front and the face is below that point (indicating)? A Yes, sir.

Q The forehead is just below this? That is really the left-~~xxxx~~ side of the head (indicating on picture)? A Yes, sir.

Q Are these fractures you have alluded to from one cause?

A I think they are all due to this injury here (indicating on picture).

Q On the left side of the head? A Yes, sir.

Q Will you indicate with a pencil on my head about the point? ~~xxxxxxxxxxxx~~ A The fracture was about here (indicating).

MR. HARRIS: That is immediately above the left ear?

WITNESS: About an inch and a half above the top of the ear.

MR. HARRIS: You had the pencil about an inch and a half above the left ear?

WITNESS: Somewhere about there (Indicating.)

MR. LEE: That would be about an inch above the top of the left ear?

WITNESS: I would not be just absolutely accurate.

Q Doctor, a fracture such as there indicated would require an injury of what character, a blow of what character to inflict such a fracture or fractures as are shown on this man's head?

A It would necessarily require a pretty hard blow.

Q What character of instrument, judging from the nature of the injuries, inflicted this blow? A I cannot go into detail on that.

Q Was it such an injury as would be the result of striking a man on the side of the head with a board like that (exhibiting board)? A Almost any hard sort of substance of sufficient weight would do it. I would suppose that would do it if struck hard enough-- hit hard enough -- used hard enough -- with sufficient force.

Q Well, the force of the blow in order to make the fracture, or fractures I suppose would be proper, would that be an ordinary blow or would it be an unusual blow of ~~ordinary~~ unusual force, or what? (Objection;overruled;exception noted for defense.)

Q Was the injury such as showed that the blow was a severe one, of unusual severity, or an ordinary blow, judging from the character of the injury?

COURT: Let the Witness state what kind of blow it would require to produce an injury of that sort?

Witness: I think I answered that a moment ago.. Just what I said a moment ago.

COURT: Repeat the answer.

Q What I am trying to get at to be more specific -- what I am trying to get at, to have you indicate more specifically what you mean when you ~~say~~ used the words "pretty hard"? (Objection &c
Overruled.)

A I think, as near as I can answer that would be to say,
any blow of sufficient ~~xxxxx~~ force would produce the condition we

A I think, as near as I can answer that would be to say, any bdow of sufficient force would produce the condition we found there. It would necessarily require, I will say, a hard blow to do that. I leave out the word "pretty." It would require a hard blow to do it. It would depend in a measure upon the thickness of the skull at that particular point, and a great many things taken into consideration. Judging from what I saw it would require a hard blow to inflict this injury. It would depend, again, on how far the board was from the head -- if that was the board that was used. All of those things taken into consideration, is as near as I can answer that question.

MR. HARRIS: What was that?

WITNESS: I think it depends upon how near the people were together, and all those things taken into consideration to answer that accurately -- I cannot do that.

Q Considering the skull as that of an ordinary man, and its ordinary thickness, ordinary power of resistance, viewing it from that standpoint, what I am trying to get at is as to the extent of the severity of this blow necessary to produce all these fractures?

A As I have said, I think it would require a hard blow to produce these particular fractures.

Q Well, at the point of the skull where this blow was inflicted, how does that portion of the skull compare with other portions of the skull as to thickness? A It is probably not as thick as it is posteriorly. Not as thick as back there, on the back of the head. Not as thick there as back there (indicating). It is generally of an average thickness, but I think on careful examination you would find that it is not quite as thick at that portion of the skull as at a point further back.

Q Now, you can indicate to the jury from that, Doctor? (Skull)

A This fracture as nearly as I could make it was probably right about there.

MR. LEE: Would you put a lead pencil mark right at the place, sir?

WITNESS: Yes, sir, I will. I would say just about there. Just about the junction of these two points.

MR. LEE: That is the ear, here?

WITNESS: That is the ear here. This is the entire skull. The fracture was there, and then it extended downward and inward and came right through there (indicating on skull). It ~~comes~~ came down a little lower here. I am too low on that. It came right across there and right across there through the eye. Right in there (indicating) the fracture came.

MR. SIPE: You cancell your mark?

WITNESS: It is just at the squamous portion of the temporal bone with the parietal bone.

MR. LEE: It is just above this suture?

WITNESS: Just above this suture here.

A (Contd) The fractures extended down. One went back. Here were numerous little fractures in through here. That is the middle fossa and here is the anterior fossa and this the posterior (indication on skull.) We had a small fracture on this side. At this point a hemorhage is the least dangerous. (Inidated which portion of the skull is shown by the photograph ~~shown~~ exhibited to jury.)

Q That skull you have here represents the ordinary thickness of the human skull? A I think it does. But skulls vary in strength.

Q How does this skull here compare with an ordinary skull, the skull of Isaacs? A I think probably it is the same. They would be the least bit thicker right through here (indicating) than the average skull.

Q The cause of death, then, Doctor, you say was what?

A It was hemorrhage due to -- probably menangeal hemorrhage.

Q Due to this blow, you mean? A Due to the blow; yes, sir

Cross-examination of Dr. T. C. Firebaugh by Mr. Lee.

XQ. Well, Doctor, the various fractures that you have pointed out to the Jury from the fractures as existing in the skull of Mr. Isaacs, were all the result of that one blow? A I believe so.

XQ And you have indicated on the skull, by the small circular circles in pencil, the point of contact? A As nearly as I can. I have a memorandum of that from which I can describe more accurately.

XQ But this is as accurate as you can give now? A Yes, sir, without referring --

MR. CONRAD: Without referring to your memorandum? A Yes, sir.

XQ Have you that memorandum convenient? A It is over at my office.

XQ We would like to get it with absolute accuracy if we can? A I think I can get it if I go to my office.

MR. LEE: Would your Honor permit that to be done? I have reasons for asking it.

COURT: Yes, sir. I am surprised the Doctor did not bring that with him.

XQ WITNESS: Leaves stand to go for data.

XQ Having your memorandum, can you state that the mark is accurate? A I will show you right here. (Indicating on skull.)

XQ Then, Doctor, after having examined your data made at the time, the location of the circular lead pencil mark is at the right point on the skull as indicating the point of the blow?

A I think so; yes, sir.

XQ Doctor, does the human skull vary in thickness in different persons? A It does.

XQ Do you know what is the average thickness of the skull -- of the normal human skull? A I do not know. I have never seen anything on that. I did hear once. There is nothing absolutely accurate on the subject. You can generalize on it and say it is so and so, but I do not think it will hold good.

XQ Is it not a fact that five millimeters would be the average thickness of the different parts of the average human skull?

A I do not know. I have heard that mentioned,-- five millimeters,-- but I do not know anything about it. I cannot be accurate about it.

XQ Have you ever undertaken to make measurements of any considerable number of human skulls for the purpose of reaching a conclusion in that respect? A No, sir.

XQ You have not? A No, sir.

XQ Then you would not regard yourself as competent to speak of the average thickness of the average human skull? A If you are speaking of measurements, as I have never seen any statistics on it, I cannot say that I am; but from what I have seen I think I am. I have seen a number during my college life.

XQ Yes, you have seen a number of human skulls, but have you ever undertaken to measure the ~~diameter~~ thickness of any of those skulls? A No, sir, I have never measured any of them. I don't think you will find anything on the subject.

XQ I am not speaking of what you will find in text-books or in text-writers, I am asking if you ever undertook to measure any human skull for the purpose of ascertaining the thickness of the human skull? A No, sir.

XQ That would be a very good way of reaching the average thickness, would it not? A It would.

XQ And that would be the best method? A Yes, sir, it would be.

XQ And it would be the only method that any physician or surgeon could possibly adopt, would it not? A It would.

XQ It would be rather conclusive, wouldn't it? A Yes, sir.

XQ Did you make any measurement of the thickness of the skull of the deceased? A No.

XQ You did not? A No, not the skull itself.

XQ You did not? A No, sir.

XQ Neither at the point of injury nor at any other point?

A. No, sir; not at all. Didn't measure it at all. I looked at the skull and didn't take any measurements at all. I considered it a skull of average thickness, and didn't consider it from any other standpoint.

XQ Was your attention directed at all to the skull for the purpose of determining whether or not it was of average thickness?

A In making these autopsies we always go into these points as nearly as we can.

XQ Would you regard a skull at the point where this injury is alleged to have taken place, measuring 2.75 millimeters, as being an average skull at that point.

A I think I would.

XQ You think you would?

A. Yes; for if you just notice the difference in this skull right here--I would consider that mighty near an average--but see how much thicker it is on one side than it is on the other.

XQ I am coming to that right now. You have undertaken to illustrate in answer to my question, by referring to the skull which you had in your hand and which I now have in my hand, it is patent is it not, that the left side of this skull is very much thicker than the right side?

A Yes, sir; but I think you will find that side is sawed a little lower than the other side. That makes a difference.

XQ But as a matter of fact, there is a very patent difference between the thickness on this side and the thickness on the left side (indicating)?

A Yes, sir;

XQ If a blow of exactly the same force and made with exactly the same weapon was struck on this side(indicating) as on this side(indicating), isn't it true that the fracture here, if followed at all, would be a very much greater and severer fracture than on

Q. Either at the point of injury nor at any other point?

A. No, sir; not at all. Didn't measure it at all. I looked at the shell and didn't take any measurements at all. I considered it a shell of average thickness, and didn't consider it from any other standpoint.

Q. Was your attention directed at all to the shell for the purpose of determining whether or not it was of average thickness?

A. In making these autopsies we always go into these points as nearly as we can.

Q. Would you regard a shell at the point where this injury is alleged to have taken place, measuring 2.75 millimeters, as being an average shell at that point.

A. I think I would.

Q. You think you would?

A. Yes; for if you just notice the difference in this shell right here--I would consider that mighty near an average--but see how much thicker it is on one side than it is on the other.

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this side(indicating)?

A I dont think so; not on the base of the skull. I can give you my reasons.

XQ I will be glad to have them?

A I think a blow here would have fractured that skull

XQ Then if that be true a blow smitten on the right hand side where the skull is thinnest would be more apt to break the skull?

A It would be more apt to break the skull on the outside.

XQ Then, the thinner the skull, the lighter the blow required to bring about such a fracture?

A That is, a simply fracture, but not a complication at the base of the skull. Of course, it wouldlhave taken a lighter blow to fracture the skull on that side than on this side. I believe you would get a greater injury on the base of the skull on this side, thicker as it is, than you would an injury on the base of the skull on this side--(indictaing), that is on the brain tissue, than you would here. You would get the cracks here because there is less resistance.

XQ Suppose this were an egg instead of a skull and the right hand side were thick and the lefthand side were thin it would require a very much lighter blow to break or shatter the thin side than it would the thicker, wouldn't it?

A Yes, naturally, that is, if you were speaking of the shell proper.

XQ Yes, sir; I am speaking of the shell of the egg?

A Yes, sir.

Q. Then, the fulcrum of the scale, the lighter the plow re-
quired to strike upon such a structure?

A That is, a simple structure, but a complication of the base of the scale. Of course, it would always taken a lighter plow to structure the scale on that side than on this side.

I believe you would get a greater fulcrum on the base of the scale on this side, fulcrum as it is, that you would be fulfill on the vertical on this side--(indicating), that is on the base of the scale on this side. You would peve. You would get the ~~xxxxxxxxxxxx~~ exercise plain figure, that you would here. You would peve. ~~xxxxxxxxxxxx~~ exercise here because there is less resistance.

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Q. Yes, sir! I am speaking of the egg?

A Yes, sir.

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ward side if the skull is fundament would be more apt to break the skull?

Q. When it that be true a plow entirely on the right hand side

Xq There is one other questionI want to ask you. In pointing to the fact that the right hand side of the skull is much thinner than the lefthand side, you speak of that as being unusual?

A We don't often have that.

XQ Then that is an abnormal condition?

A I consider that an abnormal condition.

XQ Because of the thinness on the right-hand side, it is thinner than on the left-hand side?

A They are generally more evenly distributed than in that particular skull.

MY MR. SIPE: I understand you to say that the fracture of the skull would be made on the thin side easier than it would on the thick side?

A Speaking of the vault of the skull and not speaking of the contents of the skull.

BY MR. SIPE: I am speaking of what makes the fracture in the skull?

A Naturally it would fracture more easily where it is thin than where it is thick.

XQ Now then Doctoer,I will ask you this question, If a blow sufficient to make a fracture of the skull on the thin side was struck on the thick side, but not sufficient to make a fracture of the skull, would it do less or more injury to the brain?

A I would like to have that question over.

XQ I understand you have two classes of injury to the brain, one the immediate result of fracture and lesion produced on the brain by a fracture of the skull; the other is an injury by consussion, when there may not be any fracture of the skull; you have those to in your mind have you Doctor?

A Yes, sir;

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A Yes, sir;

Q The question I ask you is this. Suppose a blow sufficient to produce a fracture on the thin side was struck on the thick side of the skull but did not make a fracture, can you undertake

to say that the injury from the concussion would be as great or greater than the injury from the fracture on the thin side?

A I believe the blow on the thin side would produce greater injury to the brain itself. A blow on the left side where the skull is thicker, because of resistance, you are apt to have a concussion and you would get a greater force going down.

XQ But if you produce no fracture of the skull would you necessarily produce a lesion in the brain--if you produced no fracture?

A You could have it. In this particular brain there was very little injury to the brain tissue itself.

XQ It was enough, however, to produce a hemorrhage that caused his death?

A It certainly was. It was certainly a very hard blow and caused his death.

XQ That was by lesion of the brain tissue?

A Not by lesion of the tissue? It was due to fracture at the base of the skull.

XQ In order to be a hemorrhage there must have been a lesion of the tissue?

A You get a hemorrhage from the meningeal artery, and that pressure produces death. Of course, you have to have injury to the arteries.

XQ That lesion was made, was it not, by an actual compression after the fracture of the skull?

A I think in this case his death was just as much attributable to injury to the bones at the base of the skull as injury to the brain tissue,--more.

XQ This hemorrhage was caused by lesion of the soft parts?

A I have just said I think his death in this case was attributable quite as much, if not more, to the injury of the

to say that the injury from the concussion would be as great or greater than the injury from the fracture on the thin side?

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bones at the base of the skull, as to the injury to the brain itself.

XQ Dont people frequently have bones fractured and no lesion?

A What are you talking about, the bones of the arm, or legs, or what? And get well from it?

XQ Talking about the bones of the skull? Is it not a frequent occurrence that the bone is fractured without internal lesion and people get well?

A If you want to go into that it would require--and I would rather not.

RE-DIRECT BY MR. CONRAD.

Q I dont know whether I understood all that you and Doctor Lee and Doctor Sipe have been talking about. Coming down to plain english and without regard to the thickness or thinness of this particular skull here--(indicating skull) but talking about this case at hand, if I understand you answers to Mr. Lee and Mr. Sipe in plain english, the thicker the skull is, the less liable you are at the point where the blow is, to break it in.

A Naturally so.

Q (Continued) for the skull to break in or be pushed in?

A Yes, sir.

Q Just in the case you illustrated about an egg awhile ago, there is a thicker and a thinner portion of an egg, the thicker part being at the points, and the thinner part being on the sides of the egg, striking it on the side, the blow would be more likely to crush the egg in where the thin place is.?

A A blow of equal force now?

Q Yes, sir?

A Yes, sir.

Q Striking it on the point where the shell is thicker is not so liable to crush in that part of the egg, but there woul d

Q Do you mean to say that the thickness of filament is
kept equal and without regard to the thickness of filament
this particular spark plug--(indicating spark plug) but
this case is found, it is understood you assume to be the same
size in length and the thickness of the spark plug, and less liable you
are to find another spark plug to fit it in.

A Instantly so.

Q (continued) Not the spark to place it in or be broken in?

A Yes, sir.

Q Just in the same way illustrated spark on the sample also?

Q Is a thicker and a thinner portion of an EEE' the thicker
part point in the horizon, and the thinner part point on the
side of the EEE' straight if on the side, the flow would be more
likely to occur the EEE in where the thin hence is?

A A flow of edge thicker more

Q Yes, sir?

A Yes, sir.

Q Straight if no the horizon where the edge is thicker is
more o difference that the gap is increased without increasing
heat and begins the spark?

A It has some to do with the edge--sharp
edge--straight--I think I know.

QX Straight upon the power of the spark? Is it not a "tri-
angle" of heat and the power to cause the spark increased without increasing
the heat?

A Just the way that light upon the power of the arc
to light to make? And the way light from the
sun?

QX Just begins straight upon the power increased and on
the heat?

A Just the way that light upon the power of the arc
to light to make? And the way light from the sun?

QX Just begins straight upon the power increased and on
the heat?

radiate, from the point of the blow , these cracks?

A I cant tell about the egg. But I would say it would require a harder blow to break it at the end than on the side.

Q At the point where Isaacs received this blow, was the skull at that point crushed in to any extent or not?

A It was not. There was no depression.

Q No depression?

A It just seemed to be --it looked like there was very little disturbance to the skull until we got inside-- until we could see both places.

Q BY. MR. LEE: Do I understand the Doctor to say there was no depression at the point of contact?

A Very little.

Q Then the fact that there was no depression, or scarcely any, would that argue that the skull was thinner, or of the proper thickness at that point?

A I would think it was of proper thickness or it would have mashed in more. It would naturally have driven the bone right in.

Q Mr. Lee has asked whether your attention was directed to the thickness of the skull at the time of the post-mortem: Was any person present, a physician, on behalf of the accused here, at that post-mortem?

A Yes, Dr. Jones was present and Dr. Davis--

Q(Interposing) I mean any person particular representing MR. Hirsch or his attorneys?

A Dr. Burnham.

Q Was your attention directed to the fact, by any remark or by anything Dr. Burnham said at that time, to the thickness of this skull of Mr. Isaacs.

A I cant remember that it was. I don't remember it at all.

Hesitation from the point of view of the patient, Dr. Sachs?

A. I could find no sign of it. But I should think it was to protect himself from the shock of realizing that he had killed his wife.

Q. Do I understand that the doctor of the family

Q. Dr. Sachs: Do I understand that the doctor of the family was the only person who knew the relationship between the husband and the wife?

A. Yes, Dr. Sachs was the only person who knew the relationship.

Q. Dr. Sachs, you said that you had a long talk with the husband, did you not?

A. Yes, Dr. Sachs was present and Dr. Davis--

Q. (Interrupting) I mean only the person particular responsible for the situation?

A. Dr. Sachs.

Q. Now, Doctor, you said that you had a long talk with the husband, did you not?

A. Yes.

Q. Did you make any attempt to get a description of the woman he had killed in order to assist the police in tracing her?

A. I did not remember that it was. I do not remember if it was in the newspapers.

Q. Then the fact that there was no description of the woman he had killed in the newspapers, was the fact that the doctor was present, the reason why you did not think it necessary to make any attempt to find the woman he had killed?

A. I could find no sign of it. But I should think it would be natural for a patient who had just killed his wife to be in a state of shock.

Q. Do you mean to say that the fact that the doctor was present, was the reason why you did not think it necessary to make any attempt to find the woman he had killed?

A. I could find no sign of it. But I should think it would be natural for a patient who had just killed his wife to be in a state of shock.

Q. Do I understand that the doctor of the family was the only person who knew the relationship between the husband and the wife?

A. Dr. Sachs.

Q. Now, Doctor, you said that you had a long talk with the husband, did you not?

A. Yes.

Q. Did you make any attempt to get a description of the woman he had killed in order to assist the police in tracing her?

A. I could find no sign of it. But I should think it would be natural for a patient who had just killed his wife to be in a state of shock.

MEMO: At suggestion of the Commonwealth's Attorney, and the concurrence of Counsel for the accused, the Jury, the Court, the prisoner, and themselves, went to the scene of the tragedy, on German Street, where in their presence the following evidence was submitted:

J. L. ARMENTROUT, sworn by the Court;

Q Who lives on the corner of German and Water streets, the Southeast corner? A Mr. Ludwig Hirsh.

Q The next house, North, is whose home? A Mr. Arthur Hirshes.

Q And the next house, going North, is a double house, who lives in the southern part, next to Arthur Hirsh's?

A That is the part that Mr. Isaacs lived in.

Q Who lives in the other end of the double house?

A That is where Mr. Ed. Snell lives.

Q On the corner of Water and German streets there is an electric light, near Charley Conrad's residence? A Yes, sir.

Q There are no trees along the East side of the street in front of the houses just referred to? A No, sir.

Q Mr. Armentrout, where is Woodson & Albert's stable, point that out to the jury? A It is where those two men are, (west side of German street and north of bridge).

Q It has the sign of "Liver & Feed Stable" above it?

A Yes, sir. That is where the man is standing now, and the other man is sitting in the door.

Q The first house south of the bridge, on west side of German Street, is where Mrs. Hollar lives? A Yes, sir.

Q And the next house, south, is where Mrs. Rosenberger lives? A Yes, sir.

Q And the next is where Mrs. Clatchey lives? A Yes, sir

MEMO: An examination of the commonwealth's witness, Anthony, and the concurrence of counsel for the accused, the trial, the court, the prisoner and defendants, went to the scene of the tragedy, on Carmen Street, where in their presence the following evidence was submitted:

L. J. WADSWORTH, sworn by the court:

Q Who lives on the corner of Carmen and Harper streets.

A Mr. Dwight Hiter.

Q And the next house, South, is a vacant house.

A Mr. Watkins lives in the southern half,next to Watkins Hiter's.

Q And the next house, South, is a double house.

A Yes, sir.

Q And the next house, South, is where Mrs. Rosenberger lives; A Yes, sir.

Q And the next house, South, is where Mrs. Hollar lives; A Yes, sir.

Q Are there any houses south of the bridge, on west side of Carmen Street, is where Mrs. Hollar lives; A Yes, sir.

Q And the next house, South, is where Mrs. Rosenberger lives; A Yes, sir.

Q And the next is where Mrs. Christopher lives; A Yes,sir.

Q Where was on street along the West side of the street in front of the houses that testified to; A No, sir.

Q Mr. Wadsworth, where is Woodson & Alpert's, a single house that one to the left; A If is where those two men are, (west side of Carmen Street and north of bridge).

Q Is has the sign of "Lyvet & Feed Store" above it?

A Yes, sir. That is where the man is standing now.

Q And the other man is sitting in the door.

Q Are there any houses south of the bridge, on west side of Carmen Street, is where Mrs. Hollar lives; A Yes, sir.

Q And the next house, South, is where Mrs. Rosenberger lives; A Yes, sir.

Q And the next is where Mrs. Christopher lives; A Yes,sir.

Q Are there any other men of the house; A Mr. Dwight Hiter.

Q Mr. Watkins, where is Woodson & Alpert's, a single house that one to the left; A If is where those two men are, (west side of Carmen Street and north of bridge).

Q Is has the sign of "Lyvet & Feed Store" above it?

A Yes, sir. That is where the man is standing now.

Q And the other man is sitting in the door.

Q Are there any houses south of the bridge, on west side of Carmen Street, is where Mrs. Hollar lives; A Yes, sir.

Q And the next house, South, is where Mrs. Rosenberger lives; A Yes, sir.

Q And the next is where Mrs. Christopher lives; A Yes,sir.

Q Are there any houses south of the bridge, on west side of Carmen Street, is where Mrs. Hollar lives; A Yes, sir.

Q And the next house, South, is where Mrs. Rosenberger lives; A Yes, sir.

Q And the next is where Mrs. Christopher lives; A Yes,sir.

Q Can you tell us the width of this street here.

THE COURT: Get a measure and measure it.

WITNESS: I can tell mighty near by stepping it.

THE COURT: Step it.

Q How many steps did you make it, Mr. Armentrout?

A Ten steps.

Q Ten steps from curb to curb? A Yes, sir.

Q And the wagon track is just about the center of the street, between curb and curb, is it not? A Yes, sir.

Q And just opposite where this pile of trash was?

A Yes, sir.

Q Are you the man who was standing on the corner when that picture was taken? A Yes, sir.

Q How soon after Mr. Isaacs was killed was that picture taken? A I think the next day; I am not sure.

Q This stuff I see indicated on this picture as being near the edge of the pavement, is that the point (indicating) at which this trash, lumber and stuff, taken out of that house, was? A Yes, sir.

Q What was the character of the lumber there, what was it? A Looked to be refuse from an old building; probably sole old laths and rubbish of some kind.

Q That picture (exhibiting to witness) gives about the hight of it? A I suppose it does. It looks to me, probably, like there was more than that on the ground at the time, but maybe not.

A JUROR: Whereabouts was Mr. Isaacs; where was he picked up? Where did he lay?

MR. HAMMER: Can get that from either Mr. Ludwig Hirsh or Mr. Claude Albert.

Q Can you tell us the width of this wheel here?

THE COURT: Get a measure and measure it.

WITNESS: I can tell mighty near by wrapping it.

THE COURT: Step it.

Q How many steps did you make it, Mr. Armentrout?

A Ten steps.

Q Ten steps from curb to curb? A Yes, sir.

Q And the reason that it just about the center of the street, perhaps curb and curb, is it not? A Yes, sir.

Q And that opposite where this bite of flesh was?

A Yes, sir.

Q Who was the man who was standing on the corner when that fracture was taken? A Yes, sir.

Q How soon after Mr. Isaacs was killed was that fracture taken? A I think the next day: I am not sure.

Q This exhibit I see indicated on this picture as being near the edge of the pavement, is that the point (indicating) at which this flesh, imagine the size, taken out of that person's? A Yes, sir.

Q What was the character of the imagine there, what was lodged, looked to be terrapin from an old building: property size old brick building to some kind.

Q That bricks (exhibiting to witness) Give some idea of the right of it? A I suppose it does. It looks to me, properly. Like there are more than that on the Ground at the time, but maybe not.

A GUNSON: Interrogate as Mr. Isaacs: where are he bricked up? Where did he lay.

MR. HAMMER: Can get that from either Mr. Langley Hiter or Mr. Clange himself.

MR. LUDWIG HIRSH, sworn by the Court:

Q You can show us on the ground, Mr. Hirsh, where Mr. Isaacs fell? A I picked his head up in my arms right here, (indicating.) I don't think I miss it an inch.

MR. LEE: I am handing you a photograph, said to have been taken the day after the tragedy, and I point out to you two men standing near each other on the lefthand side of the street going north, tell the jury whether they represented the point where Mr. Isaacs fell? A Yes, sir. The man nearest the middle of the road is where his feet lay, and the other man indicated where his head lay.

MR. HAMMER: The man in his shirt sleeves is Claude Albert, in that picture? A I think so, but can't tell.

MR. HAMMER: He was the first man that helped you pick him up and carried him in? A Yes, sir.

MR. HAMMER: Were you present when the photograph was taken? A Yes, sir. Mr. Isaacs did not lay straight across the road, he laid diagonally. (Witness then indicated the places where Mr. Isaacs feet and head laid in the road).

MR. CONRAD: That puts his body, then, across the wagon track on the west side of the road -- you can see here where the wagon track runs? A Yes, sir.

MR. LEE: I would like for the Jury to take special notice of the condition of the road-way along the west side of the street; that is is steep and rough.

Thereupon, on returning to the Court room evidence was resumed as follows:

MRS. GERTRUDE TUTWEILER, examined by Mr. Conrad:

Q Mrs. Tutweiler, were you at Mrs. Ed. Snell's the night that this difficulty occurred in which Mr. Isaacs was killed? A Yes, sir.

Q State to the jury whether or not you saw Mr. Louis Isaacs pass, wheeling a baby carriage just shortly before Mr. Isaacs was struck down? A Yes, sir, I did.

Q Did you hear any commotion of any kind immediately after that? A Shortly after that I heard loud talking but I never paid any particular attention to what was going on.

Q Then what happened just after that? From the time you did pay attention what did you see or hear of this trouble? A. Well, after I heard this loud talking we were sitting there and one of the ladies said -- I don't remember which one -- they were fighting, and just at that I looked around and I saw Mox throw the rock.

THE COURT: Who did you see throw the rock?

WITNESS: Mox.

THE COURT: Who do you mean by that?

WITNESS: Mox Hirsh.

THE COURT: The prisoner at the bar, here?

WITNESS: Yes, sir.

Q In what direction was the rock thrown, Miss Gertie? A Throw kind of North,-- northeast -- kind of that direction.

Q Did you see Mr. and Mrs. Isaacs, either, on the pavement? A Yes, sir.

Q I mean to say, was it thrown in the direction they were?

A You mean, was the rock thrown in the direction they were?

Q Yes. A Yes, sir.

Q Did the rock strike them or strike anything? A It struck the house -- struck Mr. Arthur Hirsh's house.

Q Well, what else did you see, then? A I saw Mr. Isaacs throw up his arms. I don't know whether he meant to make a strike at Mr. Mox Hirsh, or what he did it for.

MRS. GERTRUDE WOODWARD, examined by MR. COONEY:

Q Mrs. Woodward, were you at Mrs. M. Green's and during that date did Mr. Issaes ever kiss you?

A Yes, sir.

Q State to the Jury whether or not you saw Mr. Louis Issaes and Bessie Woodward a young colored girl that worked before Mr. Issaes was murdered?

A Yes, sir, I did.

Q Did you lead his conversation to his kind immediately after that?

A Shortly after that I heard Louis talking but I never held on.

Q When was the last time of that saw Louis Issaes?

A I don't remember the date.

Q Did you see Mr. Issaes after that?

A Yes, sir.

Q Did you see Mr. Issaes' sister, on the premises?

A Yes, sir.

Q I mean to say, saw it further in the direction they were?

A You mean, saw the lock further in the direction they were?

Q Yes. A Yes, sir.

Q Did the lock strike them or strike something?

A It struck Mr. Vaughn Hilton's house -- struck Mr. Hilton's house.

Q Well, what else did you see, then? A I saw Mr. Issaes

throw up his arms. I don't know whether he meant to make a strike at Mr. Hilton, or what he did it for.

MR. SIPE: He did what?

WITNESS: Threw up his arms, and then Mox hit him with the board.

Q Do you remember seeing Mrs. Arthur Hirsh? A Yes, sir, she ran in between them just after he threw the rock.

Q She ran in between Mox Hirsh and Mr. Isaacs? A Yes, sir.

Q Did you see anything happen to her? A No, sir.

Q Just after Mox threw the rock she ran in between them?

A Yes, sir.

Q And, then, did you see Mr. Isaacs when he was hit by Mox Hirsh and knocked down? A Yes, sir.

Q Well, at the time this blow was struck, about what place in the road were they? A Near the center of the road.

Q Where were they with reference to Arthur Hirsh's house and this pile of laths and stuff that was out there in the street?

A I don't hardly know. They were just a short distance from there, though.

Q With what did Mox strike -- What was it that Mox struck Mr. Isaacs with, Miss Gertie? A A board.

Q Was it anything like that (exhibiting board)? A Yes, sir.

Q Does that have the appearance of the size and kind of board?

A Yes, sir.

Q Did you see this board shortly afterwards, -- were these spots on it? A Yes, sir.

Q Were these blood spots then fresh or dried? A Fresh spots.

Q Who had it in his hands at the time you saw it? A Mr. Thorp.

Q William Thorp? A Yes, sir.

Q He works at Woodson & Albert's stable? A Yes, sir.

Q That is the man you have reference to. How soon after Mr. Isaacs was hit was it you saw Mr. Thorp with this piece of board?

MR. SITE: He did not?

WITNESS: Where do his arms and them box

his hand with the pole.

Q Do you remember seeing Mr. Taffuri hitting

A Yes, sir.

Q the man in between them [that sitting on top the rock.

Q the man in between box hitting him Mr. Iannone? A Yes, sir.

Q Did you see swinging motion to him? A No, sir.

Q that sitting box times the rock one man in between them?

A Yes, sir.

Q Mr. Iannone did not see Mr. Iannone when he was hit by box

hitting him knocked down? A Yes, sir.

Q Well, at the time this blow was struck, about what hands in the hand were them? A Near the center of the rock.

Q Where were them with reference to Taffuri hitting, a person was

Iannone saw hit saw it you was Mr. Ground with this piece of pole?

Q Then is the man you have reference to. How soon after Mr.

A I don't exactly know. They were just a short distance from there, though.

Q With what did box strike --- what saw it that box strike

Mr. Iannone with, Mike certain? A A pole.

Q Was it swinging like that (exhibiting pole)? A Yes, sir.

Q Does that have the appearance of the size and kind of pole?

A Yes, sir.

Q Did you see this pole shortly afterward, --- were there

above on it? A Yes, sir.

Q Were these blood spots then there or later? A There spots.

Q Who had it in his hands at the time you saw it? A Mr.

Ground.

Q Attitude Ground? A Yes, sir.

Q He worked at Anderson & Vlasic's apartment A Yes, sir.

Q Then is the man you have reference to. How soon after Mr.

Iannone saw hit saw it you was Mr. Ground with this piece of pole?

A I don't know just how long -- eight or ten minutes, I guess.

Q And you were still there on the scene? A Yes, sir.

Q At the time Mox struck Mr. Isaacs, at that particular moment of time, did you see Isaacs doing anything to Mr. Mox Hirsh or trying -- making any effort to injure Mr. Hirsh in any way? A No, sir, I did not.

Q You, I believe, clerk at Mr. Abel Miller's store? A I live with the family.

Q Mr. Isaacs also clerked there? A Yes, sir. He was there a year, or near about a year,and I never saw him mad all the time he was there. He was always nice and pleasant --

MR. LEE: That is not proper.

MR. CONRAD: That may be stricken out, as far as I am concerned. It is immaterial to me. It may be stricken out if you gentlemen desire.

MR. LEE: Of course, it is improper testimony, and if improper --

THE COURT: The Court will strike it out if you ask for it.

MR. LEE: We do.

THE COURT: The Jury will disregard that statement of the witness.

Q The character of work that Mr. Isaacs had to do there at Mr. Abel Miller's store, was it work that required any particular muscular exercise, or not? A No, sir; he was a clerk.

Q What kind of a store does Mr. Abel Miller have? A Dry-goods, notions and shoe store.

THE COURT: You mean he was a salesman in the store?

WITNESS: Yes, sir.

Q It is a general store, a department store for dry-goods, notions, shoes, and things of that sort? A Yes, sir.

Q Do you recall that at any time at the store you heard Mox Hirsh make any threat or speak in an angry way in reference to Mr.

A I don't know just how long -- eight or ten minutes, I guess.

Q And you were still there on the scene? A Yes, sir.

Q At the time Nox struck Mr. Isaacs, at that particular moment of time, did you see Isaacs doing anything to Mr. Nox Hitah or trying -- making any effort to injure Mr. Hitah in any way? A No, sir, I did not.

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WITNESS: Yes, sir.

Q It is a general store, a department store for dry-goods, notions, shoes, and things of that sort? A Yes, sir.

Q Do you recall that at any time at the store you heard Nox Hitah make any threat or speak in an angry way in reference to Mr.

A I don't understand that.

Q Did you at any time while you were there at the store hear Mox Hirsh -- either there at the store or any place else -- make any threat against Mr. Isaacs of any kind? A Yes, sir, I did at the house.

Q What did you hear Mox say? A He said if Mr. Isaacs troubled him he would kill him if he could.

Q What house was that? A Mr. Abel Miller's.

Q That was at Mr. Abel Miller's house? A On East Market Street.

Q That was after Mr. Miller moved to East Market Street?

A Yes, sir.

Q How long was that before Mr. Isaacs was killed? A I can't tell you that. It was during the winter, though.

CROSS-EXAMINATION BY MR. LEE:

XQ Mrs. Tutweiler, I understand you to say that your attention was first attracted to the very loud talking? A Yes, sir.

XQ Where were you then? A I was sitting on the stoop of Mrs. Ed. Snell's doorway.

XQ You were sitting on the steps of Mrs. Ed. Snell's house?

A Yes, sir.

XQ You spoke of other ladies, what other ladies were there.

A Mrs. McCrary and Mrs. Ed. Snell.

XQ You had known Mr. Isaacs for quite awhile had you?

A Yes, sir.

XQ And you were sitting in that doorway and you saw them?

A Yes, sir, I was sitting facing them.

XQ And you heard what was being said? A No, sir, I did not hear any words at all.

XQ They were not more than 25 or 30 feet from you, were they?

A No, sir.

A I don't understand that.

Q Did you at any time while you were there at the store hear Max Mirsh -- either there at the store or any place else -- make any threat against Mr. Isaacs of any kind? A Yes, sir, I did at the house.

Q What did you hear Max say? A He said if Mr. Isaacs trouble-d him he would kill him if he could.

Q What house was that? A Mr. Abel Miller's.

Q That was at Mr. Abel Miller's house? A On Meat Market street.

Q That was after Mr. Miller moved to Meat Market street?

A Yes, sir.

Q How long was that before Mr. Isaacs was killed? A I can't tell you that. It was during the winter, though.

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A Mrs. Moberly and Mrs. Ed. Snell.

XQ You had known Mr. Isaacs for quite awhile had you?

A Yes, sir.

XQ And you were sitting in that doorway and you saw them?

A Yes, sir, I was sitting facing them.

XQ And you heard what was being said? A No, sir, I did not hear any words at all.

XQ They were not more than 25 or 30 feet from you, were they?

A No, sir.

XQ And they were talking loud? A They were talking very loud.

XQ Who was doing this talking? A I can't tell you. I don't remember that much even about their talking at all.

XQ You say some of the ladies sitting there were frightened at the loud talking?

A We were all sitting on the pavement and someone said they were fighting.

XQ Said they were frightened? A Said they were fighting.

XQ You mean to say there was so much talking done there within twenty-five feet of you and you could not hear what was said?

A Yes, sir. I didn't pay any attention and didn't hear what was said -- not paying any attention.

XQ Whose voice was it talking? A I don't know that either. I didn't pay any attention to the talking at all.

XQ Then the talking was not of such a character as to attract your attention? A No, sir, we were talking ourselves and not paying any attention to what they said.

XQ Was it angry talk, as far as you could gather? A Yes, sir, it was cross.

XQ It was cross and angry talk? A Yes, sir.

XQ Yet you could not hear what was said and could not distinguish who was talking at all? A No, sir.

XQ Did you know what had happened between the two men before the rock was thrown? A No, sir.

XQ You do not know? A No, sir.

XQ So far as you know Mr. Isaacs may have struck Mr. Hirsh before that rock was thrown? A I do not know.

XQ You do not know? A No, sir.

XQ I say, so far as you do know, that may have occurred? Is that right? A I don't know that he struck him.

Q Were they were talking loud? A They were talking very loud.

Q Who was doing this talking? A I can't tell you. I don't remember that much about that talking at all.

Q You see some of the ladies sitting there were tringtened by the loud talking?

A We were all sitting on the benches and somebody said they were tringtening.

Q Did they were tringtened? A Said they were tringtening.

Q You mean to see there are so much talking going there without being sure that they were tringtening?

A Yes, sir. I didn't pay the attention and didn't hear what they were saying -- not paying the attention.

Q Did you see any of the people sitting there were tringtening? A I don't know that circumstances.

Q Was it across and sideway talk? A Yes, sir.

Q Was it across and sideway talking, as far as you could tell? A Yes, sir. It was across.

Q Then the talking was not to some a characters as to attract your attention? A No, sir, we were talking ourselves and not paying the attention to what they said.

Q Was it sideway talk, as far as you could tell? A Yes, sir.

Q Did you know what had happened between the two men before that loud talking? A No, sir.

Q You do not know? A No, sir.

Q So far as you know the lesson was never attack me. Might before that loud talking? A I do not know.

Q You do not know? A No, sir.

Q Was it that you were tringtened? A Said that were tringtening.

Q Did you were tringtened? A Said that were tringtening.

Q You mean to see there are so much talking going there without being sure that they were tringtening?

A Yes, sir. I didn't pay the attention and didn't hear what they were saying -- not paying the attention.

Q Was it sideway talk, as far as you could tell? A Yes, sir.

Q Was it across and sideway talking? A I don't know that circumstances.

Q Then the talking was not to some a characters as to attract your attention? A No, sir, we were talking ourselves and not paying the attention to what they said.

Q Was it sideway talk, as far as you could tell? A Yes, sir.

Q Was it across and sideway talk? A Yes, sir.

Q Yet you could not hear what had happened between the two men before that loud talking? A No, sir.

Q You do not know? A No, sir.

Q So far as you know the lesson was never attack me. Might before that loud talking? A I do not know.

Q You do not know? A No, sir.

Q You see some of the ladies sitting there were tringtened by the loud talking? A Yes, sir.

Q Was one was doing this talking? A I can't tell you. I don't remember that much about that talking at all.

Q Did you were talking loud? A They were talking very loud.

XQ Madam? A I don't know as he struck at him.

XQ I am not asking you if he struck at him; I am asking you this: Before this rock was thrown you did not see what took place?

A No, sir, I did not.

XQ Then, so far as you know, Mr. Isaacs may have struck Mr. Hirsh before the rock was thrown? A He may have. I didn't see it.

XQ You do not know, and as to that you do not undertake to speak A No, sir, I do not.

XQ Now, when this rock was thrown -- You speak of it as a rock, are you sure it was a rock? A Yes, sir, I saw it when it hit the wall of the house and bounced back on the street.

XQ Did it hit the house before it hit anything else? A I did not notice it hit anything.

XQ How high up on the house did the rock strike? A Just at the edge of the wall below the weatherboarding.

XQ That would be only a few inches or a foot from the sidewalk, would it not? A Yes, sir. A short distance. I don't know how far.

XQ As far as you saw it struck nothing but that one point?

A Yes, sir.

XQ How far was that point from where Mr. Isaacs and his wife were? A I don't know. Not more than a couple of feet.

XQ A couple of feet away from them? A No, sir.

XQ Was it North or South of where they were standing? A It was South.

XQ South of where they were standing? A Yes, sir.

XQ Then they were between you and where the rock struck were they? A Yes, sir.

XQ They were on the sidewalk? A Yes, sir.

XQ Where was Mr. Isaacs? A He was standing on the side of the walk.

XQ Was he on the sidewalk too? A Yes, sir, he was on the out-

Q. Madam? A. I don't know as he strick it.

Q. I am not speaking for it but they strick it and they brought back a piece of rock from the sidewalk. Before this rock was thrown did you hear any other rock hitting the house? A. No, sir.

Q. Then, so far as you know, Mr. Isaacs was never struck at.

A. I didn't see it.

Q. Was it night or morning or around 10 o'clock when they were attacked? A. It was morning around 10 o'clock.

Q. Could you where they were standing? A. Yes, sir.

Q. When they threw the rock strick the house did the rock strick where they threw? A. Yes, sir.

Q. Where were they when they threw the rock? A. He was standing on the side of the walk.

Q. Was he on the sidewalk too? A. Yes, sir, he was on the curb-line as well.

Q. Where were Mr. Isaacs? A. Yes, sir.

Q. Was it a brick or a piece of rock? A. Yes, sir.

Q. Was it about the size of the wall below the mantelpiece?

Q. Just about big as two fingers or a foot from the side-walk, would it note? A. Yes, sir. A short distance. I don't know how far.

Q. As far as you was it strick another part that one hoting? A. Yes, sir.

Q. How far was that point from where Mr. Isaacs was and his wife were? A. I don't know. Not more than a couple of feet.

Q. A couple of feet away from them? A. No, sir.

Q. Was it north or south of where they were standing? A. It was south.

Q. South of where they were standing? A. Yes, sir.

Q. When they were passing you was where the rock strick were they? A. Yes, sir.

Q. Were they were on the sidewalk? A. Yes, sir.

Q. Where was Mr. Isaacs? A. He was standing on the side of the walk.

Q. Was he on the sidewalk too? A. Yes, sir, he was on the curb-

side.

XQ He was on the outside of the sidewalk but still on the sidewalk? A Yes, sir.

XQ And they were on the inside of the sidewalk? A Yes, sir.

XQ You are perfectly certain of that? A Yes, sir.

MR. CONRAD: What do you mean by "they"?

MR. LEE: I was trying to place the position of these three people, Mrs. Isaacs and her husband and Mr. Mox Hirsh.

WITNESS: I don't know as to Hirsh, whether he was on that side or not. He was standing just above Mr. Isaacs.

XQ What I am trying to get at is this. I am not trying to mislead you. I am trying to have you understand me and to understand you, so that the jury may understand us both. I am asking now, first, at the time you say the rock was thrown where were Mr. Isaacs and his wife? A They were standing on the pavement. He was standing on the outside with the go-cart in front of him and she was standing on the inside.

XQ He was on the outside of the pavement with the go-cart in front of him? A Yes, sir.

XQ And she was on the pavement between between him and Mr. Hirsh? A Yes, sir.

XQ Where was Mr. Mox Hirsh standing? A He was standing just above them.

XQ He was on the sidewalk but just above them? A Yes.-- You are speaking of when the rock was thrown, are you?

XQ Yes. A No; he was out in the gutter a piece from them -- out in the street.

XQ He was out in the street apiece from them? A Yes, sir.

XQ You say he was out in the gutter? A Beyond the gutter and on the edge of the street.

XQ How near the end of the old pile of plank? A I don't

alla.

Q He was on the outside of the sidewalk, but still on the sidewalk? A Yes, sir.

Q And that was on the inside of the sidewalk? A Yes, sir.

Q You are perfectly certain of that? A Yes, sir.

MR. GORMAN: What do you mean by "that"?

MR. LEE: I was trying to place the boat-load of these three people, Mr. Cox Isaacs and Mr. Bunday and Mr. Hitch.

WITNESS: I don't know as to Hitch.

Q He was on that side of the boat.
Whether he was on that side or not. Isaacs He was standing that above Mr. Isaacs.

Q Just as I am trying to peg it right. I am not trying to

Q Just as I am trying to prove your understanding of the Engineer and the Captain.

Q Do you see or saw at the Engineer's. A Beyond the Engineer and on the edge of the street.

Q Do you mean that the old hole to the old hole to drink? A I don't

know. Isaac's is the only place where there was standing on the inside.

Q He was on the outside of the sidewalk with the Co-Captain in front of him? A Yes, sir.

Q And he was on the pavement between Mr. Cox and Mr. Isaacs? A Yes, sir.

Q Cox and Isaacs were on the inside of the sidewalk? A Yes, sir.

Q And that was on the inside of the sidewalk? A Yes, sir.

Q You are perfectly certain of that? A Yes, sir.

MR. GORMAN: What do you mean by "that"?

MR. LEE: I was trying to place the boat-load of these three people, Mr. Cox Isaacs and Mr. Bunday and Mr. Hitch.

WITNESS: I don't know as to Hitch.

Q He was on that side or not.
Whether he was on that side or not. Isaacs He was standing that above Mr. Isaacs.

Q Just as I am trying to peg it right. I am not trying to

Q Just as I am trying to prove your understanding of the Engineer and the Captain.

Q Do you see or saw at the Engineer's. A Beyond the Engineer and on the edge of the street.

Q He was out in the street. Where was Mr. Cox Isaacs and Mr. Bunday and Mr. Hitch.

Q Do you mean by "that"? A I don't know as to the old hole to drink? A I don't

know. Isaac's is the only place where there was standing on the inside.

Q He was on the outside of the Co-Captain in front of him? A Yes, sir.

Q He was on the outside of the pavement with the Co-Captain in front of him? A Yes, sir.

Q And that was on the inside of the sidewalk? A Yes, sir.

Q You are perfectly certain of that? A Yes, sir.

MR. GORMAN: What do you mean by "that"?

MR. LEE: I was trying to place the boat-load of these three people, Mr. Cox Isaacs and Mr. Bunday and Mr. Hitch.

WITNESS: I don't know as to Hitch.

Q He was on that side or not.
Whether he was on that side or not. Isaacs He was standing that above Mr. Isaacs.

Q Just as I am trying to peg it right. I am not trying to

Q Just as I am trying to prove your understanding of the Engineer and the Captain.

Q Do you see or saw at the Engineer's. A Beyond the Engineer and on the edge of the street.

Q He was out in the street. Where was Mr. Cox Isaacs and Mr. Bunday and Mr. Hitch.

know. Not far from the end. I can't say exactly. It was dark.

XQ He was, I understand, near the pile of that old plank?

A Yes, sir.

XQ How far was he from Mr. Isaacs? A I don't know just how far the distance was.

XQ You don't know how far it was? Was it as far as from where I am sitting to where Mr. Conrad is? A Something like that.

XQ Let us get that in the record. Say, seven or ten feet, MR. Conrad?

MR. CONRAD: Something like ten feet.

XQ Now, you saw Mr. Mox Hirsh throw a rock when he was within ten feet of Mr. Isaacs? A Yes, sir.

XQ What did Mr. Isaacs do immediately after the rock was thrown? A I don't know what he did. I said I saw him throw up his arms. Whether he aimed to strike I do not know.

XQ Did he stand where he was? A No, he was at the edge of the gutter when I saw him.

XQ When you saw him he was on the edge of the gutter? A Yes, sir. He had moved from the edge of the street.

XQ When Mox Hirsh threw the rock what did Mox do then? A I didn't see what he did. The next thing I saw him have a board in his hand and he struck Mr. Isaacs.

XQ You have said that when Mr. Isaacs was knocked down he was somewhere in the middle of the road? A Yes, sir.

XQ Did you see Mox Hirsh when he went from where he was when he threw the rock to the middle of the road? A No, sir.

XQ What were you looking at then? A I do not know. I did not notice him going out there and did not notice Isaacs either.

XQ You don't know what Mr. Isaacs did when he threw the rock at him? A I saw him throw up his arms. What he done I do not know.

know. Not far from the sun. I don't see exactly. It was dark.

Q. He was, I understand, near the bite of that old bronze?

A. Yes, sir.

Q. How far was he from Mr. Isaacs? A. I don't know just how far the distance was.

Q. You don't know how far it was? Was it as far as from where I am sitting to Mr. Conrad's? A. Something like that.

Q. Let us see that in the record. (Ans. seven or ten feet.)

MR. CONRAD: Something like ten feet.

Q. Now, you saw Mr. Max Hitzer finish a rock when he was sitting on top of Mr. Isaacs? A. Yes, sir.

Q. Did you see Max Hitzer take the rock away from Mr. Isaacs? A. No, sir.

Q. Did you see Max Hitzer take the rock away from Mr. Isaacs after he was on the ledge of the Buffalo? A. Yes, sir.

Q. When you saw him he was on the ledge of the Buffalo? A. Yes, sir. He had moved from the edge of the street.

Q. When Max Hitzer threw the rock away did Max do that? A. I didn't see what he did. The next thing I was aware a policeman had hold of Mr. Isaacs.

Q. You never said that when Mr. Isaacs was knocked down he was somewhere in the middle of the road? A. Yes, sir.

Q. Did you see Max Hitzer when he went from where he saw when he threw the rock to the middle of the road? A. No, sir.

Q. What were you looking at then? A. I do not know. I did not notice him going out there but he was there when I saw the rock.

Q. You don't know what he did. Isaacs did when he threw the rock? A. I don't know what he did. I said I was with Conrad.

Q. Did he stand where he was? A. No, he was at the edge of the Buffalo when I saw him.

Q. When you saw him he was on the edge of the Buffalo? A. Yes, sir. He had moved from the edge of the street.

Q. When Max Hitzer threw the rock away did Max do that? A. I didn't see what he did. The next thing I was aware a policeman had hold of Mr. Isaacs.

Q. You never said that when Mr. Isaacs was knocked down he was somewhere in the middle of the road? A. Yes, sir.

Q. Did you see Max Hitzer when he went from where he saw when he threw the rock to the middle of the road? A. No, sir.

Q. What were you looking at then? A. I do not know. I did not notice him going out there but he was there when I saw the rock.

Q. You don't know what he did. Isaacs did when he threw the rock? A. I don't know what he did. I said I was with Conrad.

Q. Did he stand where he was? A. No, he was at the edge of the Buffalo when I saw him.

Q. He was, I understand, near the bite of that old bronze? A. Yes, sir.

Q. How far was he from Mr. Isaacs? A. I don't know just how far the distance was.

Q. You don't know how far it was? Was it as far as from where I am sitting to Mr. Conrad's? A. Something like that.

Q. Let us see that in the record. (Ans. seven or ten feet.)

MR. CONRAD: Something like ten feet.

Q. Now, you saw Mr. Max Hitzer finish a rock when he was sitting on top of Mr. Isaacs? A. Yes, sir.

XQ When he fell he was in the middle of the street?

A Yes, sir.

XQ He got there by moving?

A Yes, sir, but I did not see him.

XQ You were looking in that direction?

A Yes, sir.

XQ You saw that going on and looked in that direction?

A Yes, sir.

XQ Yet you mean to say you cannot tell us how Mr. Isaacs got from the sidewalk to the middle of the road? A No, sir. I did not see him go out there. It was dark around there. There was only one light on the corner and you couldn't see plainly.

XQ I thought you saw plainly when you saw Mr. Hirsh throw the rock? A I saw something.

XQ How big was the rock that was thrown? A As big as my fist.

XQ It was not as big as Mr. Isaacs, was it? A Oh, no.

XQ And the reason you give for say you do not know how Mr. Isaacs got out in the road, it was so dark you could not see?

A I did not see him go out. I did not see plain. I may have looked around. I did not see him.

XQ Then, Mrs. Tutweiler, you mean you cannot tell what happened ~~until~~ after the rock was thrown until you saw the blow stricken with the plank? A No, sir, I do not know what happened between then.

XQ You see, Madam, you put Mr. Isaacs on the edge of the side walk near the gutter and you put Mr. Hirsh out from the gutter some ten feet from Mr. Isaacs when the rock was thrown: now, don't you know that Mr. Hirsh went backward to the middle of the road and was followed there by Mr. Isaacs? A No, sir, I do not.

XQ Are you prepared to say that that is not true? A He may have went backward. I did not see him go backward.

Q. When he left he was in the middle of the street?

A. Yes, sir.

Q. He got there by mistake?

A. Yes, sir, but I did not see him.

Q. You were looking in that direction?

A. Yes, sir.

Q. You were that going on and looked in that direction?

A. Yes, sir.

Q. Yet you mean to say you cannot tell me WOM. Isaacs

Q. from the sidewalk to the middle of the road? A. No, sir. I did not see him go out there. It was dark standing there. There was only one light on the corner and you couldn't see anything.

Q. I thought you was perfectly when you was WM. Mitch there

the road? A. Yes, sir.

Q. How bad was the rock that was thrown? A. As bad as that.

Q. Then he left he was in the middle of the street?

A. I was something.

Q. Did the reason you give for why you do not know WM. Isaacs got out in the road, it was so dark you could not see?

A. I did not see him go out. I did not see anyone. I was have looked around. I did not see him.

Q. Then, Mr. Interpreter, you mean you cannot tell me a person behind mitch after the rock was thrown until you was the plow attacked with the brick? A. No, sir, I do not know what happened between them.

Q. You see, Madam, you but WM. Isaacs on the edge of the side walk near the street and you but WM. Mitch out from the street some ten feet from WM. Isaacs when the rock was thrown: now, don't you know that WM. Mitch went backward to the middle of the road and was followed there by WM. Isaacs? A. No, sir, I do not.

Q. Are you prepared to say that that is not true? A. He was have went backward. I did not see him go backward.

XQ You were examined at the coroner's inquest were you not?

A. Yes, sir.

XQ Well , at the coroner's inquest did you make this statement: "It was dark and I couldn't see who was doing the striking first, but I think that Mr. Isaads made at Mr. Hirsch?"

A Yes, I have several mistakes in there. They called me out of bed after eleven o'clock and I was excited--

XQ You did state that?

A I said that but it wasn't correct.

XQ What day of the week did this trouble take place?

A On Thursday.

XQ When was the Coroner's inquest held?

A Friday night.

XQ Mam?

A Friday night.

XQ It was held the very next night, Friday night?

A Yes, sir.

XQ So this whole transaction was only twenty-four hours old?

A Yes, sir.

XQ You did state then, it was dark and you could not see who it was doing the striking first but you thought Mr. Isaacs struck first? You did say that?

A Yes, sir.

XQ The matter was perfectly fresh in your mind then; was that a mistake?

A Yes, sir, I was excited that night and I made several mistakes. I said t here that he was doing the striking. I saw him throw up his arms, but whether he was striking at him, I do not know.

XQ Now, at the same time, in answer to a question by Mr. Sipe, didn't you make this statement: ~~Mr. Sipe, asked the you theation,~~

Mr. Sipe asked you the question "I thought I understood you to say that Mr. Isaacs made at Mr. Hirsch?"" Your answer is, "I think he did. It was so dark and I wasn't paying any attention to them. When I looked around, even, I wan't thinking of any trouble. Then he threw the rock."_You made that statement?

A Yes, sir; after he threw the rock--

MR. CONRAD: What were you going to say,finish your answer.

WITNESS: I said Mrs. Arthur Hirsch ran in just after he threw the rock.

XQ I am not speaking of Mrs. Arthur Hirsch how. Did you say here, "When I looked around, even, I wasn't thinking of any trouble. Then he threw the rock". When you testified before the coroner you seemed to have have had him throwing the rock after Isaacs had rushed at him?

A I don't know whether Isaacs had made at him or not They were standing at the edge of the pavement.

XQ Didn't you testify to that before the coroner, that Isaacs had made at him?

A I said he threw up his arms.

XQ Now, here is another question by Mr. Sipe, and your answer to it: "You saw Isaacs run towards him?" "Yes,sir, and he kept backing away from Mr. Isaacs, and then he hit Mr. Isaacs with the board". Didn't you say that madam, at the coroner's inquest?

A Yes, sir.

XQ Wasn't that the truth?

A How was that?

XQ I have read Mr. Sipe's question and your answer to you and I will read it again. Mr. Sipe says to you: "You saw Isaacs run towards him?" Your answer is, "Yes, sir; and he kept backing away from Mr. Issacs, and then he hit Mr. Isaacs with the board."

A Yes, sir.

XQ You stated that before the coroner?

A Yes, sir.

Mr. Sipe asked you the question "Although I understood you to say that Mr. Isaacs made at Mr. Hirsch?" You answer is, "I think he did. It was so dark and I wasn't paying any attention to them. When I looked around, even, I wasn't thinking of any trouble. Then he threw the rock." You made that statement?

A Yes, sir; after he threw the rock--

MR. COUNAD: What were you going to say, finish your answer.

WITNESS: I said Mrs. Arthur Hirsch ran in just after he threw the rock.

Xq I am not speaking of Mrs. Arthur Hirsch now. Did you say here, "When I looked around, even, I wasn't thinking of any trouble. Then he threw the rock". When you testified before the coroner you seemed to have have had him throwing the rock after Isaacs had rushed at him?

A I don't know whether Isaacs had made at him or not They were standing at the edge of the pavement.

Xq Didn't you testify to that before the coroner, that Isaacs had made at him?

A I said he threw up his arms.

Xq Now, here is another question by Mr. Sipe, and your answer to it: "You saw Isaacs run towards him?" "Yes, sir, and he kept backing away from Mr. Isaacs, and then he hit Mr. Isaacs with the board". Didn't you say that madam, at the coroner's inquest?

A Yes, sir.

Xq Wasn't that the truth?

A How was that?

Xq I have read Mr. Sipe's question and your answer to you and I will read it again. Mr. Sipe says to you: "You saw Isaacs run towards him?" Your answer is, "Yes, sir; and he kept backing away from Mr. Isaacs, and then he hit Mr. Isaacs with the board."

A Yes, sir.

Xq You stated that before the coroner?

A Yes, sir.

MR. CONRAD: Mr. Lee, what page are you reading from?

MR. LEE, Page 41.

MR. CONRAD: That is not the coroner's inquest pap rs?

XQ I have asked you the question and I will read you the question again?

--- MR. SIPE You mean to say the coroner's inquest shows all the evidence before the coroner?

--- COURT: It ought to. The law requires it to be reduced to writing and filed in the clerk' s office.

--- MR. HAMMER: We 'll show it is not.

MR. LEE: We ~~have to use~~ are using a stenographic report.

THE COURT: You mean to ask he witness whether she gave certain testimony there?

MR. LEE: Yes, sir .

XQ I have asked you the question again and you have answered my question already. I want to be clear about it. Mr. Sipe, says to you: "You saw Isaacs run towards him?" and your answer is:" Yes, sir, and he kept backing away from Mr. Isaacs and then he hit Mr. Isaacs with the board". You said that didn't you?

A Yes sir; that was after the rock was thrown.

XQ That is what you said before the Coroner's inquest.

A Yes , sir;

XQ That is ~~truth~~ the truth?

A Yes, sir.

XQ That is the truth, and you recall that now, and you say that now, do you?

A Yes, sir.

XQ That is your testimoney now then, is it?

A Yes, sir.

XQ Now, we will read that again so there can be no mistake, Mr. Sipe asks you: "You saw Mr. Isaacs run towards him?" And your answer is. " Yes, sir; and he kept backing away from Mr. Isaacs and the he hit Mr. ISaacs with the board." That is right?

A Yes, sir .

MR. LEE: Yes, sir.

QX I have asked you to a reception held and you have overheard

direction sighting;

--- MR. SIER You mean of the colonel's insignia above all the

cartridges before the colonel;

--- COURT: If only it to be satisfied it is to be regarded to written

and filled in the clerk's office.

--- MR. ANDERSON: So, I'll move it is not.

MR. LEE: We have to use a stenographic report.

THE COURT: You mean to say on September the 2nd certain fea-

ature vanish after;

MR. LEE: Yes, sir.

QX I have asked you the direction and I will read for the

direction sighting;

MR. COURT: Mr. Lee, what have are you reading from?

MR. LEE: Page 47.

MR. COURT: What is not the colonel's insignia per per

QX What is what you said petroleum colonel's insignia.

A Yes sir! that was written the book was finished.

QX Then is

A Yes, sir?

QX Then is

A Yes, sir.

QX That is the first, and you recall that was insignia and you see

you do?

A Yes, sir.

QX Then is the colonel's insignia above all the

cartridges before the colonel;

--- MR. SIER You mean to say the colonel's insignia above all the

direction sighting;

QX I have asked you the direction and I will read for the

direction sighting.

MR. COURT: Mr. Lee, what have are you reading from?

MR. LEE: Page 47.

MR. COURT: What is not the colonel's insignia per per

QX I have asked you the direction and I will read for the

direction sighting and you have overheard

A Yes, sir.

XQ Then Mr. Isaacs was following him up? A After he hit him with the board?

XQ No, before he hit him with the board? A Yes, sir.

XQ Mr. Hursh was going backward diagonally across the street and Mr. Isaacs was after him, is that right? A I don't know whether he was backing. I could not say about that. I saw Mr. Isaacs walk forward. I don't know whether he was backing or whether he was coming facing, or how it was.

XQ You say here "he kept backing away from Mr. Isaacs"?

A Yes, I said that. I say Mr. Isaacs was going for him, but whether Mo was backing or coming this way I do not know.

XQ I just asked you, Madam, if you didn't make this statement at the Coroner's Inquest? A Yes, sir, I did, but I told you in the first place they called me late at night and I was excited and made several mistakes.

XQ You have just said now that statement is true? A Yes, sir; I say all but him backing back. I don't know whether he did that or he came facing him.

XQ Now, when Mr. Isaacs was struck by the board how did he fall? A Fell face-foremost in the road.

XQ He fell face-foremost? A Yes, sir.

XQ With his feet in the direction of his house? A Yes, sir.

XQ And his head in the other direction? A Yes, sir; fell this way in the road.

XQ Now, again, I want to refresh your memory, Madam, by calling your attention to another part of your testimony before the Coroner. I want to ask you if these questions were not asked you and if these were not your answers: Question, "Can you tell which one was striking the other?" answer, "No, sir, not exactly, but I think Mr. Isaacs struck at him. I just heard the noise and just as I looked around looked to me that he made a lick. Whether he did or not I don't know."

A Yes, sir, that was after he threw the rock.

XQ How is that? A That was after Mox threw the rock.

XQ That was after he threw the rock? A Yes, sir.

XQ You also stated, did you not, in answer to this question: "When you heard this loud talking you looked around, by that time did the striking begin? A Yes, sir, they just began striking."-- is that right? A Yes, sir, that is when I saw Mr. Isaacs throw up his arms.

XQ So that when this fight begun Mr. Hirsh was in the road just away from the curbing of the sidewalk? A When I first saw them, you mean?

XQ Yes, when you first saw them. A When I first saw them at all?

XQ Yes. A They were all standing on the pavement. He was standing just at the edge of the gutter.

MR. CONRAD: Who was standing at the edge of the gutter?

WITNESS: Mox Hirsh was, and Mr. and Mrs. Isaacs were standing on the street.

XQ How far were you fron them? A I don't know just the exact distance.

XQ Did you see Mr. Mox Hirsh when he stepped off of the side walk? A Yes, sir, I saw him step down to the edge of the pavement.

XQ Did you see him pick up a rock? A No, sir, I didn't see him pick up a rock.

XQ Did not see him pick up any rock? A No, sir.

XQ Where were you looking then? A I don't know. I didn't see him pick up a rock.

XQ Did you see him throw the rock or simply see the rock when it struck the wall? A No, sir, I saw him throw the rock.

XQ Did the rock strike either of the Isaacs? A Not that I seen.

XQ Did that rock strike the baby-carriage? A Not that I seen.

XQ That was the only time you ever saw Mr. Mox Hirsh throw anything, was it? A Yes, sir.

XQ Now, Mrs. Tutweiler, were you not asked this question at the Coroner's Inquest: "Do you know whether they were on good terms, Isaacs and Mox Hirsh? to which you answered, "No, sir."

"Q. You mean by 'No, sir' what, that you don't know or that they weren't on good terms? A I don't know.

"Q Did you ever hear Mox make any threats against Isaacs? A No, sir."-- Did you make those statements before the Coroner?

A Yes, sir.

XQ Wasn't that true? A No, sir, I wasn't thinking of what I said when I said that.

XQ You were on oath, then, Madam, were you not? A Yes, sir.

XQ And swore to what you believed to be true? A Yes, sir. As I said before, I was excited, and I didn't think what I was saying.

XQ Now, again at the Coroner's Inquest, I want to refresh your memory by reading this question and answer: "Q Then, soon after this rock was thrown Mox was backing towards the other side of the street, in that direction from the pavement? A Yes, sir." -- Didn't you make that statement? A When was that?

XQ Before the Coroner, at the Coroner's Inquest. Mr. Sipe asked you the question: "Then, soon after the rock was thrown Mox was backing towards the other side of the street, in that direction from the pavement? and your answer is, "Yes, sir." A I don't know whether he was backing or not. He was going away.

XQ Ma'm? A He was going away; I don't know whether he was backing or not.

XQ In other words, he was going away and Isaacs was going after him; is that right? A Yes, sir.

XQ Now, did you see Mrs. Arthur Hirsh out there that night?

A I didn't see her until she ran out after the rock was thrown.

XQ Now, when you saw her, is it not a fact that Mr. Isaacs was running towards Mox and that Mrs. Hirsh was trying to stop Isaacs from going after Mox? A You mean Mr. Isaac's wife?

XQ No; Mrs. Arthur Hirsh. A I guess so. She ran in between them just after the rock was thrown.

XQ Did not you make this statement at the Coroner's Inquest: "Q Where did these women and Mrs. Arthur Hirsh you spoke of go in there? A I only said Mrs. Arthur Hirsh.
"Q What did she do? A I said she ran towards him just before he threw the rock. If she interfered I didn't see her." -- You said that didn't you? A I said she ran in between them. I don't remember that she interfered.

XQ You didn't see that? A If she interfered I didn't. I said she rushed between them but what for I don't know.

XQ Mr. Sipe ~~answer~~ asked you this question: " Which way was she running when she ran towards him?" and your answer is, " She ran towards Mr. Isaacs. He was running towards Mox and she was trying to get him back, from what I could see."-- Is not that true? A Yes, sir.

REDIRECT EXAMINATION BY MR. CONRAD:

Q In the last question Mr. Lee propounded the question and answer all together. I want to get clear about what you mean, exactly, now, with reference to two points. After the rock was thrown and Isaacs was not hit, between that and the time he got hit with the board, do you mean, or not, that Isaacs ran after Mox Hirsh and that Hirsh was backing from him? What do you mean by that. I just want to get your clear statement. State clearly what you do mean to say on that point? A I think that he went after him, but I don't know whether he was backing or whether he

was coming the other way facing him.

XQ Q You say "he", that don't tell us who you mean. A I say Mr. Isaacs was going towards him, but whether Mox was coming forward toward him or not or backing away from him, I do not know.

Q That is what you mean on that subject? A Yes, sir.

Q Coming to this subject of Mrs. Arthur Hirsh, let's get clear what you mean by that,-- as to her interfering. What is your statement as to that; whether Mrs. Arthur Hirsh was trying to get Mr. Isaacs back or whether she was simply trying to get between them to keep both from fighting? What did you mean by that?

A I mean she was trying to keep Mox from hitting her brother.

MR. CONRAD: Very well. That is all.

CROSS-EXAMINATION RESUMED BY MR. LEE:

XQ Do I understand you, Madam, to say that when Mrs. Arthur Hirsh interfered she was trying to keep Mox from hitting Isaacs?

A Yes, sir. I think that is what she was aiming to do.

XQ Now, I want to refresh your memory again. You told me differently,I think,a moment ago. I want to know if these questions were not asked you, and if you did not give these answers, at the Coroner's Inquest: (Mr. Conrad, objected to going into examination in chief. Overruled by Court.) Now, Mrs. Tutweiler, if you will follow me closely, I will ask you some questions and if you don't understand me exactly what I am driving at do not answer until you do fully understand them. I am going to read you now the questions which were asked by Mr. Sipe at the Coroner's Inquest and your answers. (Mr. Conrad objected because Counsel was not reading from the testimony of the witness as returned by the Coroner. Objection sustained and question changed, as follows:)

XQ I will ask you this, were you not asked these questions and if you did not give the following answers to them at the Coroner's

was coming the other way facing him.

XQ Q You say "he", that don't tell us who you mean. A I say Mr. Isaacs was going towards him, but whether Mox was coming forward toward him or not or backing away from him, I do not know.

Q That is what you mean on that subject? A Yes, sir.

Q Coming to this subject of Mrs. Arthur Hirsh, let's get clear what you mean by that,-- as to her interfering. What is your statement as to that; whether Mrs. Arthur Hirsh was trying to get Mr. Isaacs back or whether she was simply trying to get between them to keep both from fighting? What did you mean by that?

A I mean she was trying to keep Mox from hitting her brother.

MR. CONRAD: Very well. That is all.

CROSS-EXAMINATION BY MR. TUTWEILER:

XQ Do I understand you, madam, to say that when Mrs. Arthur Hirsh interfered she was trying to keep Mox from hitting Isaacs?

A Yes, sir. I think that is what she was aiming to do.

XQ Now, I want to refresh your memory again. You told me differently,I think,a moment ago. I want to know if these questions were not asked you, and if you did not give these answers, at the Coroner's Inquest: (Mr. Conrad, objected to going into examination in chief. Overruled by court.) Now, Mrs. Tutweiler, if you will follow me closely, I will ask you some questions and if you don't understand me exactly what I am driving at do not answer until you do fully understand them. I am going to read you now the questions which were asked by Mr. Sipe at the Coroner's Inquest and your answers. (Mr. Conrad objected because Counsel was not reading from the testimony of the witness as returned by the Coroner. Objection sustained and question changed, as follows:)

XQ I will ask you this, were you not asked these questions and if you did not give the following answers to them at the Coroner's

Inquest: "Q Where did these women and Mrs. Arthur Hirsh you spoke of go in there? A I only said Mrs. Arthur Hirsh. Q What did she do? A I said she ran towards him just before he threw the rock. If she interfered I didn't see her."-- Didn't you say that? A Yes, sir, but I said there is where I made the mistake.

XQ You admit that you made that statement before the Coroner's Inquest? A Yes, sir. I was excited and I made the mistake there.

XQ I will go a little further. The next question I will ask you, which we say was propounded, was this: "Q Which way was she running when she ran towards him? A She ran towards Mr. Isaacs. He was running towards Mox and she was trying to get him back, from what I could see."-- Didn't you make that statement before the Coroner? A They were both standing --

THE COURT: You were just asked whether you made that statement at the Coroner's Inquest?

WITNESS: Yes, sir, I made the statement I know.

XQ Is not that statement true? A No, sir, I told you why I said that.

XQ Then, that statement you made then just twenty-four hours after the occurrence was not the truth? A No, sir, not exactly like you said it. I said it, too, but I didn't mean it in that way.

XQ Do not you recall a little while ago I read that statement to you and asked you if that was what you said and if that was true, and that I asked you three or four times, and you said it was true?

A I didn't say it was the truth in that way. I told you why I said it.

DIRECT EXAMINATION RESUMED BY MR. CONRAD:

Q Mrs. Tutweiler, at the night of the Inquest you were, as I understand -- you had gone to bed and gone to sleep? A Yes, sir.

Q And an officer came and aroused you? A Yes, sir, and I had to dress and come down here.

Q Mrs. Lutzweiler, at the right to the inquest you were in a
misunderstanding -- you had been sworn to be the same to speak? A Yes, sir.
Q And an officer came and otherwise they brought you? A Yes, sir, and I
had to dress and come down here.

DIRECT EXAMINATION RESUMED BY MR. COMBYN:

Q Mrs. Lutzweiler, at the right to the inquest you were in a
misunderstanding -- you had been sworn to speak? A Yes, sir.
THE COURT: You were there when Walter Schaefer
you made that statement at the coroner's
inquest?
WITNESS: Yes, sir, I made the statement
I know.
Q Is not that statement true? A No, sir, I told you why
I said that.
Q Then, that statement you made then that twenty-two bullets
after the occurrence was not the truth? A No, sir, not exactly.
Q Did you say it was the truth? A I did, I mean it at that time.
Like you said it. I said it, too, but I didn't mean it at that time.
Q Do not you recall a little while ago I read that statement
of you and asked you if that was what you said and if that was true
and that I asked you twice to tell the truth, and you said it was true?
A I didn't, I was it was the truth at that time. I told you why
I said it.

Q Mrs. Lutzweiler, are you acquainted with Walter Schaefer?
A Yes, sir.
Q Did you see him on the morning of the inquest? A Yes, sir.
Q Did you have a little talk? A I will go a little further. And he said:
"Q Did you see the witness Schaefer? A Yes, sir, I
know, and he said, 'Lutzweiler, are you sure that you are telling the
truth and I could see.'" -- Didn't you make that statement before the
coroner? A That was what I said -- Qualified after your
coroner.
THE COURT: You were there when Walter Schaefer
you made that statement at the coroner's
inquest?
WITNESS: Yes, sir, I made the statement
I know.
Q Is not that statement true? A No, sir, I told you why
I said that.
Q Then, that statement you made then that twenty-two bullets
after the occurrence was not the truth? A No, sir, not exactly.
Q Did you say it was the truth? A I didn't mean it at that time.
Like you said it. I said it, too, but I didn't mean it at that time.
Q Do not you recall a little while ago I read that statement
of you and asked you if that was what you said and if that was true
and that I asked you twice to tell the truth, and you said it was true?
A I didn't, I was it was the truth at that time. I told you why
I said it.

DIRECT EXAMINATION RESUMED BY MR. COMBYN:

Q Mrs. Lutzweiler, at the right to the inquest you were in a
misunderstanding -- you had been sworn to speak? A Yes, sir.
Q And an officer came and otherwise they brought you? A Yes, sir, and I
had to dress and come down here.

Q While the Coroner's Inquest waited for you to come to the Court House, here? A Yes, sir.

Q And you were brought here, I understand, to testify under those circumstances? A Yes, sir, I was.

Q And the paper to which you put your name, as a part of the Coroner's Inquest, was the paper here in my hand, and not the paper the gentleman has there, is not it? A Yes, sir.

MR. LEE: Mr. Conrad, will you introduce that paper, as part of the Coroner's Inquest, in this case?

MR. CONRAD: No, sir.

MR. HARRIS: Then we move to strike out the last question and the answer thereto. Motion overruled and exception noted for the defendant.

Witness told to stand aside.

MRS. ARTHUR HIRSH, examined by Mr. Conrad for Commonwealth:

Q You are the wife of Mr. Arthur Hirsh? A Yes, sir.

Q And your home was in Baltimore before you came to Harrisonburg? A Yes, sir.

Q You were a sister of Mr. Louis Isaacs? A Yes, sir.

Q He married Miss Emma Hirsh? A Yes, sir.

Q So that you are sister-in-law of Mox Hirsh and the sister of Mr. Louis Isaacs? A Yes, sir.

Q And your home was the middle one of these three houses, shown there in this picture? A Yes, sir, right there (indicating.)

Q And the doors of the house, one door comes open right out on the pavement? A Yes, sir. You see the door right there (indicating on picture.)

Q And the house in which old Mr. Hirsh and his daughters and one or two sons live is just south of the house you live in?

A Yes, sir.

Q And between your house and theirs is a little side porch?

A On my house there is a little porch.

Q On your house? A Yes, sir.

Q When you first heard this confusion outside, that night your brother was killed, which of these doors did you come out of, this one here? A Out of the front door.

Q This one here that opens on the pavement? A Yes, sir.

Q What did you see as soon as you came out there? And then what did you do? A The first thing I saw when I came out was Mox Hirsh. He was standing nearest to Water Street and my brother was on this side, and Mox had what looked like a board raised to strike him and I went up to him and said "Don't hit him with that," and he told me to get out of the way, and after that he knocked me down.

Q Who is this that knocked you down? A Mox Hirsh.

Q Where did he strike you? A It must have been in the face because my nose was dislocated afterwards.

Q At what point did you fall-- where did you fall? A Right on the pile of lumber that was out on the street -- out by the side of the gutter. (Mr. Conrad hands witness photograph of street). There was the pile of lumber right there (indicating) and there was the mixing board where they mixed mortar. It was on this side of the little lumber pile or trash.

Q The mixing board that the plasterers mixed mortar in sit right there? A Yes, sir.

Q On the north of the little pile of trash and stuff that was there? A Yes, sir.

Q Where had this pile of lumber and trash come from? A From a room we were building on our house.

Q Now, where was Mox Hirsh standing with reference to this were was he and your brother when you ran out and Mox had this board up? A A little south of my door.

Q Were they on the pavement or the edge of the gutter or in the middle of the road or where? A Looked like they were on the edge of the sidewalk. Looked to me like the edge of the side walk

Q That was close --- A To this lumber pile.
How close to the mixing board?
Q ~~Was was close to the lumber pile?~~ A The mixing board was closest to the lumber pile. Of course ~~he was close~~ they were close to the mixing board. It was by the mixing board but near to the pile of lumber.

Q Were they on the upper side of the pile of lumber or on the lower side of the mixing board. A It was nearer to the lumber pile than the mixing board.

Q Mox had a board raised up? A Yes, sir, looked to me like a board raised up.

Q Did it look anything like this board? (Exhibiting board)

Q Where did he strike you? A It must have been in the face because we soon saw dislocated strawberries.

Q Right? A Right --where did you first hit? A Right on the bridge of the nose, and then I was out on the street -- out by the side of the Empire. (Mr. Conrad marks witness photograph to street).

Where saw the bite of tender tight there (indicating) and there was the bite of tender tight there where mixed motor. It saw no fuse side saw the mixing board where they mixed motor. It was the little tender bite of steam.

Q Are the mixing board that the barometers mixed motor in its tight fuses? A Yes, sir.

Q On the motor to the little bite of steam and there TIGHT fuse fuses? A Yes, sir.

Q Where had the bite of tender bite steam come from? A From a room we were building on two people.

Q Did it look something like this photo (exhibiting photo) a point behind up.

Q Now, there are not many automatic motorcycles of this type where are the two front wheels and not one and not high this point? A A little more than a foot.

Q Were you on the pavement to the edge of the Empire to it? A Looked like they were on the little to the road to street? A Looked like they were on the edge to the side walk edge to the sidewalk. Looked as on like the edge to the side walk.

Q Were they close --- A To this tender bite.

Q Were they close to the mixing board? A They were close.

Q Were they close to the mixing board? A They were close.

to the tender bite. Of course [illegible] they were close of the mixing board. It was by the mixing board that near to the bite of tender.

Q Were you on the upper side of the bite of tender to on the tender.

Q Were you on the mixing board. A It was nearer to the tender bite than the mixing board.

Q Now had a board behind up? A Yes, sir, looked to me like a board behind up.

Q Did it look something like this photo (exhibiting board)

A Looked something like that board.

Q You ran up to who? A To Mox Hirsh. I said, "Don't hit him with that," and he told me to get out of the way.

Q He then struck you? A Yes, sir, and knocked me down on this lumber pile.

Q Did you see him, then, when he struck your brother? A No, sir, because I was knocked down with my back towards the street. One went one way and the other went the other way, from what I could see.

Q Did this blow you received daze you at all or make you unconscious? A It did not make me unconscious; dazed me.

Q What effect did it have on your nose? A Dislocated it so the physician had to straighten it that night.

Q Did you see Mox after that time on Water Street? A Yes, sir.

Q What took place down there? A I followed -- I said I was going for the police and I started around Water Street. Before I went down there one of the girls came to me and said "Don't --

Q Don't tell what she said. What did Mox say? A I told her I was going for the police. When I was coming back he was standing there on the street and I was excited and was talking about the police, and I don't remember his exact words, but he says, if I didn't keep my mouth shut, it was to the effect, I would get in trouble too.

MR. LEE: We object to the witness stating the effect of what was said, and ask that she repeat what the man said.

THE COURT: Give the words as near as you can; but if she cannot state the exact words she can give their effect.

WITNESS: I don't remember his exact words.

Q What were his words as near as you can recall them?

A I do not recall his exact words but that was the effect.

A Looked something like that point.

Q You ran up to them? A To look little. I said, "Don't hit
him with that," and he told me to get out to the van.

Q Did you see him, then, when he started your protest? A No,
that ended. I was knocked down with the back towards the street.

Q Did you see the other one get knocked down? A Yes, sir, the
first one was very drunk. I think we had the other one, very
drunk, too.

MR. PAR: We object to the witness testifying
the effect to what was said. But has
that she heard what the man said.

THE COURT: Give the words as near as you
can: but if she cannot state the
exact words she can give their effect.

WITNESS: I don't remember his exact words.

Q What were his words as near as you can recall them?

A I do not recall his exact words but that was the effect.

Q What was it in reference to? A That if I didn't keep my mouth shut that I would get into trouble, too.

MR. HAMMER: You would get in trouble?

WITNESS: It was said -- what I taken it for, that I would get harm done to me.

Q Do you know whether Mox had been on bad terms with your brother, Mr. Isaacs? A From what I could understand he was on bad terms from the day that my brother and my sister-in-law were married.

Q Now, after you were knocked down on the lumber pile and got up from there where was your brother and Isaacs then? A My brother was laying in the street?

Q Who was with him at that moment? A My husband's father. He was sitting down on the street with my brother's head in his lap.

Q About what place there in the road was he, with your brother's head in his lap? A Do you know where Mrs. Clatchey lives?

Q Yes. A It was right there and more towards the yard, towards her house and Mrs. Myers'. It was right there towards that place somewhere.

Q Was his body laying on this side of the street or in the center of the road, or on the other side of the street? A As near as I can remember it was more towards the center of the street — towards Mrs. Clatchey's center side.

MR. HARRIS: More towards Mrs. Clatchey's side?

WITNESS: It seemed that way. I don't know. Looked like on that side.

Q Did Mox Hirsh sleep at your house that night or where did he stay? A No, sir, he wasn't sleeping at my house that night.

Q Where did he stay that night? A I don't know. I didn't see him after I saw him on Water Street.

Q Was that what you refer to in the street to in the
center to the road, to on the other side of the street? A As
near as I can remember it was more towards the center of the street --
towards the Clarendon's center side.

MR. HAMMAN: More towards the Clarendon's side.

WITNESS: It seemed that way. I don't know.
looked like on that side.

Q Did you hitch-hike to work that morning to where did
you go that night? A Oh, it's on my way home, I stopped at the Quonset that night.

Q Were you with anyone that night? A I don't know. I think I
was with friends on the street after I left the office.

Q Do you know where you had been on that night with your
brother's home in the street with the brother's home in the left.

Q About what time did you see the car, with your brother's
head in the left? A Do not know exact time. Clarendon street towards
home and the Ritz. Where, it was right there towards that place
nearer home and the Ritz. Where, it was right there towards the Arts, towards
somewhere.

Q Was this road leading on this side of the street to in the
center to the road, to on the other side of the street? A As
near as I can remember it was more towards the center of the street --
towards the Clarendon's center side.

MR. HAMMAN: More towards the Clarendon's side.

WITNESS: It seemed that way. I don't know.
looked like on that side.

Q Did you hitch-hike to work that morning to where did
you go that night? A I don't know. I think I
don't know.

Q Where did you go that night? A Oh, it's on my way home, I stopped at the Quonset that night.

Q Your brother's home in the left.

Q Was anyone with you at that moment? A My brother's
brother.

Q Was anyone else with you? A No.

Q Do you know exactly how long you were knocked down on the pavement? A. I cannot say.

Q Do you know whether you had been on bed rest with your
brother? A. I don't know. I think I keep my
brother's home in the left.

Q What was it in reference to? A That is what I don't know
what that was I would say that info prompted.

MR. HAMMAN: You would say in prompted
you of anob atem done to me.

WITNESS: It was also -- this I taken it
that I would say that info prompted.

The Court: Where was his home at that time?

WITNESS: With his father.

Q That was in the corner house? A Yes, sir.

Q Was your brother a large man, at all, Mrs. Hirsh? A No, sir, he was --

Q Was he a strong muscular man, or not? A No, sir. People often noted the difference between he and I, that I was so stought looking and he was so frail looking. They would often tease me about it.

Q Which would you say appeared to be the larger, stouter man, he or Mox? A Mox always looked stouter than Lou, for Lou always looked pale -- had a pale appearance.

MR. HARRIS: What sort of appearance?

WITNESS: A pale appearance.

CROSS-EXAMINATION BY MR. LEE:

XQ Mrs. Hirsh, your house is next to Mr. Ludwig Hirsh's?

A Yes, sir.

XQ It is the middle one of the three houses we have been talking about? A Yes, sir.

XQ This lumber pile, pieces of old plank, were the remains of some work that had been done on your house? A Yes, sir.

XQ And that was laying nearly in front of your house? A Laying right in front of my house.

XQ Now, had you heard any loud talking before you came to your door that night? A I was back in my diningroom. What attracted my attention first was the rock.

XQ Was what? A The rock thrown up against my house.

XQ That was the first thing you heard? A Yes, sir, and then the loud talking.

XQ So the loud talking followed the throwing of the rock?

A Well, I don't remember. I heard loud talking before the rock was thrown.

THE COURT: Where was his home at that time?

WITNESS: With his father.

Q Then was it the corner house? A Yes, sir.

Q Was your property a large man, at all, Mr. Hilton? A No, sir, he was --

Q Was he a strong muscular man, or not? A No, sir. People often noted the difference between me and I, that I was so strongly looking and he was so light looking. They would often make some remark about it.

Q Would you not be suspected of be the larger, stronger man, or be or not? A Not always looked upon that way. I don't know.

MR. MANNIS: What sort of appearance looked here -- had a here appearance.

WITNESS: A bare appearance.

CROSS-EXAMINATION BY MR. LEE:

Q Mr. Hilton, your house is next to Mr. Dunlap's, isn't it? A Yes, sir.

Q It is the middle one of the three houses as have been talking about? A Yes, sir.

Q Into Dunlap's, across of old Blank, were the remains of some rock that had been done on your house? A Yes, sir.

Q And that was lying mostly in front of your house? A Yes-ing in front of the house.

Q Now, had you noticed the land falling before you came to your house? A I was back in my dining-room. Just after searched my attention first was the rock.

Q Was anything? A The rock thrown up against my house.

Q That was the first thing you noticed? A Yes, sir, and then the land falling.

Q So the land falling followed the throwing of the rock?

A Well, I don't remember. I never land falling before the rock was thrown.

XQ You heard loud talking before the rock was thrown? A I mean after the rock was thrown.

XQ After the rock was thrown you heard loud talking? A Yes, sir.

XQ Do you know whose voice it was? A No, sir, I don't know.

XQ You don't know? A No, sir, I don't know, because when I heard the rock thrown I had no idea what was going on. I thought it was boys out there because often there is --

XQ When you heard the loud talking that gave you no idea of what was going on? A No, sir.

XQ How did you happen to come to the door? A Because I wanted to see who threw the rock up against the house.

XQ You wanted to see who threw the rock against the house? A Yes, sir.

XQ As I understand, as soon as you got to your front door where you could see you saw Mox Hirsh and your brother? A Yes, sir.

XQ On the street next to the curbing? A They were on the sidewalk right on the curb.

XQ They were on the sidewalk? A Right by the curb.

XQ Both were on the sidewalk, then? A Yes, sir.

XQ They had not gotten off the sidewalk but were next to the curb? A Didn't look to me that they were off the sidewalk. They may have been in the gutter.

XQ They were right on the edge of the walk, either just off or just on it? A When I came out of the door he was on the edge of the walk

XQ Where was Mrs. Isaacs? A I didn't take any notice in my excitement where she was.

XQ You didn't take any notice where she was? A No, sir.

Q Did you hear Mrs. Lamson? A I didn't take big notice where she was; I just saw the excitement where she was.

Q Where was Mrs. Lamson? A I didn't take big notice of the way of the walk

to land on it? A When I came out to the door he was on the edge of the walk

Q There were right on the edge of the walk, either land off the walk.

Q Both were on the sidewalk, then? A Yes, sir.

Q They had not fallen off the sidewalk but were next to the curb? A Didn't look to me like they were off the sidewalk. They were

Q They were on the sidewalk? A Right on the curb.

Q On the street next to the curb? A They were on the sidewalk right on the curb.

Q They were on the sidewalk, then? A Yes, sir.

Q Did you know George Lovejoy? A No, sir, I don't know.

Q Do you know George Lovejoy? A No, sir, I don't know, because when

I heard the rock thrown I had no idea what was going on. I thought it was some boys out there because often there is --

Q When you heard the loud falling that was you on hand to

Q Did you hear anybody come to come to the door? A Because I wanted to see who threw the rock up against the house.

Q You wanted to see who the rock was thrown at? A Yes, sir.

Q As I understand, as soon as you got to your front door

where you could see you was Mrs. Hilen and your brother? A Yes, sir.

Q Both were on the sidewalk? A Right on the curb.

Q On the street next to the curbing? A They were on the sidewalk right on the curb.

Q They were on the sidewalk? A Right on the curb.

Q Both were on the sidewalk, then? A Yes, sir.

Q They had not fallen off the sidewalk but were next to the curb? A Didn't look to me like they were off the sidewalk. They were

Q Where was Mrs. Lamson? A I didn't take big notice where she was.

Q You didn't take big notice where she was? A No, sir.

XQ Then, I understand, when you got to the front door you saw your brother Mox on the edge of the sidewalk? A Yes, sir.

XQ And Mox had a piece of plank upraised, like that? A Yes, sir.

XQ About to strike with it? A Yes, sir.

XQ And you were then in your front door? A When I got nearly up to them I saw that.

XQ What were they doing when you first saw them? A Looked to me they were going together.

XQ Looked like they were going together when you first saw them? A Yes, sir, that is what it looked to me like.

XQ Who was doing the going? A Looked to me like they were both going, and like Mox was approaching on him mostly with the board.

XQ Looked like Mox was approaching on him mostly (Yes, sir) with the board? A Yes, sir.

XQ Was Mox coming towards your house? A He was coming towards my brother.

XQ Well, was your brother between him and your house? A No, sir, they were standing lengthwise on the street, like this.

XQ How far were they apart when you first saw them? A I suppose, looked to me like the length of that table.

XQ They were about four feet apart when you first saw them?

A Yes, sir.

XQ Then did both men move close towards each other, or did one stand still and the other advance on him? A No, after that -- After he knocked me down?

XQ I am not talking about that; I am asking you about before you got to them. A Before I got to them?

XQ Yes. A I don't know whether they advanced after I started --

MR. CONRAD: Let her finish her answer.

Q Then, I understand, when you got to the front door you saw your brother Max on the edge of the sidewalk? A Yes, sir.

Q And Max had a piece of plank material, like that? A Yes, sir.

Q About to strike with it? A Yes, sir.

Q And you were then in your front door? A When I got nearly up to them I saw that.

Q What were they doing when you first saw them? A Looked to me they were going together.

Q Looked like they were going together when you first saw them? A Yes, sir, that is what it looked to me like.

Q Who was doing the going? A Looked to me like they were both going, and like Max was approaching on him mostly with the board.

Q Looked like Max was approaching on him mostly (Yes, sir) with the board? A Yes, sir.

Q Was Max coming towards your house? A He was coming towards my brother.

Q Well, was your brother between him and your house? A No, sir, they were standing lengthwise on the street, like this.

Q How far were they apart when you first saw them? A I suppose, looked to me like the length of that table.

Q They were about four feet apart when you first saw them? A Yes, sir.

Q Then did both men move close towards each other, or did one stand still and the other advance on him? A No, after that -- After he knocked me down?

Q I am not talking about that; I am asking you about before you got to them. A Before I got to them?

Q Yes. A I don't know whether they advanced after I started --

MR. DONAHO: Let her finish her answer.

WITNESS: What was the question.

XQ My question, Madam, is this, when you got to your front door, before you even stepped down on the sidewalk, where were your brother and Mox Hirsh? A They were on the curb.

XQ Alright. How far apart were they? A About the length of this table.

XQ Were they both standing still or was one advancing on the other? A Looked like Mox Hirsh was advancing on my brother.

XQ Looked that Mox was advancing on your brother? A He had the board uplifted when I got nearly --

XQ How far were you from him when he had the board uplifted?

A I was going across the sidewalk.

XQ Had you gotten halfway across the sidewalk? A About half-way across the sidewalk.

XQ You had gotten about half-way across the sidewalk? A Yes, sir.

XQ Then what precented Mox Hirsh from striking him with the board while you were travelling across the other half of the sidewalk? A I got there so quick, I ran. When the board was up I ran in between them.

XQ You ran in between them? A Yes, sir.

XQ What were you struck with? A It seemed to me with his hand or his fist.

XQ With his hand or fist? A It seemed to me that way.

XQ You were not struck with the board? A I don't know what I was struck with, but I was struck.

XQ You cannot tell what you were struck with? A No, sir.

XQ Do you know with which hand Mox struck you? A No, sir, I do not know.

XQ You do not know that? A No, sir.

XQ What was your brother doing while Mox was striking you?

WITNESS: Didn't see the direction.

Q Well direction, madam, is right. When you got to your street door, before you even stepped down on the sidewalk, where were your photographs and Nox Hitch? A They were on the curb.

Q Right. Now isn't there some reason why you were facing across the sidewalk? A Yes, sir.

Q Did you have your back to the street? A No, sir.

Q You do not know that? A No, sir.

Q Your photographs going with Nox are exactly your?

Q Didn't see you throw photographs going with Nox are exactly your?

Q Did you not throw your photographs on the sidewalk? A No, sir.

Q Do you know with which hand Nox struck you? A No, sir.

Q You cannot tell what you were struck with? A No, sir.

Q You were not struck with the pistol? A I don't know what I saw struck with, but I saw struck.

Q With his hand or fist? A It seemed to me quite well.

Q Did you see Nox strike you? A Yes, sir.

Q Just then it happened then? A Yes, sir.

Q Just then it happened then? A It seemed to me with his hand or his fist.

Q Just were you struck with? A It seemed to me with his hand or his fist.

Q You were not struck with the pistol? A I don't know what I saw struck with, but I saw struck.

Q You cannot tell what you were struck with? A No, sir.

Q Do you know with which hand Nox struck you? A No, sir.

I do not know.

Q You do not know that? A No, sir.

Q Just saw your photographs going with Nox are exactly your?

Q Just saw your photographs going with Nox are exactly your?

Q When Nox? Presented Nox hitch from striking him with the pistol-butt was your facing across the other part of the sidewalk? A Yes, sir.

Q You had gotten about half-way across the sidewalk? A Yes, sir.

Q Then you gotten half-way across the sidewalk? A About half-way across the sidewalk.

A I was going across the sidewalk.

Q Now let were you from him when he had the pistol originally? — yesterday when I got there.

Q Looked that Nox saw exactly on your photographs? A He had

Q Looked like Nox hitch saw exactly on you on photographs.

A Looked like Nox hitch saw exactly on yu on photographs.

Q Were that path exactly with it saw one exactly on the photographs and Nox hitch? A They were on the curb.

Q Right. Now let where were that? A About the length of this table.

A I had my back towards him.

XQ You had your back towards him? A Yes, sir.

XQ Isn't it a fact, Madam, that the first thing you said when you rushed out there was, "Hit him, Lou, hit him," speaking to your brother? A No, sir, that is not true.

XQ It is not? A No, sir, it is not true.

XQ You did not do that? A No, sir, I did not say that.

XQ Didn't you say, "Kill him, Lou, kill him"? A No, sir, that is not true either.

XQ That is not true? A No, sir, that is not.

XQ Did you say anything to your brother at all? A No, sir, I did not say anything to my brother.

XQ You did not say anything to your brother at all? A No, sir, I did not.

XQ Did you try to stop your brother at all? A All I said was, "Don't hit him with that", and I had my face towards Mox.

XQ And that was a piece of plank like this (indicating)?

A It looked like that.

XQ Do you know where your brother finally fell? A When I saw him lying in the road -- give me the picture and I will show you.

XQ I will do that. (Hands witness picture). I would like to ask you, Madam, if it is not a fact that your brother fell about where these two men are located in this picture? A Just about there -- about there.

XQ His feet were where the man in the shirt-sleeves is?

A His feet were up this way and his head was down this way.

XQ And you tell the jury that when you first saw Mox have the board raised up they were on the edge of the sidewalk? A Yes, sir.

XQ And when your brother fell he fell out where that picture locates those two men? A Yes, sir. He may have dropped the plank down and then carried it out or picked up another one.

XQ I am not discussing that. That is a theory of your. I am only asking for your testimony. You don't know what happened after you were knocked down, do you? A No, sir, not until after the time I saw my brother laying in the street.

XQ You say Mox Hirsh has not been on good terms with your brother? A No, sir.

XQ You have not been on good terms with any of the Hirshes, have you?

MR. CONRAD: That is not the question. This is not the trial of the Hirsh family, but it is the trial of Mox Hirsh.

MR. LEE: I simply want to show the relation of the witness to the parties.

THE COURT: I expect you had better confine the testimony to the accused.

MR. LEE: I want to show the animus. I will ask a few questions and let your Honor rule them out so I can take an exception. I think this is pertinent evidence.

XQ You married a son of Mr. Ludwig Hirsh? A Yes, sir.

XQ What is your husband's name? A Arthur Hirsh.

XQ How long has it been since you were on speaking terms with Mox Hirsh? A Let's see! He stopped speaking to me before I went to house-keeping. That was four years ago last spring.

XQ So you and Mox have not been on speaking terms for about four years? A Yes, sir.

XQ I am going to ask you if it is not also a fact that for a long time you have not been on speaking terms with Mos Hirsh's father, Mr. Ludwig Hirsh? A Yes, sir.

XQ That is a fact, too, is it not? A Yes, sir.

XQ You have not been on speaking terms with him? A Yes, sir.

MR. CONRAD: I want to object.

MR. LEE: I thought so, understand.

XQ Now, don't answer until the Gentleman has an opportunity

Q. I am not discussing that. That is a fiscal to your. I am

sure speaking for your professional. You don't think that happened after

your stroke knocked down, do you? A. No, sir, not until after the

first I was in protest letter in the office.

Q. You see Mr. Mitch was not used to doing things with your

protest? A. No, sir.

Q. You have not used no good things with us in the hitch,

your even?

MR. CONNOR: That is not the direction.

Q. Is not the first to the Mitch

Hitch, but it is the first to Mr.

Hitch.

MR. LEE: I beg pardon. I didn't hear the last-

mentioned of the question.

MR. CONNOR: I expect you had better consult

the reporter of proceedings.

MR. LEE: I meant to object to the question

as a new direction and that your

honor into them out so I can take an

exception. I think this is beyond

evidence.

Q. You mentioned a son to Mr. Lundgren Mitch? A. Yes, sir.

Q. What is your husband's name? A. Vaughn Mitch.

Q. How long has it been since you were on speaking terms with

Mr. Mitch? A. Let's see; he stopped speaking to me before I went

of house-keeping. That was four years ago last spring.

Q. So you and Mr. Mitch have not been on speaking terms for about

four years? A. Yes, sir.

Q. I am going to ask you if it is not also a fact that for a

long time you have not been on speaking terms with Mr. Mitch's

father, Mr. Lundgren Mitch? A. Yes, sir.

Q. That is true, is it not? A. Yes, sir.

Q. You have not been on good terms with the Mitches,

your even?

to object. Isn't it also a fact that for a long time you have not been on speaking terms with your brother-in-law, Mr. Leon Hirsh?

Objection; sustained; exception noted for the accused.

XQ Isn't it a fact that for a long time you have not been on speaking terms with any of your sisters-in-law, the daughters of Mr. Ludwig Hirsh?

Objection; sustained; exception noted for the accused.

XQ Is it not a fact that for a number of years the relations between you and all of the Hirsh's have been strained and you have not been on speaking terms with the family?

Objection; sustained; exception noted for the accused.

XQ You spoke of going down to the stable in the neighborhood of Mr. Ludwig Hirsh's after this trouble, didn't you go down there twice? A Where?

XQ To the stable? A I didn't say I went to the stable.

XQ Didn't you go there twice in that neighborgood that night?

A I was only there once.

XQ What did you go there for then? A I didn't go to the stable; went towards the stable.

XQ What did you go for then? A For the police.

XQ Going for the police? A Yes, sir.

XQ As a matter of fact, were not you after Mox and were not you abusing him roundly? A I wasn't abusing him. After I saw my brother laying in the street he was standing a little distance away from him and I went up to him and said "You have caused enough trouble to our family."

XQ Is that all you said to him? A That is all I said to him.

XQ Didn't you abuse him pretty roundly? A No, sir.

XQ You went up to him? A Yes, sir. I said, "You have caused

enough trouble to our family.

XQ He did not strike you? A Didn't he strike me on the pile of lumber?

XQ He didn't strike you a second time? A No, sir.

XQ He was close enough to strike you, wasn't he? A Well, he could.

XQ What answer did he make? A I don't remember. He said something but I don't remember his answer.

XQ You don't remember what it was? A No, sir.

XQ As a matter of fact didn't you that night, after your brother was hit, didn't you actually strike Mr. Mox Hirsh? A No, indeed.

XQ Are you sure of that? A I am sure of it.

XQ Mrs. Hirsh, after you got home that night, didn't you tell your husband, Mr. Mox Hirsh's brother, that you had followed Mr. Mox Hirsh and hit him with a stick: didn't you tell your own husband that? A Why, no I didn't tell him --

MR. CONRAD: I object because communication between husband and wife is privileged.

MR. LEE: I frankly say you are right about that. I did not think about that. May withdraw the question.

DIRECT EXAMINATION RESUMED BY MR. CONRAD:

Q When you went up to Mox Hirsh and spoke to him, just after you found your brother's body lying in the road, where was he standing then? A What is that.

Q Where was Mox standing when you went up to him just after you found your brother's body lying in the road?

MR. HARRIS: Object to going into examination in chief.

A Do you know where the trees are in front of Mrs. Myers' house?

Q On the west side of German Street? A Yes, sir.

Q These trees up here next to the corner of Water Street?

A Yes, sir. I will show you. He was standing in the middle of the road between the trees.

Q (Exhibiting picture) This picture was taken from up at Water Street. There are no trees on the righthand side, or east side. Up along here about the trees is in front of Mrs. Myers'. Here is her house on the corner? A Yes, sir. It must have been either between the first and second tree there -- looks to me maybe a little further away.

Q The jury saw the trees and Mrs. Myers' house near the corner.

A Yes, sir.

Q He was standing there: what was he doing? A He turned and looked around.

Q When you spoke to him about it did he say what he had done he had to do in selfdefense? A No, sir. I don't remember what he said.

MR. SIPE: We object. She said a moment ago she didn't know what he said.

Q I did mean to ask you this one question, Mrs. Hirsh. After your brother was struck by Mox, either while he was there on the ground or when he was being carried in the house or after he had been carried in the house, did Mox tender his services in any way or render any assistance or help towards him at all? A I did not see any.

Witness told to stand aside.

V. L. BAUGHER, examined by Mr. Conrad for Commonwealth:

Q You are employed at the tannery, I believe? A Yes,sir.

Q As night watchman? A Yes, sir.

Q And the tannery is just on the corner of Water Street and German Street? A Yes, sir.

Q On the southeast corner? A Yes, sir.

Q Well, did you see Mox Hirsh the night that Louis Isaacs was killed? A Yes, sir.

Q Where did you see him? A Seen him over about opposite the ladies' office of the stable.

MR. HARRIS: That is on Water Street?

WITNESS: Yes, sir.

Q Well, did he leave there? A Yes, sir. He left there and said he was going to George Gatewoods.

Q Who did he tell that to? A Spoke it so anyone could hear it.

Q Where were you at the time? A Me? I was just over on the tannery yard side, you know. I had just come out to the street.

Q

MR. HAMMER: You mean about where the scales are?

WITNESS: By the side of the scales.

Q Who was he talking to when he spoke this? A He spoke it as if he wanted them all to hear it.

Q Who was over there that he was talking to, his brother, his father, or who? A I think Mr. Leon and Joe, and some others I don't just remember which.

Q His brother Leon and his brother Joe? A I think they were there.

Q And they were over at the stable? A Yes, sir.

Q And you were over on the other side of the street at the tannery? A Yes, sir.

Q Inside of or below or standing in the alley there? A I was standing out in the alley-way.

Q Then he left? A Yes, sir.

MR. HARRIS: What time did you say that was?

MR. CONRAD: He did not say.

Q When he left there did he have any coat or hat on? A He

Q WELL, DID YOU SEE NOW HITLER THE NIGHT THAT LOUIS LEONOR
WAS KILLED? A YES, SIR.

Q WHERE DID YOU SEE HIM? A SEEN HIM OVER SPOTS OPPOSITE
THE LADIES OFFICE OF THE ARCADE.

MR. HARRIS: THAT IS ON WEST STREET?

WITNESS: YES, SIR.

Q WELL, DID HE LEAVE THERE? A YES, SIR. HE LEFT THERE AND
WALK ON WAS GOING TO GEORGE DATEWOODS.

Q WHO DID HE TELL THAT TO? A SPOKE IT SO ANYONE COULD HEAR
IT.

Q WHERE WERE YOU AT THE TIME? A WAS THAT OVER ON
THE TENNESSEE WALK SIDE, YOU KNOW. I HAD JUST COME OUT TO THE STREET.

MR. HARRIS: WHAT TIME DID YOU SEE THAT MAN?

MR. GOWRUD: HE DID NOT SAY.

Q WHEN HE LEFT THERE DID HE HAVE HIS COAT ON? A NO
SO IT HE MEANT THEN ALL TO HEAR IT.

Q WHO WAS HE TALKING TO WHEN HE SPOKE THIS? A HE SPOKE IT
AS HE HAD MEANT THEM ALL TO HEAR IT.

Q WHO WAS OVER THERE THAT HE WAS TALKING TO, HIS PROPHET,
HIS INFORM, TO WHO? A I THINK MR. LEON BRA LOE, BRA SOME OTHERS
I DON'T JUST REMEMBER WHICH.

Q HIS PROPHET LEON BRA HIS PROPHET LOE? A I THINK THEY
WERE THERE.

Q WHAT THEY WERE OVER AT THE ARCADE? A YES, SIR.

Q AND YOU WERE OVER ON THE OPPOSITE SIDE TO THE STREET AT THE
TENNESSEE? A YES, SIR.

Q INSIDE TO TO LEAVE TO WALKING IN THE SILVER THEATER? A I
WAS STANDING OUT IN THE SILVER-WEW.

Q WHEN HE LEFT? A YES, SIR.

MR. HARRIS: WHAT TIME DID YOU SEE THAT MAN?

MR. GOWRUD: HE DID NOT SAY.

Q WHEN HE LEFT THERE DID HE HAVE HIS COAT ON? A NO

Q WHO WAS HE TALKING TO WHEN HE SPOKE THIS? A HE SPOKE IT
SO IT HE MEANT THEM ALL TO HEAR IT.

Q WHO WAS OVER THERE THAT HE WAS TALKING TO, HIS PROPHET,
HIS INFORM, TO WHO? A I THINK MR. LEON BRA LOE, BRA SOME OTHERS
I DON'T JUST REMEMBER WHICH.

Q HIS PROPHET LEON BRA HIS PROPHET LOE? A I THINK THEY
WERE THERE.

Q AND THEY WERE OVER AT THE ARCADE? A YES, SIR.

Q AND YOU WERE OVER ON THE OPPOSITE SIDE TO THE STREET AT THE
TENNESSEE? A YES, SIR.

Q INSIDE TO TO LEAVE TO WALKING IN THE SILVER THEATER? A I
WAS STANDING OUT IN THE SILVER-WEW.

Q WHEN HE LEFT? A YES, SIR.

MR. HARRIS: WHAT TIME DID YOU SEE THAT MAN?

MR. GOWRUD: HE DID NOT SAY.

Q WHEN HE LEFT THERE DID HE HAVE HIS COAT ON? A NO

didn't have any coat and I don't think he had any hat.

Q Did he leave leisurely or in a hurry? A He walked pretty fast.

Q The next time you saw him where was he? A The next time I seen him he was in the alley-way back of me, right behind me.

Q In the alley-way back behind you? A Yes, sir.

Q The jury will better understand that, perhaps, with a little explanation. The tanery has two buildings? A Yes, sir.

Q Say, this one is right on the corner of German and Water streets here? A Yes, sir.

Q And it extends clear through from Water to Bruce streets?

A Yes, sir, that runs through from Water to Bruce streets.

Q Bruce Street is the one that runs behind the tannery, right up by Gen. Roller's office and the Episcopal Church? A Yes, sir.

Q And in going West it goes across the railroad to where George Gatewood lives? A I don't know where George Gatewood lives.

Q Don't you. Well, it goes on around by the foundry? A Yes, sir.

Q This is Bruce Street back here (indicating) and this is Water Street in front of the tannery (indicating) and this in German Street along here: now, next to the corner building there is another tannery building? A Yes, sir.

Q And that extends clear through from Water to Bruce Street? A Yes, sir.

Q And there is still another building, then? A There are three buildings at the tannery all running one way.

Q The Hirsh stable is on Water Street? A Yes, sir.

Q The livery stable? A Yes, sir.

Q The office is about opposite which one of these three buildings? A It would be near about opposite the alley.

didn't have the cost and I don't think he had the

Q Did he leave letters to it a month? A He sent them

Q The next time you saw him where was he? A The next time

I seen him he was in the alley-way back of me, right behind me.

Q In the alley-way back behind you? A Yes, sir.

Q The last time I better understand that, because a little

exhausted. The funeral was two Saturdays A Yes, sir.

Q Yes, this one is right on the corner of German and Water

streets? A Yes, sir.

Q Did it extends clear through this back to Hence streets?

A Yes, sir, that came through this back to Hence streets.

Q Hence Street is the one that runs behind the funeral, right

adjacent? A Yes, sir.

Q Did the Kentucky Central Depot? A Yes, sir.

Q Do you know Holler's office and the Kentucky Central to where

Q And in going West is Rose across the railroad to where

George Garrard lives? A I don't know where George Garrard

lives.

Q Don't you? Well, is Rose on street by the railroad? A Yes,

sir.

Q Where Hence Street pack here (indicating) and this is

Water Street in front of the funeral (indicating) and this is

German Street along here: now, next to the corner building there

is another funeral building? A Yes, sir.

Q And that extends clear through this back to Hence Street?

A Yes, sir.

Q And the funeral was two Saturdays? A Yes, sir.

Q The last time I better understand that, because a little

explanation. The funeral was two Saturdays A Yes, sir.

Q Yes, this one is right on the corner of German and Water

Q Which alley? A This one here, (indicating.)

Q That is the first alley you come to in going down Water Street from German Street? A Yes, sir.

Q Is that the alley in which you saw Mox Hirsh the second time you saw him? A Yes, sir.

Q That is the alley up through which the railroad goes?

A No, sir, the railroad goes up through the other.

Q That railroad runs back across Bruce Street and curves around and comes through the bark sheds and into Bruce Street right over where Bruce Street crosses the main line of the railroad?

A Yes, sir.

Q A corner there where George Gatewood lives. He was coming, then, from back towards Bruce Street, from towards that alley way?

A Yes, sir.

Q That is not a public street through there,-- it is not a public alley? A Well, people can pass through there, anyone that wants.

Q It is not an open alley? A No, sir; no sir. It was not left for the public. It was left for their own benefit.

Q And you, as watchman, are supposed to keep people from being around in there? A Yes, sir.

Q Now, did you ask him or anybody ask him anything about what had happened? A Mr. John Branner asked him what had happened. I did not ask him.

Q What reply did he make to him? A "Well," he said, "I knocked hell," he says, "out of that brother-in-law of mine." He said, "He came there to jump on me and",he says,"I knocked hell out of him -- no more than anyone would do."

Q Brother-in-law had come there and jumped on him and he knocked hell out of him? A Yes, sir.

Q Did he tell you what he "knocked hell out of him" with?

Q Which alley? A Exit one there. (indicating.)

Q That is the first alley you come to in going down Bayou street.

A Yes, sir.

Q Right from Canal street? A Yes, sir.

Q It just the alley in which you was not hitch the second time you was hitch?

A Yes, sir.

Q Just the alley up through which the lattice goes?

A No, sir, the lattice goes up through the office.

Q Just lattice back across Pierre street his house?

A Yes, sir.

Q Just lattice back across Pierre street into Pierre street right through the park where his house is to the lattice?

A Yes, sir.

Q A corner right where people passed like. He saw nothing?

A Yes, sir.

Q Did he feel you strike the "knocked half out to him" strike knocked half out to him? A Yes, sir.

Q Protect-it-yel had some fight in him and he thought he had no chance to win -- no more fight anything only.

"He said protect-it-yel to get that protect-it-yel to him." He said, he had, "he says, "out to fight on me in this, he says, "I knocked half out to him."

Q Just right hit he make of him? A "Yes" he said, "I knock-out that right hit he make of him." He said, "I did not see him.

Q Now, did you see him to this vicinity when he was knocked half unconscious?

A No, I did not see him.

Q Did you, he mentioned the supposed to keep people from going around in front? A Yes, sir.

Q Now, in mentioning the supposed to keep people from going in front of the public. It was left for their own benefit.

Q It is not an open alley? A No, sir; no sir. It was not fight among.

Q Public alley? A Well, people can have strength there, without

Q That is not a public street though there?— It is not a

A Yes, sir.

Q Just lattice back across Pierre street? How that after they

A He did not say.

Q Did he seem to have any regret about it?

A Well, no, he didn't let on that way.

Q He didn't let on that way? A No, sir.

Q Did you see this lady, Mrs. Arthur Hirsh, afterwards coming down Water Street and hear Mox speak to her? A That was before that. I seen her come before then — before he went away.

Q You mean, before he went away coatless and hatless? A Yes, sir, before he got away.

Q Did you hear what he said to her? A No, sir.

CROSS-EXAMINATION BY MR. HAMMER:

XQ Mr. Hirsh was crying at the time you had the conversation with him, was he not? A No, sir.

XQ How is that? (Mr. Conrad: He said "No, sir").

A No, sir.

MR. SIPE: I don't know that it has been ascertained what time that was. What time of night was that?

WITNESS: A little bit before dusk --very little. I don't know what time. I didn't look to see what time

MR. LEE: It was a little before dusk?

WITNESS: It was getting dusk, but it hadn't gotten entirely dark yet

MR. CONRAD: Mr. Baugher, you said it was just before dusk that Mox Hirsh made that statement? A When he spoke them words that was a little bit after dark but very few minutes.

WITNESS told to stand aside.

MRS. ARTHUR HIRSH, recalled by Mr. Conrad:

Q The 29th day of July was the date that Mr. Isaacs was struck, was it, Mrs. Hirsh? A Yes, sir.

Q And he died later in that night? ~~xxxAftexxmorningxxxxxtime~~

A After midnight sometime. Just about 2 o'clock or thereabouts.

Q Of that night? A Yes, sir -- two or half past.

Q About what time of the night was it that this difficulty occurred when he was hit? A It was after eight o'clock.

Q What would be your judgment whether it would be nearer eight or nine o'clock? A I don't know, exactly, what time it was between eight and nine o'clock. It must have been about between the hour, it seemed to me.

MEMO: Adjournment taken until 10 o'clock tomorrow morning.

WEDNESDAY MORNING, Oct. 6, 1909. Testimony for Commonwealth resumed as follows:

LUPTON KAYLOR, examined by Mr. Conrad for Commonwealth:

Q Mr. Kaylor, you are a photographer and stay in Mr. Wm. Dean's gallery in Harrisonburg? A Yes, sir.

Q Did you see the body of Mr. Louis Isaacs after he was dead?

A Yes, sir.

Q Did you make these photographs of the interior of his head showing these fractures, &c.? A Yes, sir.

Q That is a true photograph? A Yes, sir.

Q Of the injuries to his head? A Yes, sir.

Q Where was the body at the time you made the photograph?

A Fultz's undertaker's office.

Q Was that photograph taken on the day after he was killed or the second day, do you remember? A It was on Saturday.

Q On Saturday? A Yes, sir, Saturday morning.

Q Do you gentlemen want to ask the witness anything?

MR. LEE: You just identified the photograph of the skull?

MR. CONRAD: Yes, sir.

MR. LEE: While the gentleman is on the stand we will get him to identify these

A After midnight sometime. Just about 2 o'clock or thereabouts.

Q Of that night? A Yes, sir -- two or half past.

Q About what time of the night was it that this difficulty occurred when he was hit? A It was after eight o'clock.

Q What would be your judgment whether it would be nearer eight or nine o'clock? A I don't know, exactly, what time it was between eight and nine o'clock. It must have been about between the hour, it seemed to me.

MRMO: Adjournment taken until 10 o'clock tomorrow morning.

WEDNESDAY MORNING, Oct. 2, 1929. Testimony for Commonwealth resumed as follows:

BURTON ARTHUR, examined by Mr. Conrad for Commonwealth:

Q Mr. Kaylor, you are a photographer and stay in Mr. Wm. Dean's gallery in Harrisonburg? A Yes, sir.

Q Did you see the body of Mr. Louis Isaacs after he was dead?

A Yes, sir.

Q Did you make these photographs of the interior of his head showing these fractures, &c.? A Yes, sir.

Q That is a true photograph? A Yes, sir.

Q Of the injuries to his head? A Yes, sir.

Q Where was the body at the time you made the photograph?

A Wolfe's undertaker's office.

Q Was that photograph taken on the day after he was killed or the second day, do you remember? A It was on Saturday.

Q On Saturday? A Yes, sir, Saturday morning.

Q Do you gentlemen want to ask the witness anything?

MR. LEE: You just identified the photograph of the skull?

MR. CONRAD: Yes, sir.

MR. LEE: While the gentleman is on the stand we will get him to identify these

two photographs of German Street
which have been exhibited to the Jury.

B Y MR. LEE:

Q Will you be kind enough to look at these two photographs, sir. Are you the photographer who took these photographs? A Yes, sir.

Q They are pictures which show the houses of the Hirshes and the people living of German Street, in that immediate locality, and Water Street? A Yes, sir.

Q And they are correct representations of the conditions as they existed there at that time, are they? A Yes, sir.

MR. CONRAD: It don't show anything on Water Street?

MR. LEE: Just the corner.

MR. CONRAD: I see several men shown on these pictures -- Mr. Albert there, Mr. Crousehorn there and somebody else there, and somebody sitting there. Were these men placed in position at the time the photograph was taken by anybody?

WITNESS: Yes, sir, the two were right here (indicating).

MR. HARRIS: The man in his shirt-sleeves and the man to the right.

MR. CONRAD: The men out in the road?

WITNESS: Yes, sir.

MR. CONRAD: And these men, Mr. Armentrout, Mr. Crousehorn and this man sitting down here, were they in the positions of anybody?

WITNESS: No, sir; they just happened to come along and stopped there.

MR. CONRAD: Who placed these two men in position in the road?

WITNESS: Mr. Hammer.

MR. CONRAD: Mr. Chas. A. Hammer, one of the Counsel for the prisoner here?

WITNESS: Yes, sir.

and photographs of German Street
which have been exhibited at the Tate.

BY MR. PEL:

Q Will you be kind enough to look at these two photographs.

A Yes.

Q Are they photographs which show the houses of the Hitlerite
etc.

A We now the photographs who look these photographs. A Yes.

Q And they are photographs of German Street, in that industrial locality,
and the people living in German Street, in that industrial locality.

A Yes, sir.

Q And they are correct representations of the conditions
in that very existed there at that time, are they? A Yes, sir.

MR. CONRAD: It does a'pear some unusual on
street scene.

MR. PEL: That the corner.

MR. CONRAD: I see several men standing on
these photos -- Mr. Albert there,
Mr. Chamberlain there and somebody
else there. Are these men hired in Post-
ion at the time the photographer was
taken by Shapoch?

WITNESS: Yes, sir, the two were right
here (indicating).

MR. MAHER: The men in the white-sleeves
and the men to the right.

MR. CONRAD: The men out in the road?

WITNESS: Yes, sir.

MR. CONRAD: And these men, Mr. Klemenzert,
Mr. Chamberlain and little men sitting
down here, were true in the positions
of Shapoch?

WITNESS: Oh, sir: that-just happened to
come along and stopped there.

MR. CONRAD: Who placed these two men in
position in the road?

WITNESS: Mr. Hammer.

MR. CONRAD: Mr. Chas. A. Hammer, one of
the counsel for the petitioner here?

WITNESS: Yes, sir.

MR. LEE: Were these pictures taken the day after the homicide?

WITNESS: I cannot tell you. It was on Saturday.

MR. CONRAD: Was a mortar-board moved just before you took the picture, or did you see anything of the mortar-board there when you got there?

WITNESS: There was some lumber lying there. That is all I noticed.

MR. CONRAD: Was the mortar-board moved away from there just before you took the picture?

WITNESS: I don't know. There was some trash lying there. That is all I saw.

Witness told to stand aside.

MRS. BUREGARD DOVEL, examined by Mr. Conrad for the Commonwealth:

Q Mrs. Dovel, you live here in Harrisonburg? A Yes, sir.

Q Your home is on Water Street -- West Water Street? A West Water Street.

Q That is the street on the corner of which Mr. Ludwig Hirsh's house is located? A Yes, sir.

Q On Water and German streets is where he lives and your home is on West Water Street? A Yes, sir, beyond the bridge.

Q You go across the bridge that crosses the railroad and on beyond that to get to your home? A Yes, sir.

Q Well, on the evening that Mr. Isaacs was killed had you been down in town that evening? A Yes, sir, I was down on German Street.

Q Did you pass by when this difficulty occurred? A On my way home.

Q On your way home? A Yes, sir. I passed there going down but there was no trouble then.

Q About what time do you think it was in the evening when you

came back by there on your way home? A Something between eight and nine; I can't just tell you the exact time at all.

Q Did you see any ladies sitting in front of where Mrs. Ed. Snell lives? A Yes, sir.

Q Do you remember how many were sitting there talking? A There were three, I think. Three.

Q Mrs. Gertrude Tutweiler was one? A Yes, sir.

Q And Mrs. Snell and Mrs. McQueary? A Yes, sir, Mrs. Snell and Mrs. McQueary.

Q Well, just after passing them, did you see anything of Mr. Louis Isaacs and his wife? A Yes, sir.

Q Where were they? A Mr. Isaacs was on the sidewalk and his wife was standing near someplace; can't just tell you where she was at. I remember seeing her.

Q Just tell the jury now, in your own way, Mrs. Dovel, just what occurred right after that then between Mox Hirsh and Louis Isaacs? A I will tell you as near as I can.

Q You are not used to being on the witnessstand? A This is my first time, or second.

Q You were at the Coroner's Inquest? A Yes, sir, thatwas the first time.

Q Just tell the jury in your own way -- look over there towards them and tell them in your own way what occurred? A Well, I passed Mr. Isaacs and his baby and I hadn't gone very far until I heard something strike the house, sounded like a rock, and I looked back and I thought I saw Mr. Isaacs and Mr. Hirsh and also Arthur's wife, and the two men were right close to the edge of the sidewalk, they may have been in the gutter. I couldn't tell. And Mrs. Hirsh was kind of separating them. She was trying to go between them -- and she made one remark and that is all I heard, "No , you sha'n't hit him," and with that he knocked her back in the pile of lumber.

come back by there on your way home? A Something between eight and nine; I can't just tell you the exact time at all.

Q Did you see any ladies sitting in front of where Mrs. M. Small lives? A Yes, sir.

Q Do you remember how many were sitting there talking? A There were three, I think. Three.

Q Mrs. Gertrude Tutweiler was one? A Yes, sir.

Q And Mrs. Small and Mrs. McQuarry? A Yes, sir, Mrs. Small and Mrs. McQuarry.

Q Well, just after passing them, did you see anything of Mr. Louis Isaacs and his wife? A Yes, sir.

Q Where were they? A Mr. Isaacs was on the sidewalk and his wife was standing near somebodee; can't just tell you where she was at. I remember seeing her.

Q Just tell the jury now, in your own way, Mrs. Novel, just what occurred right after that then between Mox Hirsh and Louis Isaacs? A I will tell you as near as I can.

Q You are not used to being on the witnessstand? A This is my first time, or second.

Q You were at the Coroner's Inquest? A Yes, sir, thatwas the first time.

Q Just tell the jury in your own way -- look over there towards them and tell them in your own way what occurred? A Well, I passed Mr. Isaacs and his baby and I hadn't gone very far until I heard something strike the house, sounded like a rock, and I looked back and I thought I saw Mr. Isaacs and Mr. Hirsh and also Arthur's wife, and the two men were right close to the edge of the sidewalk, they may have been in the gutter. I couldn't tell. And Mrs. Hirsh was kind of separating them. She was trying to go between them -- and she made one remark and that is all I heard, "No, you she'n't hit him," and with that he knocked her back in the pile of lumber.

Q Who? A Mox Hirsh. And with that Mr. Isaacs was knocked down in the road. That is where he gave him a blow of some kind; it looked to me like a piece of lumber of some kind,as well as I can remember.

Q I will use this photograph that you gentlemen have here. These ladies were sitting -- You can see the picture from where you are sitting, can you? A Not so well.

Q These ladies were sitting along there (indicating)? A Yes, along there. Some were on the step and some had chairs out on the walk.

Q Mr. and Mrs. Isaacs went past them? A They were some where between where he lived and Mrs. Arthur Hirsh's.

Q Somewhere between these steps and this house here (indicating)? A Yes, sir.

Q On the pavement? A Yes, sir.

Q How far up this way had you walked when you heard this rock strike the house? A I hadn't gotten up to the corner of Mr. Hirsh's yet.

Q Had you gotten as far as this front porch here of Mr. Ludwig Hirsh's? A About near the north corner, I think. Along there someplace.

Q Near the north corner of this porch of Mr. Ludwig Hirsh's house? A Yes, sir.

Q So the sound of the rock -- As soon as you heard the sound of the rock strike the house you turned around? A Yes, sir.

Q You had been walking south? A I was going south.

Q And the sound of the rock was from the north of you?

A That was back of me.

Q We speak of it as north there. And you turned around, and at that moment of time, then, Mox Hirsh and Isaacs were about what point there on that picture? Can you tell? Can you indicate on that picture? A That is the pile of lumber.

Q This represents the little pile of lumber, trash and stuff thrown out there? A They were right along in front of Mrs. Arthur Hirsh's someplace.

Q Someplace along in front of Mrs. Arthur Hirsh's? A Yes, sir.

Q Do you know whether or not there was a mortar-board at about that same point the other stuff was? A. The mortar-board was on the upper side -- south.

Q The mortar-board was south, you think, of the lumber?

A Yes, sir.

Q At any rate, they were just about south of Mrs. Arthur Hirsh's house? (Unanswered)

Q I believe you said -- What did you say as to where they were as to the gutter or pavement -- Mox Hirsh? A I said that they stood on the edge of the pavement or in the gutter, I couldn't tell which.

Q And you saw Mrs. Arthur Hirsh rush between them? A Yes, sir.

Q And heard her make the remark that "you sha'n't hit him?

A Yes, sir.

Q Now, at that time, do you remember seeing whether Mox Hirsh was making any effort to hit Mr. Isaacs when she made that remark?

A I did not.

Q When you next saw them, Mox and Mr. Isaacs, where were they, after he -- Mox -- knocked Mrs. Isaacs down in the lumber pile?

A The two men sprang out into the street.

Q Both of them? A Both of them; yes, sir.

Q How far out in the road did they go? A Looked to me near center.

About the center of the road. Did the piece -- the thing had in his hand with which you say he struck Isaacs -

Q This represents the little pile of lumber, trash and stuff thrown out there? A They were right along in front of mrs. Arthur Birch's conveyance.

Q Sidewalkes along in front of mrs. Arthur Birch's? A Yes, sir.

Q Do you know whether or not there was a mortar-board at about that same point the other stuff was? A The mortar-board was on the upper side -- south.

Q The mortar-board was south, you think, of the lumber?

A Yes, sir.

Q At any rate, they were just about south of mrs. Arthur Birch's house? (Demonstrated)

Q I believe you said -- That is you say as to where they were as to the gutter or pavement -- Mrs Birch? A I said that they stood on the edge of the pavement or in the gutter. I couldn't tell which.

Q And you saw Mrs. Arthur Birch cross between them? A Yes, sir.

Q And heard her make the remark that "you she's hit Mike"?

A Yes, sir.

Q Now, at that time, do you remember seeing whether Mrs Birch was making any effort to hit Mr. Larson when she made that remark?

A I did not.

Q When you next saw them, Mrs and Mr. Larson, where were they, after Mr -- Mrs -- Excuse me. Larson down in the lumber pile?

A The two had started out into the street.

Q [illegible] A South of them, yes, sir.

Q Mrs. Mr. and in the road with them yet? A Looked to be near [illegible] the gutter or the road. And the place -- the thing [illegible] which you [illegible] Arthur Larson --

have any resemblance to that? A Well, something, yes, sir.

Q Something like that? A It was a piece of board. I know that much.

Q Did you see where he struck him? A No, sir. Looked to me like he came down on top of his head, but it may not.

Q When he struck him on the head what effect did it have upon Isaacs? A Well, he dropped right down in front of him.

Q Dropped right down in front of him? A Yes, sir.

Q Fell right face-foremost in the road, you mean? A Looked to me he went down in a lump -- right down at his feet.

Q What did Mox Hirsh do then? A He walked away.

Q In what direction did he go? A He went to the corner and went down to the stable.

Q He went to the corner, at the corner of German and Water streets? A Yes, sir.

Q And turned down Water Street and went towards Hirsh Brothers' livery-stable? A Yes, sir.

Q Did he go back to Mr. Isaacs? A No, sir.

Q Did Mox try to render him any assistance or look after him in any way after he knocked him down? A None at all. He kind of stopped, too, and looked back at him like.

Q And then walked away? A And then walked away.

Q At the time Mox struck this man on the head with this board, Mrs. Dovel, was Isaacs doing anything to Hirsh, making any effort to strike him in any way? A I did not see any.

Q Now, about how far would you suppose they were from where you were standing looking at them at the time he hit him with the board? Just pick out some distance in the courtroom and you can ndicate by. A Well, I hardly know.

vell, as far as from you to Mr. Harris, or those gentlemen up there, or as far as from here to where Mr. Shaeffer

A No, sir, not that far.

Q Have you remembered to state? A Well, something, yes, sir.

Q Something like that? A It was a bread to bread. I know

that's mine.

Q Did you see where he struck him? A No, sir. Looked to

me like he came down on top of his head, but it was not.

Q When he struck him on the head what effect did it have

upon Isaacs? A Well, he dropped right down in front of him.

Q Dropped right down in front of him? A Yes, sir.

Q Left right fore-foot in the road, you mean? A Looked

to me he went down in a lump -- right down as his feet.

Q Went his head down? A He walked away.

Q In what direction did he go? A He went to the corner.

Q Did you see which way he went? A I did not see him.

Q Now, about that left fore foot you spoke from which

foot did the blood come? A The left fore foot.

Q Left fore foot? A Yes, sir.

Q Did you see where he struck him? A No, sir. Looked to

me like he came down on top of his head, but it was not.

Q When he struck him on the head what effect did it have

upon Isaacs? A Well, he dropped right down in front of him.

Q Dropped right down in front of him? A Yes, sir.

Q Left right fore-foot in the road, you mean? A Looked

to me he went down in a lump -- right down as his feet.

Q Went his head down? A He walked away.

Q In what direction did he go? A He went to the corner.

Q Did you see which way he went? A I did not see him.

Q Not as far as from here to Mr. Shaeffer? A No, sir. Might be as far as from here back to where Mr. Hammer sits.

Q

MR. HAMMER: You mean, where you were at the time the blow was struck -- Mr. Isaac was hit?

WITNESS: Yes, sir, it may have been ten or twelve feet.

MR. HAMMER: Where were you on the street.

MR. LEE: I think she put herself on the corner.

WITNESS: I was near the corner.

MR. HAMMER: At what point, so there may be no misunderstanding, were you at the time?

MR. CONRAD: I would rather you wouldn't interrupt.

THE COURT: You can take the witness, on cross-examination, as to that later.

Q Mrs. Dovel, indicate now on this picture. It is a right hard thing. It depends on which way you take the picture as to which way a thing looks. Sometimes it is deceptive. This picture is taken up near the corner, so it probably shows a little larger than this one. This picture shows the pavement a little larger than the other one which had been taken down at the bridge. Now, indicate on this one, as near as you can, your position. Here is Ludwig Hirsh's house, here is Water Street, and here is their front porch. This is looking down towards the bridge. There is Arthur Hirsh's house, see, and here is the pile of lumber.

MR. HAMMER: Let the witness locate that, place. I don't mean you are doing anything wrong. I think the witness should place herself, and did place herself or attempted to place herself before the Coroner's Inquest.

MR. CONRAD: Do you think that statement is proper?

THE COURT: (To Mr. Hammer) Are you making objection to the question?

MR. HAMMER: I think it is improper for Mr. Conrad to [illegible] to the witness --

where she was.

COURT: Ask her to indicate whereabouts on the picture she was.

MR. LEE: Let her indicate with a pencil.

MR. CONRAD: I just want you to indicate where you were.

WITNESS: I know where I stood.

Q Without looking at the photograph, tell us in your own way where you stood? A I said I stood near the north corner of the house.

COURT: You mean of Mr. Ludwig Hirsh's house?

WITNESS: Mr. Ludwig Hirsh's house, yes, sir. The north corner of Mr. Ludwig Hirsh's house close to his porch.

Q So there may be no misunderstanding about this. This I show you is Mr. Ludwig Hirsh's house? A This is the south corner here?

Q This is the south corner, and this is the porch there -- this is their porch. Do you mean you were on this side of the porch or on that side of the porch? A I mean I was on the north side.

Q On the north side of the porch. And down here in the neighborhood -- I reckon that is a wagon body. Don't look like any front of that --

MR. HARRIS: I beg your pardon, Mr. Conrad, does your Honor think it is necessary to discuss the photograph. Show her the photograph and let her indicate on the photograph her position. I object to that line of examination.

MR. CONRAD: I will stop. I was doing it for the accommodation of you gentlemen.

Q At any rate, the distance you say you were from the place you were on the pavement, the distance you were from Mox and Isaacs at the time Mox struck him in the head with the piece of board or wood, was about ten or twelve feet, I understand you? A Something [illegible] I think, yes, sir.

THE COURT: When you passed there and saw Isaacs and his wife on the sidewalk, at that time and before you heard the lick, did you see anything of Mox Hirsh? A Not at that time; no, sir.

COURT: What were Isaacs and his wife doing when you saw them, standing still or moving?

WITNESS: She was just standing near her husband there some place. I don't know that she was doing anything.

COURT: Was anyone with them?

WITNESS: No, sir, I did not see anyone. Mr. Isaacs was standing on the sidewalk.

COURT: Who was standing on the sidewalk?

WITNESS: Mr. Isaacs was standing on the sidewalk with his baby carriage or cart.

Q He had the baby carriage in front of him wheeling it? A Yes, sir.

CROSS-EXAMINATION BY MR. LEE:

XQ As you were going along German Street you were going South, were you not? A Yes, sir.

XQ And as you got to the point where Mr. Isaacs and his wife were standing on the sidewalk with the baby carriage they were there alone were they? A I did not see anyone with them.

XQ You saw noone with them at all? A I saw no one with them at all.

XQ There was no talking going on by them and anybody else?

A No, sir.

XQ Up to that time you had not seen Mr. Mox Hirsh at all?

A No, sir, I hadn't seen him at all.

XQ Now, you passed them and continued going towards Water Street, South? A Yes, sir.

[illegible] Hirsh? A No, sir, not to my knowledge

THE COURT: When you passed there did you see Isaacs and his wife on the sidewalk.

Isaacs and his wife on the sidewalk, is that right? Did you see Mr. Isaacs and his wife?

WITNESS: No, sir, I did not see anyone.

THE COURT: Did you see anyone with them?

WITNESS: Mr. Isaacs was standing on the sidewalk with his pipe in his mouth.

COURT: Who was standing on the sidewalk?

WITNESS: Mr. Isaacs was standing on the sidewalk with his pipe in his mouth.

COURT: Was anyone with them?

WITNESS: No, sir, I did not see anyone.

COURT: Was anyone with them?

WITNESS: Mr. Isaacs was standing near the corner of Bedford Avenue and Lexington Avenue.

CROSS-EXAMINATION BY MR. LEE:

Q As you were going along Fulton Street you were going south, were you not? A Yes, sir.

Q And as you got to the point where Mr. Isaacs and his wife were standing there were there any people on the sidewalk with the pipe cartridge that you were speaking of? A I did not see anyone with them.

Q You saw people along Fulton Street? A I saw no one with them at all.

Q Where are no parking signs on Fulton and Bedford Avenue?

A No, sir.

Q Do you not know that there are no parking signs on Fulton Street?

A No, sir, I didn't see any signs at all.

Q Now, you passed there and continued going towards Nostrand Avenue?

A Yes, sir.

Q Did you not meet Mr. Martin? A No, sir, not to my knowledge

I did not.

XQ You did not meet him at all? A No, sir. I don't remember meeting him.

XQ You know him, don't you? A Yes, sir.

XQ Have known him for sometime? A Yes, sir, have known him for sometime.

XQ And when you passed Mr. and Mrs. Isaacs he was not with them then? A He was not with them then that I saw.

XQ He wasn't with them that you saw? A No, sir.

XQ Did you speak to them as you past? A I spoke to Mr. Isaacs.

XQ You spoke to Mr. Isaacs and passed by? A Bid him the time of evening.

XQ You gave him -- A (Interrupting) Bid him the time of evening -- something like that.

XQ Did he answer you? A He said "Good evening" to me.

XQ They were the only people you saw then? A They were the only people I saw at the Isaacs.

XQ They were the only ones on the sidewalk at Mr. Isaacs?

A Yes, sir.

XQ As you went towards the corner towards Water Street you met Mox Hirsh? A No, sir, I did not. I don't remember meeting him at all.

XQ You don't remember meeting him at all. A I don't remember meeting him.

XQ It was when you got to about the North corner of Mr. Ludwig Hirsh's house that you heard something strike a house? A Yes, sir.

XQ Which you thought to be a rock and you turned to look back?

A Yes, sir.

XQ When you turned and looked back where were these people standing with reference to that pile of lumber which you say you

remember being there? A They were standing near the edge of the walk, near the gutter somewhere.

XQ Were they on the North side or the South side of the lumber pile.

XQ Standing on the edge of the curbing or edge of the gutter?

XQ Who was standing there then? A Mox Hirsh, Mr. Isaacs, Mrs. Isaacs and Mrs. Arthur Hirsh.

XQ Mox, Isaacs, Mrs. Isaacs and Mrs. Arthur Hirsh? A That was after I heard the rock thrown.

XQ And they were all out there together then when you turned around? A Yes, sir.

XQ Do you know what had happened before you heard the rock thrown? A No, sir, I didn't hear any words at all.

XQ You did not hear any words? A I did not know anything was going on at all.

XQ You don't know whether any blows had been struck before you turned around? A No, sir, I don't know anything about it.

XQ So far as you know the fight may have begun before you turned around and looked? A That maybe.

XQ You do not know? You do not undertake to say? A I wouldn't say without knowing.

XQ You do not undertake to say whether any blows were struck before you turned around or not? A I wouldn't say because I do not know.

XQ Then at that time you were standing at the North corner of Mr. Ludwig Hirsh's porch? A That is what I said.

XQ And these people were standing down close by the lumber pile, and you say that was within 10 or 12 feet of you? A Looked to me it was near about that. I didn't say they were ten feet apart. I said they were ten feet from me when he struck Isaacs. He was in the center of the road. I said 10 or 12 feet. I can't tell you exactly.

remember being there? A They were standing near the edge of the road, near the Dupont company.

Q Were they on the North side or the South side of the Dupont Bldg.

Q Standing on the edge of the curbing or edge of the Surface?

A Mr. Isaacs, Mrs. Isaacs and Mrs. Arthur Hirsh. A Just saw either I mean I noticed the Lock Simon.

Q And they were all out there together then when you started to go in the Lock Simon?

A No, sir, I didn't see the Lock Simon.

Q Do you know what had happened before you passed the Lock Simon?

A No, sir, I didn't see the motor car at all.

Q You did not hear the motor? A I did not know anything saw going on at all.

Q You don't know whether or not there had been a crash before you started Simon? A No, sir, I don't know anything about it.

Q So far as you know the fight was over before you started Simon looked? A That was.

Q You do not know? You do not understand? A I wouldn't see without knowing.

Q You do not understand the proof were after crash before you turned Simon to Bunce to go? A I wouldn't say because I do not know.

Q Then at first this you were standing at the North corner of Market Lundwig Hilton's Porch? A That is where I said.

Q And these people were standing down close by the Dupont Dike, and you was that saw either of to or at least to your? A looked as to as it saw same about that. I didn't see they were not less than ten feet apart.

Q Mr. Isaacs, Mrs. Isaacs and Mrs. Arthur Hirsh? A That saw either I noted the Lock Simon.

Q And they were all out there together then when you turned Simon? A Yes, sir.

Q Do you know what had happened before you passed the Lock Simon? A No, sir, I didn't see the motor at all.

Q You did not hear the motor? A I did not know anything saw going on at all.

Q You don't know whether or not there had been a crash before you turned Simon? A I mean I saw the motor car. I did not see the Lock Simon.

Left you exactly.

XQ How far were they from you when you first looked? A They were on the edge of the walk near the pile of lumber. You can see for yourself how far.

XQ How far do you say that was? A I did not say.

XQ I am asking you now? A A I don't know.

XQ Cannot you approximate that as well as you could the other distance? A I don't like to say exactly.

XQ What is the difference, Mrs. Dovel, between telling us how far you were from them when the blow was struck and how far you were from them when you saw them at the lumber pile? Can't you guess at that as well as you could the other? A I wouldn't like to say, now, for I don't know exactly.

XQ You don't know exactly how far they were from you? A I don't know, exactly, I said probably as much as ten or twelve feet.

XQ You mean to say that from where you were standing at the time Mrs. Arthur Hirsh was knocked down, was only ten or twelve feet? A Yes, sir; from where I stood.

XQ From where you stood. And you were standing at the North corner of Mr. Ludwig Hirsh's porch? A Yes, sir.

XQ In order that there may be no doubt about that, I want to see if I locate this properly. (Exhibiting photograph.) This, Madam, is Mr. Ludwig Hirsh's house, I believe? A Yes, sir.

XQ And this is North. I have made a little cross-mark at the North corner of the porch -- is that right -- indicating your position; you say you were standing on the sidewalk, at the North corner of Ludwig Hirsh's porch? A Yes, sir.

XQ I have put that cross-mark at the north cornerof the porch?

A That is about right as near as I can see.

XQ That is about right? A As near as I can remember it is, or can see.

XQ Did you have on your glasses that night? A No, sir. I

Q. Did you have on your glasses that night? A. No, sir. I

do not see.

Q. Have you ever worn glasses? A. Yes, sir.

Q. Did you have on your glasses when you were standing at the window

looking out? A. Yes, sir; that was where I stood.

Q. From where you stood. Did you were standing at the window

looking at Mr. Lindsay Hitch, a person? A. Yes, sir.

Q. In order that there can be no doubt about that, I show to

see if I locate that property. (Exhibiting photograph.) Mrs. Madam,

is Mr. Lindsay Hitch, a person? A. Yes, sir.

Q. And this is the house. I believe I have made a little cross-mark in

the front corner of the house -- is that right -- indicating your

position. You see you were standing on the sidewalk, is the front

corner of Lindsay Hitch, a house? A. Yes, sir.

Q. I have put that cross-mark in the front corner of the house

. Is that about the way I see it? A. Yes, sir.

Q. Cannot you approximate that as well as you could the other?

A. I don't like to say exactly.

distance; A. I don't like to say exactly.

Q. Cannot you approximate that as well as you could the other?

A. Mrs. Lewis, perhaps you could tell me if the distance from

the house where you was when you saw them at the tender hotel.

Can't you approximate that as well as you could the other?

A. I don't know. Q. Can you approximate that as well as you could the other?

A. Mrs. Lewis is that as near as I can remember it is.

to see.

Q. Did you have on your glasses that night? A. No, sir. I

can see farther away, without glasses, than I can close.

XQ I understand that. I am situated in exactly the same position, Madam. A I can see close to me with glasses, but farther away I cannot.

XQ When you saw this crowd all together at the lumber pile could you recognize the one man from the other? A Yes, sir.

XQ It was light enough to do that, was it? A Yes, sir.

XQ The darkness did not interfere with your recognizing people at all? A No, sir.

XQ Then when you looked back, if I understand you, the two men seemed to be on the edge of the curb or in the gutter? A Yes, sir.

XQ Where was Mrs. Isaacs? A I did not see Mrs. Isaacs then at all.

XQ You did not see Mrs. Isaacs at all? A No, sir.

XQ Where was Mrs. Arthur Hirsh? A She was trying to step between the two.

XQ When you first saw her had she gotten between them or only on the sidewalk? A She was out near them and trying to separate them.

XQ So far as you could see did Mox have anything in his hand?

A Not that I saw.

XQ Could you see his hand? A I don't remember seeing his hand at all, only when he knocked her back in the pile of lumber.

XQ Did he do that with his hand? A He did that with his hand.

XQ Which hand did he do that with? A I don't know now whether the right or left.

XQ Did he have anything in his hands with which he did not touch her? A I did not see that he had anything at all.

XQ You don't know whether he had anything in his hands or not?

QX When you were quite grown all together at the tunnel hole could you recognize the one man from the other? A Yes, sir.

QX It was a light enough to do that, was it? A Yes, sir.

QX Did you see any other people recognizing people in the crowd at the entrance to the tunnel? A No, sir.

QX When you looked back, if I understand you, the two men seemed to be on the edge of the crowd to the right of it? A Yes, sir.

QX Were there any other people in the house with whom you had any acquaintance? A I did not see that he had visited at all.

QX You did not see Mr. Isaacs at all? A No, sir.

QX Were there any other persons? A They were friendly to each other.

QX Were you aware that there was not had one bottom between them or only between the two.

QX When you first saw that had the bottom peeped from or only on the edge? A She saw one that was trying to separate them.

QX So far as you could see did you have anything in the house? A Not that I saw.

QX Could you see the house? A I don't remember seeing the house at all, only when he knocked that back in the hole to lunch.

QX Did he do that with his hands? A He did that with his hand.

QX Which hand did he do that with? A I don't know you understand the right or left.

QX Were there any other persons in the house with whom he did not [illegible] A No, sir.

QX Were there any other persons? A I did not see other persons at all.

QX You did not see Mr. Isaacs at all? A No, sir.

QX Were there any other persons? A They were friendly to each other.

QX Were you aware that there was not had one bottom between the two.

QX When you first saw that had one bottom peeped from or only on the edge? A She saw one that was trying to separate them.

QX So far as you could see did you have anything in the house? A Not that I saw.

QX Could you see the house? A I don't remember seeing the house at all, only when he knocked that back in the hole to lunch.

QX Did he do that with his hands? A He did that with his hand.

QX Which hand did he do that with? A I don't know you understand the right or left.

QX Were there any other persons in the house with whom he did not [illegible] A No, sir.

QX Were there any other persons? A I did not see other persons at all.

QX You did not see Mr. Isaacs at all? A No, sir.

QX Were there any other persons? A They were friendly to each other.

QX When you first saw that had one bottom peeped from or only on the edge? A She saw one that was trying to separate them.

QX I understand that. I do attribute the same honesty and [illegible] Mr. Mulhern. A I can see no cause to be with Lynch's [illegible] that [illegible] I was [illegible].

A I don't remember. I did not see him have anything in his hands at all until he raised the board in his hands to hit Mr. Isaacs in the head.

XQ Did you see him when he got the board? A No, sir.

XQ You did not see him when he got the board? A No, sir.

XQ After Mrs. Arthur Hirsh had fallen down, or been knocked down as you may put it, on the lumber pile, you say the men went out in the road: did they go side by side? A No, sir. They jumped out. One went around the lumber pile and the other went on the upper side -- one went around on the lower side and the other on the upper side, and they met out in the road. They got out in the road. They went out in the road.

XQ One went around the north side? A Mr. Isaacs at the lower side. I guess that is North.

XQ The one further away from Mr. Ludwig Hirsh's house?

A Yes, sir.

XQ That would be North? A Yes, sir.

XQ And Mr. Mox Hirsh went on the other side? A Mox went out that way -- South.

XQ That would be the South side? A Yes, sir.

XQ So he came around the south side of the lumber pile and Mr. Isaacs came around the other side of the lumber pile, that right? A As well as I remember it is right.

XQ Well, when they finally met, as you express it, in which direction was Isaacs facing? A Well, of course, he must have been facing kind of southeast.

XQ Was he facing the opposite side of the street from the lumber pile? A No, sir, he was facing this way (indicating).

XQ You mean he was still facing the lumber pile? A Yes, sir.

XQ Mr. Isaacs was still facing the lumber pile? A He had his face over this way.

A I don't remember. I did not see him even surreptitiously in his
behalf to his letter on Exhibit 4 before the Board at the time of his MR.
hearing in the Board.

Q Did you see him after he got the Board's letter? A No, sir.

Q Did you see him after he got the Board's letter and talk to him about
it? A No, sir.

Q Now, when he was getting the Board's letter, A Yes, sir.

Q So he came around the north side of the Tumpat Bills and
MR. Isaacs came around the other side of the Tumpat Bills, and
lights? A As well as I remember it is right.

Q Well, when that timbers met, as you express it, in motion
attraction was issued against? A Well, to course, he must have been
facing kind of southeast.

Q And he facing the opposite side of the safe? from the
Tumpat Bills? A No, sir, he was facing quite west (indicating).

Q You mean he was facing the Tumpat Bills? A Yes, sir.

Q And he was facing the Tumpat Bills? A He had
been quite safe.

Q Are one timbers were from Mr. Lindsay Hitch's house?

A Yes, sir.

Q Are one timbers were from Mr. Lindsay Hitch's house?

A Yes, sir.

Q That would be north?

Q That would be the south side of the Tumpat Bills and
one that was -- South.

Q So he came around the north side of the Tumpat Bills and
MR. Isaacs came around the other side of the Tumpat Bills, and
lights? A As well as I remember it is right.

Q Well, when that timbers met, as you express it, in motion
attraction was issued against? A Well, to course, he must have been
facing kind of southeast.

Q And he facing the opposite side of the safe? from the
Tumpat Bills? A No, sir, he was facing quite west (indicating).

Q You mean he was facing the Tumpat Bills? A Yes, sir.

Q And he facing the Tumpat Bills? A He had
been quite safe.

Q After Mr. Hitch had talked down, to been knocked
down as you was by the Tumpat Bills, you see the man which
was on the ground? A No, sir. That
left the Board: did that go side by side? A No, sir. That
left the Board: the timbers of the Tumpat Bills and the other man
jumped out. One went around the Tumpat Bills and the other man on
the upper side -- one went around on the lower side and the other
the upper side, and that go down in the Board. That go out in
the Board. That went out in the Board.

XQ Did he have his face towards you? A Yes, sir.

XQ Mr. Isaacs had his face towards you at the time they met, that right? A As near as I can remember, now.

XQ In which direction did Mr. Mox Hirsh have his face? A Well, he had his face kind of northwest.

XQ Away from you? A Yes, sir.

XQ When the blow was struck did Mr. Mox Hirsh have his face or his back towards you? A He had his back towards me.

XQ And the other man had his face towards you? A As well as I remember that is the way he stood.

XQ And the man, when he fell, crumpled up, and fell on his face? A Looked like when he went down he fell at Mox's feet.

XQ Then he would have fallen with his head towards where you were standing, wouldn't he? A I don't know about that. I don't know whether he would or not.

XQ Then he would have had to have falled backward, wouldn't he, to do that? A (Unanswered.)

XQ Let us see, now, Madam, if we clearly understand each other. I understand you to state that at the time Mr. Mox Hirsh struck the blow he had his back to you? A Well, I said he was standing kind of this way -- northwest.

XQ I didn't ask you about the points of the compass. I asked you, as to the way he was standing and if he was standing with his back to you and I understood you to say "Yes"? A I said he was standing with his back towards me.

XQ That is all I want. He was standing with his back towards you and you at that time were standing at the north corner of Ludwig Hirsh's porch were you not? A Yes, sir.

XQ Now, then, Mr. Isaacs was standing with his face towards you at the time he was struck? A It looked like he was standing

Q Did he have his face towards you? A Yes, sir.

Q Mr. Iannone had his face toward you at the time they met, that right? A As far as I can remember, now.

Q In which direction did Mr. Max Hirsh have his face? A Well, he had his face kind of northwest.

Q Away from you? A Yes, sir.

Q When the blow was struck did Mr. Max Hirsh have his face or his back towards you? A He had his back towards me.

Q And the other man had his face towards you? A As well as I remember that is the way he stood.

Q And the man, when he fell, scrunched up, and fell on his face? A Looked like he went down he fell at Max's feet.

Q Then he would have fallen with his head towards where you were standing, wouldn't he? A I don't know about that. I don't know whether he would or not.

Q When he would have had to have fallen backward, wouldn't he, to do that? A (Hesitated.)

Q Let me see, now, Madam, if we clearly understand each other. I understand you to state that at the time Mr. Max Hirsh struck the blow he had his back to you? A Well, I said he was standing kind of this way -- northwest.

Q I didn't ask you about the points of the compass. I asked you, as to the way he was standing and if he was standing with his back to you and I understood you to say "Yes"? A I said he was standing with his back towards me.

Q That is all I want. He was standing with his back towards you and you at that time were standing at the north corner of Lafayette Avenue? A Yes, sir.

Q Now, then, Mr. Iannone was standing with his face towards you at the time he was struck? A It looked like he was standing

with his face towards me. I might be mistaken.

XQ He was standing with his face towards you, but you might be mistaken? A Yes, sir.

XQ When he fell did he fall on his back, side or face?

A Looked to me that he went right down in a pile at Mox's feet.

XQ At Mox's feet? A Yes, sir.

XQ When he got down in that pile his head had to be pointing either one way or the other? A His head pointed South.

XQ Towards what? A Kind of towards South -- Water Street. He laid their with his head towards the upper side -- towards Water Street.

XQ His head was towards Water Street? A Looked to me that way.

XQ In other words, that is with his head pointing South towards Water Street and in your direction? A I did not say in my direction. I said with his head towards Water Street.

XQ Was he laying straight with the road as the road run?

A No, I think he was laying kind of cat-a-cornered.

XQ Now, if he was laying cat-a-cornered was his head nearer the direction you were standing or towards the opposite side of the street? A His head was towards the corner of -- west corner of German Street. Out towards Mrs. Myers'. Looked to me he laid right this way, with his head pointing up the street like.

XQ I want to hand you this picture again. I will say to you, Madam, that when this picture was taken the effort was made to place this man in his shirt-sleeves out where Mr. Isaacs' feet lay and to place this other man with his coat on at the point where his head lay: I want you to tell the jury if that correctly represents the situation as you saw it that night? You understand the question?

with his face towards me. I might be mistaken.

Q. He was standing with his face towards you, but you might be mistaken? A. Yes, sir.

Q. When he fell did he fall on his back, side or face?

A. Looked to me that he went right down in a pile at Mox's feet.

Q. At Mox's feet? A. Yes, sir.

Q. When he got down in that pile his head had to be pointing either one way or the other? A. His head pointed South.

Q. Towards what? A. Kind of-towards South -- Water Street. He laid that with his head towards the upper side -- towards Water Street.

Q. His head was towards Water Street? A. Looked to me that way.

Q. In other words, that is,with his head pointing South towards Water Street and in your direction? A. I did not say in my direction. I said with his head towards Water Street.

Q. Was he laying straight with the road on the road ruut?

A. No, I think he was laying kind of cat-a-cornered.

Q. Now, if he was laying cat-a-cornered was his head nearer the direction you were standing or towards the opposite side of the street? A. His head was towards the corner of -- west corner of Dawson Street. Out towards here. Opera'. Looked to me he laid right this way, with his head pointing up the street like.

Q. I want to hand you this picture again. I will say to you, Madam, that when this picture was taken the effort was made to place this man in his shirt-sleeves out where he. Lemme' that lay and to place this other man with his coat on at the point where his head lay: I want you to tell the jury if that correctly represents the [illegible] as you saw it that night? You understand the question

A Yes, sir. You say that is where his feet stood?

XQ When this picture was taken, the man in the shirt-sleeves was placed to stand where Mr. Isaacs' feet were supposed to have been when he fell, and the other man was placed to stand where his head lay; I want to ask you if that correctly represents the situation as you saw it that night, or not? A Well, something; yes, sir. He laid kind of this way -- more this way. I think his head laid a little bit more towards Water Street.

XQ Do you know where Mrs. Myers' house is? A Yes, sir. That is on the west, is it?

XQ That is on the west side of German Street? A Yes, sir.

XQ At the time Mr. Hirsh struck Mr. Isaacs which of the two men was nearer to the west side of German Street? A Mr. Isaacs.

XQ How is that? A Mr. Isaacs, I guess.

XQ Are you guessing or telling us what you really know?

A I should think he was a little bit nearer. Mox was more over this way -- he stood nearer the east side, I reckon.

XQ Exactly. Isn't it a fact, Mrs. Dovel, that Mr. Mox Hirsh was retreating across German Street and that he was being followed by Mr. Isaacs? A After he hit him? After he had given the lick, you mean?

XQ No, Madam, I mean before; I mean when they left that lumber pile? A No, sir, Mrs. Hirsh was laying in the pile of lumber.

XQ I did not ask you about Mrs. Hirsh? A Didn't you say Mrs. Hirsh?

XQ No. A I beg your pardon.

XQ I asked you, or I understook to ask you, this question: Is it not a fact that after Mrs. Hirsh fell in the lumber pile Mr. Hirsh,-- Mr. Mox Hirsh -- retreated across German Street and was followed by Mr. Isaacs? A No, sir, I did not say so. I said one come on the lower side and one on the upper side and they met out in the road, both of them.

XQ Well, you saw Mr. Mox Hirsh as he went across German Street from the lumber pile did you? A Out over the street?

XQ Yes. A Yes, sir, I saw him.

XQ Did he have anything in his hand? A I did not see that he had.

XQ How is that? A No, sir, he did not.

XQ Do you know when he got that piece of board? A No, sir, I don't know when he got that piece of board.

XQ Madam, you testified before the Coroner's Inquest, didn't you? A Yes, sir, I did.

XQ Did you state before the Coroner's Inquest that you heard Mrs. Arthur Hirsh say "You sha'n't hit him"? A No, sir, I didn't "test" that.

XQ Madam? A No, sir.

XQ Why didn't you tell that? A I was just pulled out and didn't think about it at the time, but I remembered afterwards she said "You shall not hit him."

XQ Have you talked any with Mrs. Hirsh since? A No, sir, I didn't talk to Mrs. Arthur Hirsh at all.

XQ Hav'n't seen her since this trouble? A I saw her once but didn't more than speak to her.

XQ Hav'n't talked to her at all? A No, sir.

XQ Have you talked to anybody else? A No, sir.

XQ Did you see Mr. Mox Hirsh have anything in his hand before the blow was struck? A I did not.

XQ Mrs. Dovel, if I understand you correctly, the first thing that attracted your attention was the striking of the rock against the house? A Yes, sir.

XQ And you turned around immediately? A That is what I done.

XQ Immediately? A Yes, sir.

XQ Well, you saw Mr. Max Hirsh as he went across German Street from the lumber pile did you? A Out over the street?

XQ Yes. A Yes, sir, I saw him.

XQ Did he have anything in his hand? A I did not see that he had.

XQ How is that? A No, sir, he did not.

XQ Do you know when he got that piece of board? A No, sir, I don't know when he got that piece of board.

XQ Madam, you testified before the Coroner's Inquest, didn't you? A Yes, sir, I did.

XQ Did you state before the Coroner's Inquest that you heard Mrs. Arthur Hirsh say "You sha'n't hit him"? A No, sir, I didn't "say" that.

XQ Madam? A No, sir.

XQ Why didn't you tell that? A I was just pulled out and didn't think about it at the time, but I remembered afterwards she said "You shall not hit him."

XQ Have you talked any with Mrs. Hirsh since? A No, sir, I didn't talk to Mrs. Arthur Hirsh at all.

XQ Hav'n't seen her since this trouble? A I saw her once but didn't more than speak to her.

XQ Hav'n't talked to her at all? A No, sir.

XQ Have you talked to anybody else? A No, sir.

XQ Did you see Mr. Max Hirsh have anything in his hand before the blow was struck? A I did not.

XQ Mrs. Dovel, if I understand you correctly, the first thing that attracted your attention was the striking of the rock against the house? A Yes, sir.

XQ And you turned around immediately? A That is what I done.

XQ Immediately? A Yes, sir.

XQ And as soon as you turned around you saw Mrs. Arthur Hirsh in the crowd, with the others, trying to separate them?

A Yes, sir.

XQ After you had passed where the Isaacs were standing together and continued walking, did you continue to walk until you heard the rock strike? A Yes, sir.

XQ You didn't make any stop until you heard the rock strike?

A No, sir; I continued to walk until I heard the rock strike.

DIRECT EXAMINATION RESUMED BY MR. CONRAD:

Q Mrs. Dovel, just one question: were they closer to you or further away at the time you first saw them there together at the edge of the pavement, or at the time you saw them out there when Mox hit him in the head with the plank.

MR. HARRIS: Object to going into examination in chief.

Q Were they closer or further away, I say, Isaacs and Mox I mean, when they were at the edge of the pavement when you turned around and saw them, or when you saw them in the road where Mox hit him? A I can't hardly tell you now. Looked to me like it might be the same distance.

Q When you spoke of being at the northwest corner of the Hirsh porch, do you mean you were right against the porch or that you were out on the pavement further? A Well, I think I stood near the edge of the pavement, towards the year, near the porch.

Q Near the porch? A Yes, sir.

MR. HARRIS: You were on the yard side and not the street side?

MR. LEE: She said nearer the porch.

WITNESS: Nearest the porch as well as I remember.

wit[illegible] d to stand aside.

V. L. BAUGHER, recalled on behalf of the Commonwealth. Examined by Mr. Conrad.

Q I omitted to ask you yesterday: You spoke of this lady coming down Water Street and making some threat about going for policemen, was it before she done that or after she done that, that Mox Hirsch left there, as you described yesterday, in going hurriedly towards Mr. Gatewood's? A That was after the lady came down there.

Q How long after she was there and made that statement until he pulled out? A Why, it wasn't more than two or three minutes. It was very quick.

Q Now, then, speaking with reference to their being in the alley; I believe reference was made yesterday to only one time, you were asked about only one time. The first time you saw him in the alley between these two tannery buildings where was he coming to? A He came to where I was standing at the edge of the street.

Q What did he do there? A He looked around and then got back.

Q Then he went back in the alley? A Yes, sir.

Q Then what happened? Did anybody go to him back in there?

A Old Mr. Hirsch walked up there, came by me and walked back there and talked to him.

Q Did they come out together? A No, sir; old Mr. Hirsch came out first and went across to the stable, and directly Mr. Mox Hirsch came.

Q After that interview between them in there Mox came out?

A Yes, sir.

nd went over from there where? A He went over to the

there at th stable? A v who

V. L. GATEWOOD, recalled on behalf of the Commonwealth. Examined by Mr. Gordon.

Q I omitted to ask you yesterday: You spoke of this lady coming down Water Street and making some threat about going for policeman, was it before she done that or after she done that, that Mox Hirsch left there, as you described yesterday, in going hurriedly towards Mr. Gatewood's? A That was after the lady came down there.

Q How long after she was there did made that statement until he pulled out? A Why, it wasn't more than two or three minutes. It was very quick.

Q Now, then, speaking with reference to their being in the alley; I believe reference was made yesterday to only one time, you were asked about only one time. The first time you saw him in the alley between these two tannery buildings where was he standing to? A He came to where I was standing at the edge of the street.

Q What did he do there? A He looked around and then got back.

Q Then he went back in the alley? A Yes, sir.

Q Then what happened? Did anybody go to him back in there?

A Old Mr. Hirsch walked up there, came by me and walked back there and talked to him.

Q Did they come out together? A No, sir; old Mr. Hirsch came out first and went across to the stable, and directly Mr. Mox Hirsch came.

Q After that interview between them in there Mox came out?

A Yes, sir.

Q And went over from there where? A He went over to the [illegible]

he met when he went to the stable.

Q Who all were there? Did they meet in the office? Who was there? A Mr. Hirsch was there that I remember; Leon was there that I remember, and, I don't remember, but it appears to me there was somebody else there. I don't remember who it was.

CROSS-EXAMINATION BY MR. LEE:

XQ You say Mr. Ludwig Hirsch came down to where Mox was while you were there? A Yes, sir.

XQ Did you hear Mox Hirsch say to his father in answer to his question about the trouble, "I had to do what I did"?

Objection; sustained; exception for the accused.

MEMO: Here the jury retired in order that the witness might answer the question, to put in the record what the accused expected to prove.

XQ (Jury absent) Mr. Baugher, is it not a fact that at the same time to which your previous answers to Mr. Conrad have referred, and in connection with the conversation of Mr. Mox Hirsch at that time and place, you heard him say, in answer to a question from his father about this thing, "I had to do what I did. I couldn't help doing what I did"?

THE COURT: Answer the question.

A When Mr. Hirsch walked back there I heard him talking to Moxie. I didn't understand what Mr. Hirsch said,but I heard Moxie say, "I couldn't help it." That is all I heard him say.

MR. CONRAD: You don't know what that referred to?

WITNESS: I do not know.

MEMO: Jury returned into Court.

Q I just want to ask you one question. The conversation [illegible]d to yesterday which took place be[illegible] John Branner [illegible]at before or after Mr. Lu[illegible] Hirsch had gone

back into this alley and had some conversation with Mox?

Objection; overruled; exception noted for accused.

A It was just before.

CROSS-EXAMINATION RESUMED BY MR. LEE:

XQ How long before, sir? A Couldn't tell you. Maybe five minutes and maybe little more. Of course, I did not take any notice of the time.

XQ All of this conversation occurred within a few minutes after he returned? A Not very long, that is, after he returned. I don't know how long he was gone before he came in that alley.

Witness told to stand aside.

JOHN BRANNER, examined on behalf of Commonwealth by Mr. Conrad:

Q Were you on duty at the tannery the night Mr. Isaacs was killed? A Yes, sir.

Q What work did you do there, Mr. Branner? A I ran the pumps that pump liquid, or that mixes it up to pour over the leather to tan it.

Q How did you first learn that there was any difficulty or trouble up at Mr. Hirsch's? A I heard a little noise and went out to the alley -- the alley out towards the street-- to see what the noise was.

Q Did you see anything of Mox Hirsch? A Not at that time I did not. I just seen a crowd going up towards the corner.

Q Where was the noise? A The noise seemed to be up sort of on German Street. But the first I heard was out about Mr. Hirsch's stable -- is what I first heard -- heard right smart talking one to another. Seemed to be right smart distance away, [illegible]e saying something to the other.

[illegible]at kind of noise was this at German Street that you [illegible] heard somebody hollar but I don't [illegible] who it was,

whether a man or a woman, but I heard somebody hollar. Where I was working it was very still. I was laying out some belts at the present time, had all the machinery toned down and everything was very quiet.

Q Did you see Mrs. Arthur Hirsch when she came down Water Street and made some reference to having Mox Hirsch arrested?

A Yes, sir.

MR. HARRIS: You heard her say that?

WITNESS: Yes, sir, I heard her say that.

MR. SIPE: Ask what she said, if she said anything.

MR. CONRAD: I was only trying to locate the time.

Q I wish you would state to the Jury what Mox said to her?

A When she came down the street she told him she was going to have him arrested, and she said to him, "Somebody will knock your face off for you." He said to her, "You better go on away, now, or you will get in trouble. Better go on away." She made a few steps on towards him, and he said, "Go on away, now; if you don't I will smack part of your face off." He came on up towards the stable, then, and she went up towards the corner of German Street.

MR. LEE: We don't think that is relevant and move the court to strike out that testimony of the witness. Motion overruled and exception noted for the accused.

Q Now, did you see Mox Hirsch leave there, with any statement on his part as to where he was going about this same time? A Yes, sir.

Q Was it before or after Mrs. Arthur Hirsch had come there and he had had this conversation with her? A Just a few minutes after.

Q When he left did he leave leisurely or hurriedly? A Well, [illegible]long tolerably pert up to the corner.

[illegible]tice whether he had any coat o[illegible] on? A He

had neither coat nor hat on.

Q Did you see him afterwards at any place about the tannery?

A Yes, sir.

Q By the way, did you hear him say to the people over at the stable where he was going when he left there? A Yes, sir.

Q Well, where did he state he was going? A Said he was going to George Gatewood's.

Q Do you know where George Gatewood lives? A I didn't at that time; I do now.

Q Where does he live? A Lives over on the corner of Bruce Street close to the railroad.

Q That would be on the corner of Bruce Street and the railroad? A Yes, sir.

Q Is that place where he lives opposite to where the switch comes in there from the Valley Railroad into the bark sheds?

A Yes, sir.

Q Are there bark sheds right close to that point on both sides of the switch track? A Well, yes, sir.

Q Is it dark back in there between those sheds? A Not so very.

Q Well, how high are those sheds? A Well, I suppose they are something about as high as this ceiling.

Q Is there bark in them? A In part of them -- just part of them.

Q Well, if a man was at that place where the railroad crosses Bruce Street and was coming back to Mr. Ludwig Hirsch's, or even coming back to the stable, what would be the most direct, open and public way for him to come? A To come right around the corner and come around German Street.

[illegible]ou mean, to come to the corner there at Bruce Street and [illegible]wn German Street? A Yes, sir.

[illegible]own German Street this way [illegible]l you get [illegible]

had neither coat nor hat on.

Q Did you see him afterwards at any place about the Tuesday?

A Yes, sir.

Q By the way, did you meet him day to the people over at the stable where he was going when he left there? A Yes, sir.

Q Well, where did he state he was going? A Said he was going to George Gatewood's.

Q Do you know where George Gatewood lives? A I didn't at that time; I do now.

Q Where does he live? A Lives over on the corner of Grove street close to the railroad.

Q That would be on the corner of Grove street and the railroad? A Yes, sir.

Q Is that place where he lives opposite to where the switch comes in there from the Valley Railroad into the back shedat?

A Yes, sir.

Q Are there back sheds right close to that point on both sides of the switch track? A Well, Yes, sir.

Q Is it dark back in there between those sheds? A Not so very.

Q Well, how high are those sheds? A Well, I suppose they are something about as high as this ceiling.

Q Is there back in there? A In part of them — just part of them.

Q Well, if a man was at that place where the railroad crosses Grove street and was coming back to Mr. Ludwig Hixson's, or even coming back to the stable, what would be the most direct, open and public way for him to travel? A To come right around the corner and come around Grove street.

Q Well, to go to the corner there at Grove street and go down Grove street?

Q Go down Grove street and come to Mr. Hixson's?

Water Street? A Yes, sir.

Q And right on that corner is Mr. Ludwig Hirsch's house, and down Water Street would be the most public way? A Yes, sir, that would be the most public way.

Q When you next saw him was he on Water Street , or where had he come from? A He had come in the alley between the new building and the old building that runs along beside German Street. He came in the far side of the alley and came to this end,-- the North end there where we were standing.

Q You saw him at the north end of the alley? A Yes, sir.

Q What did he do when he came out to the mouth of the alley?

A Just looked out and stepped back.

Q He looked out and stepped back? A Yes, sir; walked back a little ways.

Q Who was with you at the time? A Mr. "Bob" Baugher.

Q The gentlemen who was just on the witnessstand? A Yes, sir; Mr. V. L. Baugher.

Q You were standing out in the alley at that time? A Standing out near the line, on the line of the building line which had been built on. Standing just on the edge of the line.

Q I could probably understand it a little better by this arrangement (indicating). Say,this represents Water Street coming up here and this was the alley up through which he came; were you and Baugher standing in the mouth of this alley or just on the outside of this building? A Standing right in the mouth of the alley.

Q Right here in the mouth of the alley? A Yes, sir.

Q And he came out there and, you say, looked around? A Yes, sir.

Did he call to anybody? A No, sir, never spoke to a soul.

ou have any conversation wi[illegible]n? A No, sir; never

spoke to him.

Q Did you hear him make any statement at that time with reference to this diffuculty? A No, sir.

Q Well, did you have any conversation with him at all there.

A I did after he had come out of the alley entirely.

Q After he came out of the alley entirely? A Yes, sir.

Q What was that conversation? A I asked him what seemed to be the greatest trouble --

MR. HARRIS: You asked him what?

MR. CONRAD: "Asked him what seemed to be the greatest trouble."

WITNESS: Asked him what seemed to be the greatest trouble.

Q Well, go ahead. A I just asked him what seemed to be his greatest trouble, when he came out of the alley.

THE COURT: What did he say? Speak louder.

A He said he knocked hell out of his brother-in-law; he came along up the street and his brother-in-law jumped on him and he just knocked hell out of him, like any other man would have done.

Q Did he,after he came out of this alley and looked around, did he go back in that alley? A Yes, sir, he walked back in there a good piece.

Q Did anybody follow him back in there? A Old man Hirsch,-- he went on in there and talked to him.

Q Did they come out together? A No, sir.

Q Which came out first? A Mr. Hirsch, he came out first.

Q That is Mox's father? A Yes, sir.

Q When Mox came out where did he go? A He went on over towards the stable.

CROSS-EXAMINATION BY MR. LEE:

XQ Mr. Branner, did you hear anything of the conversation [illegible]. Mox Hirsch and his father? A No, sir.

XQ You did not hear any of it at all? A No, sir.

XQ You say, when you asked him what the greatest trouble had been he said that his brother-in-law had jumped on him as he came along the street and he had knocked hell out of him, as any other man would have done? A Yes, sir.

XQ That is all he said to you? A Yes, sir.

Witness told to stand aside.

MORRIS SPIRO, examined on behalf of Commonwealth by Mr. Conrad:

Q Mr. Spiro, you live here in Harrisonburg? A Yes, sir.

Q What position do you hold with the Southern Railroad?

A Machinist.

Q Are you acquainted with Maximilian Hirsch? A Yes, sir.

Q State to the jury whether on any occasions or occasion, before Lou Isaacs was killed, you heard Mox Hirsch give expression to any ill feeling on his part against Mr. Isaacs, and, if so, what it was he said? A I know there was the existence of ill-feeling between both of them. And on several occasions I would meet them together, in one certain place especially, and I always dreaded to see them together because I thought sometime sooner or later there would be a clash between them, that I perhaps wouldn't want to be at the time with them. On several occasions there have been some remarks made "That is Mr. Isaacs ever gets in my way," or some way or other, I can't just recall the expression of words,— the way it was said -- that he "would kill him."

Q Those words were used by whom? Who do you mean said that if Isaacs ever got in his way, or words to that effect, he would kill him? Who was it said that? A Mr. Mox Hirsh.

Q You say that occurred on more than one occasion, that you make such expression as that? A Yes, sir, perhaps two

XQ You did not hear any of it at all? A No, sir.

XQ You say, when you asked him what the greatest trouble had been he said that his brother-in-law had jumped on him as he was going the street and he had knocked that man down, or else, he would have done? A Yes, sir.

XQ That is all he said to you? A Yes, sir.

Witness told to stand aside.

MORRIS BRING, examined on behalf of Commonwealth by Mr. Conrad:

Q Mr. Bring, you live here in Harrisburg? - A Yes, sir.

Q What position do you hold with the Southern Railroad?

A Machinist.

Q Are you acquainted with Maximilian Hirsch? - A Yes, sir.

Q State to the jury whether on any occasions or occasion, before Isaac Isaacs was killed, you heard Max Hirsch give expression to any ill feeling on his part against Mr. Isaacs, and, if so, what it was he said? A I knew there was the existence of ill-feeling between both of them. And on several occasions I would meet them together, in one certain place especially, and I always dreaded to see them together because I thought sometime sooner or later there would be a clash between them, that I perhaps wouldn't want to be at the time with them. On several occasions there have been some remarks made "that in Mr. Isaacs ever gets in my way," or some way or other, I can't just recall the expression of words,— the way it was said — that he "would kill him."

Q Those words were used by whom? Who do you mean said that if Isaacs ever got in his way, or words to that effect, he would kill him? Who was it said that? A Mr. Max Hirsch.

Q Was that conversation on more than one occasion. Have you heard Mr. Hirsch make use of the words, "If Isaacs ever gets in my way, I'll kill him?" A Yes, sir, I have.

or three times. I do not recall the times exactly.

Q Can you state about how long before Mr. Isaacs was killed that Mox Hirsch made this statement? A Do you remember the time-- how long it has been since Mr. Mox Hirsch and his wife came back together the second time? It has been since Mox Hirsch's wife came back the second time. It has been two or three months-- something like that.

Q Two or three months before Mr. Isaacs was killed, you mean?

A Yes, sir. I don't recollect the time, whether it has been two or three months, perhaps less than that.

CROSS-EXAMINATION BY MR. LEE:

XQ Mr. Spiro, you say there seemed to be animosity between Mr. Isaacs and Mr. Mox Hirsch? A Yes, sir.

XQ One had just as much animosity as the other, didn't they?

A Well, I can't tell that. I don't know.

XQ It seemed to be so, did it not? A Well, I know they were not on speaking terms. I don't know how much it was towards each other. I don't know that.

XQ You say that on several occasions you have heard Mr. Mox Hirsch use expressions of that sort about Mr. Isaacs? A Yes, sir.

XQ Do you recall that one of those occasions grew out of these circumstances: that it was reported to Mr. Mox Hirsch in your presence that Mr. Isaacs had jumped across the counter at Mox Hirsch's wife and threatened to drag her tongue out; that you were present when that occurred, and that you told Mox about it and that it was then that he used one of these threats? A I did not tell Mox about it.

XQ Isn't it a fact that you saw that occurrence and that you reported to Mox Hirsch and that it was then that he made

ats?