ow three times to not I amount to the times to be

of dam you state soout hew long before it. Lermon man killed that you have not the vinethat you mirsel name this state it. A to you remarked the vinenew long it and been since it. Air direct and his wife came but
together the second time? It has been since Mox Hirsch's wife came
back the second time. It has been two or three mention-- something
like that.

Q Two or three nonths before Mr. Issaes was killed, you ment't
A Yes, sir. I don't recollect the time, whether it has been
two or three months, perhaps less than that

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NO Mr. Spire, you may from a mount to be emisselfy between

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offrommitances; that it was reported to Mr. Box Mirach in Four Presence and Presence in January at Mar Hirach's presence into interpretary at Mar Hirach's offer and threatens, and that you told Nox about it and that it was the six than that it and that it was the six than that it and that it and that it and that it and the it is the six of the six than that it and the six it and

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MR. CONRAD: I object to that question.

THE COURT: You can ask him what brought out that threat; what caused him to make the threat at the time you speak of.

WITNESS: I don't know what caused it. I
know one circumstance. The case was
this: Mrs. Mox Hirsch was sitting in
the office of Mr. Abel Miller's store.
I came in and I said "Emma, what makes
you look so disheartened?" "Oh," she says,
"I have been mistreated." I said,
"In what way?" She says, "In several
ways," by her husband. I says,
"Do you know a certain obligation
that has taken place between you and
your husband that you have to live up
to, and you both prom sed me to do
certain things, and perhaps it will
be in my power to correct these
things and make you feel better than
you do." She said, "Damn the Hirsch
family. I wouldn't bleave them on
oath."

wife. My Isaacs was in the store, perhaps six or seven feet -perhaps ten feet -- from the place where that conversation took
place between me and her, and he jumped up and said to her, he
said, "Don't you never repeat anything against the Hirsch family.

My wife is a Hirsch and I am taking up for her, and if you do I
will smash your mouth or knock your teeth down your throat." But
he didn't jump over the counter for he was on the same side of the
counter.

XQ That is what Mr. Isaacs said to Mr. Mox Hirsch's wife?
A Yes, sir.

XQ And when that was reported to Mr. Mox Hirsch he then made use of this threat you spoke of? A I don't know that.

XQ Oh, I thought you did. Didn't you hear that: were you present when what you have just described was reported to Mr. Mox ach? A No, sir; no, sir.

WITNESS told to stand aside.

and the country I object to that question.

THE COURT: You can ask him what brought to out that the threat; what conned him to make the threat at the three you about of.

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No on, I thought you did. Didn't you near that: were you no reporter to Mr. Mbx

on? A no, oin; no, sir.

.enten brists of Test spansies.

- A. M. LOEWNER, examined for the Commonwealth by Mr. Conrad:
- Q Mr. Loewner, you are a merchant here in Harrisonburg?
- A Yes, sir.
- Q You have known Mox Hirsch all of his life, I suppose?
- A Yes, sir.
- Q You have lived here all of your life, have you? A Pretty much; yes, sir.
- Q Your associations with him have been more or less intimate, have they? A Yes, sir; I saw him most every day.
  - Q He is of the Jewish faith and so are you? A Yes, sir.
- Q Did you, on the night that Mr. Isaacs was killed, see Mox Hirsch at any place in Harrisonburg after Mr. Isaacs had been hit?
  - A Yes, sir.
- Q Where did you see him? A I saw him down the railroad on Bruce Street crossing, near the bark-sheds -- right at the bark-sheds.
- Q How were you travelling? A I was delivering some icecream in a carriage, going out German Street.
- Q In that wagon of yours or buggy of yours? A Buggy -- surry.
- Q It was at the point where Bruce Street crosses the railroad west of German Street? A Yes, sir.
- Q At that point there is a switch turns off to the left that goes around into the bark-sheds? A Yes, sir.
  - Q On the South side of Bruce Street? A Yes, sir.
- Q Did you see anything of him before you crossed the railroad or not until after you got across? A No, sir, I didn't see
  him at all. I had gotten just right on the railroad when someone
  hollared to me to stop.
- Q Well, did you find it to be Mox Hirsch: where did he come from when he approached A I couldn't exactly tell you, but

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- You have lived here all of your life, have been
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- Yes associations with him have been most see anotheroses wor
- Yes, sir; I saw him most overy day. - The that the the to DEN NOUS
- place in Marriaconburg after Mr. Isonon but been hit? Issues was Killed, see lox AGR3
- -drad end as Juliu -- sheds-Ared end room beorilet sit two mid was I on Bruce Street crossing,
- Nos mere you travelling? A I was not went wone
- A IN THE PROPERTY OF VOICES OF PURCH OF YOURS? caratoks, kotak out conust apport.
- tent first wilt of the engry fether obsects the of the point where Bruce Street orosesse Yes, sir, Squente united
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he was coming towards me, probably 20 or 25 feet away from me at the time he called me to stop.

- Q I mean by that, did he come out of the switch that goes into the bark-sheds; did he come out from near that switch? A Well, I don't know, exactly, which side he came from,—
- Q Or on the main track of the railroad? A When he called to me, why, I would think he was between the two. Between the main track and the switch, or thereabout somewhere.
  - Q The bark-shed is close to that point? A Yes, sir.
  - Q He was near the end of the bark sheds? A Yes, sir.
  - Q He called to you to stop, you say? A Yes, sir.
- Q Well, sir, did he make any statement to you at that time or request? A Yes, sir.

Way to my father—in—law's to get my wife and bring her home. He came out and asked me to get out of the buggy. I had a couple of children with me, and he says, "Come over here I want to see you a minute," and I went over there, and he says, "Lou and I had a fight and I struck him with a board and I think I hit him a pretty hard lick and I wish you would go back and see how bad he is hurt, or tell Joe or Leon or some of the boys where I am and to come down right away that I want to see them." I told him that. I turned around and came back and looked in the house — though probably I could be of some service. I didn't know anything about the occurrence. I saw the excitement but couldn't be of any service, and I delivered the message and went on up for my wife.

#### CROSS-EXAMINATION BY MR. LEE:

XQ Did you see Mox Hirsch any more that night? A Yes, sir.

XQ Where? A I was going down the street probably a little after ten o'clock and I saw him and his brother coming up water Street and they sat down there then where the Colonial Office is now, on the door step.

he was coming towards me, probably 20 or 25 feet away from me at the time he called me to stop.

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      - O He called to you to stop, you say? A Yes, sir.
    - Q Well, sir, did he make any statement to you at that time or request? A Yes, sir.
  - other tell the Jury what he said. A I was going up that way to my father-in-law's to get my, wife and bring her home. He came out and saked me to get out of the buggy. I had a couple of whildren with me, and he says, "come over here I want to see you a minute," and I went over there, and he says, "hou and I had a fight and I struck him with a board and I think I hit him a pretty hard lick and I wish you would go back and see how bad he is burt, hard lick and I wish you would go back and see how bad he is burt, or tell Jos or Leon or some of the boys where I am and to come down right away that I want to see them. " I told him that, I turned around and ogue back and looked in the house though probably I could be of some sarvice. I didn't know anything about the occurrence. I saw the excitement but souldn't be of any service, and I delivered the message and went on my for my wife.

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XQ Where? A I was going down the street probably a little

after ten o'clock and I saw him and his brother coming up Water

Street and they sat down there then where the Colonial Office is

now, on the door step.

WITNESS: Yes, sir.

MR. HARRIS: On the corner next to the First National Bank corner from her?

WITNESS: Yes, sir.

XQ That is a very public street, is it? A Yes, sir.

XQ They were sitting on that corner of the street talking about 10 o'clock that night? A Yes, sir -- a little after.

MR. CONRAD: A little after?

WITNESS: Yes, sir.

### CROSS-EXAMINATION RESUMED BY MR. CONRAD:

- Q You say Mox said to you "Come over here?" Did you get out of your buggy? A Yes, sir.
  - XQ You left the street then and went off to the side there?
  - A Yes, sir and talked to him.
  - Q He did not come out to where you were, out on the street?
- A No, sir. I had the children and I supposed he didn't want the children to hear what was said, probably. I didn't know what was wrong. He called me and I got out of the carriage and went over where he was.
  - Q There is a light somewhere close there, is there not?
  - A Yes, sit; an arc-light on the corner there, I think.
  - Q That is not an arc-light on the railroad? A An incandescent light.

### WITNESS told to stand aside.

- R. LEE WOODSON, examined by Mr. Conrad for the Commonwealth:
- Q Mr. Woodson, did you see this board here the night Lou Isaacs was killed and observe these spots which appear on it here?
- A I saw a board very similar to that, sir. I take that to be the same board.
  - Q The board that was afterwards delivered to Mr. Crousehorn?
  - A Yes, sir,

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WITHKES: Yes, mir.

MH. MARRIES ON the corner next to the French next corner from her?

WITHESS: Yes, als.

XQ First is a very public street, is it? A Yes, eir.

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MH. COHNAD: A little after?

wirmas: Yes, etc.

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Threshound and of Berevilloh abnessed to Mr. drousehorn?

- Q Were these spots of blood on there that night? A I think so, sir.
- Q Which Mr. Hirsh? A Mr. Ludwig Hirsch had him up in a sort of sitting position when I got there, but the board was lying close to his body.
- Q Was it lying up toward where the head of the body had been or down towards his feet? A I think if he had been lying straight out, it would probably been a little closer to his head. I can't tell you that exactly.
- Q As far as you can see by appearance the board was like this (exhibiting board)? A Yes, sir.
- Q It had the appearance of that board? A Had the appearance of that board.
- Q That is an oak board about six inches wide? A Yes, sir.
  I judge six inches.
- Q And about fifteen inches long? A Something like fifteen inches.
  - Q Is it a heavy board? A Yes, it is tolerable heavy.

THE COURT: What is the thickness of it?

WITNESS: I suppose about an inch -- scant inch. Probably an inch.

- Q You did not see the difficulty between these men? A No, sir, I didn't see it.
- Q You didn't get up there until after the man had been knocked down? A No, sir, I didn't get there until --
  - Q Until after Mr. Isaacs was knocked down? A No, sir, the

Q were these spots of blood on there that night? A I think

o Did you see this board, or a board like that, lying in the road there close to Mr. Issace's head when nexempted which here after he mae thooked down? A Yes, alr, I saw a board similar to that lying right close to his body. He was not lying down. When I got there Mr. Hirsh had him up in a sort of sitting position.

Q which Mr. Hireh? A Mr. Ludwig Hirsch had him up in a sort of sitting position when I got there, but the board was lying close to his body.

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Q Until after st. Isames was knowing down? A no, sir, the

difficulty was virtually over. It was over when I got there.

# CROSS-EXAMINATION BY MR. LEE:

- xQ Mr. Woodson, where is your place of business on German street? How far from the scene of this fight? A Well, I expect it is seventy-five or eighty yards. Something like that, I judge.
  - XQ Is it in the same square? A Yes, sir, in the same square.
  - xQ On the same side or on the opposite side of the street?
  - A Opposite side of what, do you mean?
  - XQ Of German Street, -

MR. CONRAD: Opposite from Ludwig Hirsch's house.

- XQ From Ludwig Hirsch's. A Opposite side.
- XQ It is a little North of the bridge, isn't it? A Yes, sir, a little north of the bridge.
- XQ Did you see any of this fight? A I couldn't say that I did. dir. I heard the commotion.
- XQ Tell the Jury exactly what you did see. A Well, I could tell them what I heard better than I could tell them what I saw.
- XQ Very well. A I heard some loud talking and heard someone say "You damn son-of-a-b" -- you know what that means.
- XQ You did hear someone who was engaged in that row -- A I heard that expression.
- XQ Say "You son-of-a-b", you heard that? A I heard that; yes, sir.
- XQ That was up in the road where the fight was going on. You could see people and --- A I could distinguish objects but couldn't tell who they were.
  - XQ But you heard that expression? A I heard that expression.
  - XQ You went up there very soon? A Went quickly.
- XQ And when you got there Mr. Ludwig Hirsch was holding the head of the injured man in his lap? A He had him in a sitting

difficulty was virtually over. It was over when I get there.

## CHOSS-EXAMINATION BY MR. 1881:

It Mr. Woodean, where is your place of business on Berman, Street? Now far from the scene of this fight? A Well, I expect it is seventy-five or eighty yards. Something like that, I judge. .examps same square? A Yes, sir, in the mane square. The same sale or on the opposite sale of the same and no A Opposite side of what, do you mean? No Of German Street, --

MR. CONHAD: Opposite from Ludwig Mirnoh's nouse.

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and then you got there is, budging Birnels was not also

position.

XQ You could not be mistaken about that expression having been used? A No, sir, I could not.

MR. CONRAD: As to whether the expression you heard used came from either of these two men, Mr. Woodson, are you able to state that?

WITNESS: No, sir, I couldn't state that.
I couldn't recognize the voice.

XQ It came from some one in that melee? A In that trouble, --in that mix-up.

MR. CONRAD: Were there more people there than Mox Hirsch and Lou Isaacs, — people on the sidewalk?

WITNESS: I did not see Mr. Mox Hirsch at all when I got there

MR. CONRAD: Mox had gone by the time you got there?

WITNESS: Yes, sir. I did not see him that night at all.

MR. CONRAD: You do not mean to convey the idea to the Jury that the only people up there in that direction from where you were were those two men?

WITNESS: No, sir, there were other people there. But I did not see Mox when I got there. Oh, yes, there were other people there when I got there.

XQ When you looked up there, before you went there, when you heard the loud talking and the expression used, how many people seemed to be out in the street? A I souldn't tell you. I wouldn't like to say.

XQ Were there more than two or three? A I couldn't say. There might have been. I wouldn't like to make that statement.

MR. CONRAD: And the expression you heard coming from up there might as well have been from somebody on the side walk as from either of those men in the road?

WITNESS: Of course it could have come from someone else -- from somebody else.

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WITHESS: Of access it could have come from someone class.

- D. E. CROUSEHORN, examined on behalf of Commonwealth by Mr. Conrad:
- Q Mr. Crousehorn, did you have Mox Hirsch in custody or in charge in any way on the night that Lou Isaacs was killed, or after he had killed Isaacs? A I was called up there the next morning about half-past four. I relieved one of the policemen who was on duty at the Hirsch residence, and kept watch over Mox Hirsch from then on until daylight.
  - Q In keeping watch were you in the same room with him?
- A Part of the time I was. Part of the time I was just outside of the door in the hall sitting on a chair just outside of the door.
- Q Where was he? In what room was he? A He was in the upstairs north room next to the street of the Ludwig Hirsch residence.
- Q That was his father's home, was it? A Yes, sir, his father's home.
  - Q That is the room next to the street, you say, upstairs?
  - A Yes, sir.
  - Q Next to Arthur Hirsh's house, then? A Yes, sir.
  - Q Where was Mr. Isaacs room? A They were in the south room of that double house next to the street downstairs.

MR. HAMMER: Three doors away, I believe? WITNESS: There is one house between.

- Q Do you know whether at any time you were there Mom Hirsch slept, or not? A Yes, sir, he was sleeping when I first went there and slept for an hour or more after I got there. Leon was the first one to wake up. They were both in bed asleep.
- Q Did Mox Hirsch make any statement to you at that time as to his condition when he struck this man; I mean, whether or not —

I will withdraw that question for the present.

Witness told to stand aside.

D. E. CROUSEHORN, examined on behalf of domnonvealth by Mr. Correct:

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to his somitation when he struck this want I most, which or not --- to his withdown when he struck this want I most, which we that question for the ground.

Witness to stard accepted.

JENNIE CROOMER, examined on behalf of the commonwealth by Mr. conrad:

- Q Your name is Jennie Croomer? A No, sir. My name is Virginia Huffman.
  - Q Were you at Mr. Isaacs's house on the day he was killed?
  - A Yes, sir.
- Q Did you have charge of Mrs. Isaacs's baby, or help Mrs. Isaacs' to nurse it in any way that day? A Yes, sir, I nursed it some during the day. I wasn't there as any nurse. I was there as a hired-girl.
- Q Whether it was as murse or as hired-girl either one, you were helping with the child, taking care of it? A Yes, sir.
- Q Did you see anything of Mox Hirsch that afternoon while you had the baby taking care of it? A Not in the afternoon. It was late in the evening when I saw him.
- Q Was it before or after supper? A Well, I can't hardly tell.
- Q Well, it was late in the evening. Whether it was before or after supper I do not care. Did Mox say anything with reference to the child or to Mr. Isaacs and his wife at that time?

Question objected to.

COURT: Where was that and when was it?

MR. CONRAD: It was late in the afternoon of the day that Mr. Isaacs was killed, and calls for a statement made by him or an expression used by him to this woman, or in her presence, manifesting or exhibiting his feeling towards Mr. Isaacs.

COURT: She can answer. Exception noted for the accused.

Q State what he said. A Well, as near as I can tell you the truth about it,—That is what I mean to tell you, because I wouldn't tell a story on a dead man,— this is all I know of it. It

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DOUGH THE THE REST TOWN OF THE 1 was late in the evening when Mr. Isaacs came home to supper and his wife authorized me to take her little baby in Mr. Hirsch's swing, on the front porch at their house. So I did so. And during the time I was in the swing the child was crying. So Mr. Mox Hirsch rode passed the house on a horse and I said to the child, "Miriam, don't cry! Look at the horse that your Uncle Mox is on." He said, "Don't you never, whatever you do, as long as you live, ever call me'Uncle' again to that damn brat, for I hav'n't any use for the set down there or the baby either." I said, "Very well, Mox, you oughtn't scorn the baby for what your sister does".

Object to answer and moved to strike out; motion overruled and exception for the accused.

Witness told to stand aside.

MRS. MARY M. McCRARRY, examined on behalf of commonwealth by Mr. Conrad:

- Q Mrs. McCrarry, were you at Mrs. Ed. Snell's the night that Mrs. Isaacs was killed there in the road on German Street? A Yes, sir.
  - Q You were just there visiting in the evening? A Yes. sir.
- Q How many ladies were there, Mrs. McCrarry? A Mrs. Ed. Snell, Mrs. Gertrude Tutweiler and myself. I was sitting on a chair on the street and Mrs. Snell was, toc.
- Q You and Mrs. Snell were sitting on chairs and Mrs. Tutweiler was sitting on the steps? A Yes, sir.
- Q was the back of your chair towards the bridge or towards the house? A Towards the house.
- Q Which waywere you facing? A Across the street, -- to the West I suppose.
  - Q Did you have any of your children along with you? A Yes,

was lets in the eventing when are little some in any enterprise of the viru differential and to there see little some in the see and distinct some of a late so and distinct some of the state late in the string the child who arrange, so we have the stream and a seed the sound on a horse and I said to the child, "Winter, "Bon't ony! hook at the horse that your knole hox is on." He said, "Don't you never, whatever you do, as long so you live, ever oall no 'thole' again to that down brat, for I hav'n't any use for the set the set down there or the baby either." I said, "Very well, lon, you oughtn't scorn the baby for what your sieter door."

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Q You were just there visiting in the evening? A Yest oir.

g New many ladion were there, Mrs. Negranay? A Mrs. Md. gmall, Mrs. Gertands wetweellen and sreelf. I was mitting on a shelm on the street and Mrs. gmall was, too.

Q You are here. Shell sume attitud on another and Mrs. Tutamillar

abrawot to eghind edd themend whether the bridge on towards the houses.

of the street and another a training to the street of the

- Q Were there any other children playing there on the pavement?
- A Yes, sir, there were some children there but I don't remember who they were.
- Q Did you see Mrs. Dovel pass by there just before the time of this difficulty; Mrs. Bureguard Dovel? A Yes, sir.
- Q What was the first you heard or knew what first attracted your attention to the difficulty? A Well, I was just sitting there looking up the street and I saw Mr. Mox Hirsch come down the street —

MR. HARRIS: I didn't catch that; how is

A (Continuing) I said I was sitting there and I saw Mr. and Mrs. Isaacs walk up the street, and I saw Mr. Mox Hirsch when they met him.

- Q Then, tell just what took place without my taking up time to ask you questions. A I saw them going up the street and saw Mox coming down the street and I noticed them when they met that Emma (Mrs. Isaacs) spoke to Mox Hirsch. Then I turned my eyes away and was about to ask Mrs. Snell a question as to when they had made up. I knew they were on bad terms. And then I glanced my eyes up and saw their arms going and I didn't ask her. I looked at them again. Then I saw they were fighting and my baby was up there in front of the Hirsch house. I said, they are fighting and my baby is there, and I jumped up and went to get my baby and I never saw what happened.
- Q Did you hear anything strike the house like a rock striking the house? A Yes, sir.
- Q Was that before you ran up there for the child? A It was the while I was going up there I heard it hit house.
  - Q After you left your chair and started to go up there?
  - Q Yes, sir.

I have these any other children playing there an the parecent? a variety of the parecent and the parecent and the parecent and the parecent at the parecent at

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your attention to the difficulty? A well, I was just sitting to the difficulty? A well, I was just sitting to the difficulty? A well, I was just sitting to the street and I saw Mr. Nor Hirsch come down the street ---

MH. HARRIS: I didn't oatoh that; how in

A (dontiming) I said I man sitting there and I saw Mr. don't may Mr. Max Riragh show that

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now il A Third ont not enough our new now exclude A It was ont one of the country of the passes.

To make you and the standards have therefore the property of the standard of

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- Q Which house did it strike? A Arthur Hirsch's house -- the corner of it.
- Q Did you see the rock fall on the pavement? A No, sir, I did not. It sounded like it hit the corner of the house close to me.
- Q Did it hit the house with force or not? A Sounded to me like it did: yes. sir.
- Q Did you hear the blow or any blow after that, after you got your child and started from them? Did you hear the sound of the blow? A Yes, sir.
- Q At that time where were you? A I had just got my baby and was going up Mrs. Snell's steps as I heard it.
- Q Did you look around then? A Not until I got on the top step. I hadn't got inside when I looked.
  - Q What did you see then? A I saw him lying out in the road.
- Q Who? A I suppose Mr. Isaacs. I saw someone lying in the road.
- Q About what place in the road was he? A He was laying straight up in that pile of lumber in the road -- across from that, in the middle of the road.
  - Q In the middle of the road right out from the pile of lumber?
  - A Yes, sir.
  - Q You had been sitting about here (indicating on photograph)?
- A I had been sitting between that step and this corner, with the back of my chair to the wall.
  - Q You were sitting on the north side of the steps? A Yes, sir.
  - Q With the rocking-chair back against the house? A Yes, sir.
- Q When you went up for your child you went up to where on the pavement? A I caught the baby just there (indicating) at Arthur Hirsh's house?
  - Just about there (indicating)? A Yes, sir.

and -- come did it strikes A Arthur Hiroch's house -- tax

I pair you a firmword and no flot your only one boy but it

Q Did it hit the house with fures or not? A Sounded to me like it did: yes, sir.

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Q You had been sitting about here (instructing on photograph);
A I had been sitting between that step and this corner, with
the back of my chair to the wall.

Q You worse of Uning on the north oids of the stoper A Yes, six,

or with the receipt the against the house? A Yes, air.

to stant up the your while the your while the phase on the phase on the phase on the phase of th

- And it was between the time you were going from here to that point that the rock hit the house? A Yes, sir, about the time I got to the corner of this house here.
- Q The double house? A Yes, sir. The lick sounded like it hit the other house.
- Q Now, from the time you started from your rocking-chair here until the time you got to your child were your eyes on these two men or on your child? A No, sir, I was looking at the child.

  I said, Quantila come here, " and she started to run away from me. I never looked at them at all. I saw she was going to run from me. When the rock hit the house she kind of screamed and ran towards me.
- Q And you grabbed her -- A Yes, sir, and ran on down the street.
  - Q As soon as you grabbed her your back was towards these men?
  - A Yes, sir.
- Q And you got up on this door-way, you say, and from that point you saw where the man was laying in the road? A Yes, sir.
  - Q Point in this picture to the place where he was laying?
- A He was laying in the middle of the road, straight out from the lumber.
  - Q Right out from the lumber pile, in the middle of the road?
  - A Yes, sir; that is the way it looked to me.
- Q Did you see anything of Mox Hirsch when you saw this man lying in the road, or where he had gone? A No, sir, I never saw him at all after he got off of the sidewalk.
  - Q Did you go out into the road where the body was lying?
  - A No, sir.

### CROSS-EXAMINATION BY MR. LEE:

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Q Yes double bounds A Yes, whr. The link controls like it

until the time you got to your child were your rocking-chair here until the time you got to your child were your eyes on these two nen or on your child? A No, sir, I was looking at the child. I waid, Orangella ocue here, and she started to run away from ne. I never looked at them at all. I saw she was going to run from the rock hit the house she kind of seresued and ren fourth me.

Q And you granded ber - A Yes, and rem on north ung

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A Yes, sir.

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g hid you go out into the road shore the body was lying?

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his sister, Mrs. Isaacs? A Yes, sir.

- MQ Did you hear what she said to him? A No, sir.
- XQ Do you know whether he made any reply to what she said?
- A No, sir.
- XQ You did not hear? A No, sir.
- XQ Did you hear any of the conversation? A No, sir, I never heard a thing.
  - XQ You say the next thing you noticed was their arms flying?
  - A Yes, sir.
  - XQ could you tell which had struck the first blow? A No, sir.
  - XQ You could not? A No, sir.
  - XQ Well, at that time had Mrs. Arthur Hirsch come out?
  - A At what time?
- XQ At the time you first saw their arms flying? A No; just as I went up for my baby she crossed the street in front of me.
- XQ Where were the men then? A They were right there together between the lumber pile -- right in the gutter -- they had just gotten off the sidewalk.
  - XQ In the edge of the lumber pile? A Yes, sir.
- I can't say that I did. They were all huddled together. I wasn't particularly looking at them.
- XQ You say they were all in a heap or huddle -- A And Mrs.

  Arthur Hirsch ran out to them.
- XQ (Continuing) Mrs. Hirsch and the two men and Mrs. Isaacs; were they all in the lumber pile? A I don't know that they were. It looked to me that they went over the top of it.
  - XQ It looked to you as though they went over the top of it A Yes, sir.
  - XQ All huddled together? A Yes, sir.
- XQ Then your attention was attracted to your child? A Yes, sir.

his stater, Mrs. Isanos? A Yes, sir.

My out you hear what whe said to him? A Mo, sir.

IQ Do you know shother he made any reply to what she said?

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A Yes, sir,

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A Year sir.

Id wil hiddled togother? A Yes, sir.

IQ Then your attention was attracted to your chald? A Yee,

- XQ And you did not see what happened out in the road? A No, sir, I did not.
  - XQ You cannot tell which man followed the other? A No, sir.
  - XQ You can't tell anything about that? A No, sir.
  - XQ When Mr. Isaacs finally fell, did you see him when he fell?
- A No, sir. I saw him laying in the road afterwards. I heard the lick and turned around.
- XQ He was rather on the far side of the road from the Isaacs house wasn't he? A Yes, sir.
- XQ If I understand you, they met, that is, Mox Hirsch and his sister and Mr. Isaacs, just a little past the step that comes out of Mr. Isaacs door? A Yes, sir.
- XQ If I understand you, the point at which Mox, Mr. Isaacs and his wife met on the street was just about opposite the steps that come out of Mr. Isaacs home? A No, sir, it was just above that.
  - XQ Just a little above the step? A Yes, sir.
- XQ When you say above do you mean North or South? A I mean South.
  - XQ A little nearer Water Street? A Yes, sir.
  - XQ A little more up the hill? A Yes, sir.

Witness told to stand aside.

CLAUDE ALBERT, examined on behalf of the Commonwealth by Mr. Commad:

- Q You are a member of the firm of Woodson & Albert, are you, Mr. Albert? A Yes, sir.
- Q Your place of business has been stated by Mr. Woodson. Did you see anything of this difficulty in which Mr. Isaacs was killed, Mr. Albert? A Well, I don't know -- I did not see the fight and I did not know who they were, -- could not recognize the parties, but heard voices and the rock thrown, and I made the remark that

XQ And you did not see what happened out in the road? A No.

ig You dermot tell which can followed the other? A No, sir.

A Your shift toll say thing shout that Y A No. sir.

XC When Mr. Isanes Cinglly fell, did you soo him when he foll?

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In a doe'd you, they not, that is, Mox Hirsch and it of the state and it. Issaes that comes out of Mr. Issaes door? A Yes, sir.

XQ If I understard you, the point at which Mox, Mr. Ismans and his wife met on the street was just about opposite the stage that some out of Mr. Ismans home? A Mo, etc. it wer just above that.

. Xq Just a little above the step? A Yes, sir.

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there was a fight up there and Mr. Woodson, Mr. Thorp and I ran up there.

- Q Mr. Thorp was a man who was working at your stable? A Well, no. he was working there at odd-days.
- Q He was there with you? A Yes, sir, he was there in company with us in front of the stable.
- Q Where is Mr. Thorp now, Mr. Albert? A He is at Charlottesville in a hospital.
- Q When did he go? A I think he left here last Thursday -- to-day a week ago, I think it was.
- Q Tuesday a week, the day after the grandjury met? A Yes, sir, I believe it was. The day after or the next day after, I do not know which.
- Q Did you go after hearing this rock -- I mean, to ask you, did you see anything of the racket after you got up there? A No, sir.
- Q After you reached the place did you see the body of Mr. Isaacs lying there in the road? A Yes, sir, I helped to carry him in.
- Q Had anybody reached him before you got to him? A Mr. Ludwig Hirsch was holding him up on his knee, on his lap like.
- Q Did you carry Mr. Isaacs into his own home? A In his own home and placed him on the bed; yes, sir.
- Q Did you take any notice of the place in the road in which his body was lying that night? A Well, I think it was along about 8 or 10 feet from the curbing on the West side of German street.
  - Q You mean his head was? A Yes, sir.
- Q Now, his feet, then, were in what direction? A His feet were pointing towards his house, east.
- Q His head was about 8 or 10 feet from the West side of the curb on German Street? A Yes, sir.

there was a fight up there and Mr. Woodson, Mr. Thorp and I rent up there.

- Q Mr. Thorp was a man who was norking at your stable? A well, no, he ass verking there at def-days.
  - one with us in front of the stable.
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    - q alls head man about 8 or 10 feet from the West side of the

- Q That would have placed his body where with reference to the middle of the road there? A It would have placed his body or feet about where the wagon track is.
  - Q Of the road? A Of the road, you know.
- Q That is somewhere near the center of the road? A That is, not quite to the center, but a little more to the west side.
  - Q With his feet to the east? A Yes, sir.
- Q Did you see this board there, Mr. Albert? A No, sir, I did not see the board in the pike at all.
- Q Not while it was lying in the road? A No, sir, because I was at his feet.
  - MR. LEE: We may save you a little trouble, Mr. Conrad. You have proven as near as you can that that is the board. That will not be denied. We say that to you frankly, to save any unnecessary trouble, we believe that that is the board.
- Q This board was picked up there by Mr. Thorp and handed to you? A Handed to me.
- Q And by you delivered to the Sheriff? A I delivered it to Mr. Carickhoff the next morning.
- Q Mr. Crousehorn? A To Mr. Crousehorn the next morning.

  I kept it in safe-keeping.
- Q Now, Mr. Albert, did you hear anything -- What first attracted your attention to the fight? A Well, this kind of noise up
  there, going out over the lumber pile, the racket, and then I heard
  an oath uttered.
- Q You heard somebody utter an oath? A Yes, sir. I can't tell you who it was.
- Q Well, I suppose you may as well -- Did you hear Mr. Woodson testify a moment ago? A Yes, sir.
  - Q It was the same language he mentioned? A Yes, sir.

- O That would have placed his body where with reforence to the middle of the road thore? A It would have placed his body or feet shout where the wagon track is.
  - Q Of the ready A Of the read, for know,
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  - Q Well, I suppose you may as well -- Did you hear Mr. Woodson tostify a moment ago? A Yes, sir.
    - O It was the new language he mentioned? A Yes, sir,

#### CROSS-EXAMINATION BY MR. LEE:

you heard that oath used, how many people seemed to be engaged in that scuffle? A I should judge there were -- I sould not tell, -- probably three or four -- maybe two -- couldn't tell.

xQ Something between two and -- two that you could distinguish? A Yes, sir; seemed to be all in a bunch in the lumber.

XQ Was that oath you described used by one of these people?

A I couldn't tell you. It sounded like the voice of a man but I couldn't tell whose it was.

XQ It sounded like the voice of a man and seemed to come from that direction? A From that direction.

NQ Seemed to be the voice of a man? A Yes, sir.

XQ Whose voice it was you could not tell? A No, sir.

XQ Mr. Albert, in this picture (indicating) are you the gentleman standing there with your coat off? A In my shirt-sleeves, yes, sir.

XQ These two men standing thereI presume were put there to locate where the body lay? A Yes, sir.

XQ If I understand you, you are standing were the feet of the body lay? A Yes, sir, near about.

XQ And the other man was standing about where his head was lying? A As near as I could judge.

XQ Was that done the day after the tragedy or the next day?

A I couldn't tell you, sir. It was done either the next day or the day after, I do not know which. Just several days after --very shortly after.

at it, accurately describe the location of the body? A Yes, sir.

If that is my picture it does. I cannot see it from here. I am the

# CHOCK-EXAMINATION BY MM. LEET

probabily three or four -- maybe two -- couldn't tell. that scuritor A I should jurge there were -- I could not tall, -you heard that oath used, how many propie seemed to be engaged in IQ Then you looked back up there, Mr. Albort, about the time

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My Section to be the voice of a man? A Yes, olf.

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7.08, 937. Sentleman standing there with your cost off? A in my shirt-sleeves, XQ Mr. Mibert; in this picture (indicating) are you the

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gentleman in the shirt-sleeves.

### DIRECT EXAMINATION RESUMED BY MR. CONRAD:

Q Who is this other man, Mr. Albert? A That fellow runs that restaurant.

MR. HAMMER: Mr. Keister?

WITNESS: Mr. Keister.

- Q Are you and Keister immediately opposite each other as you were standing there? A I am southeast of him.
- Q I know you are east of him, but are you opposite of him in the road or are you standing down further towards the bridge than he is? A I am standing further down towards the bridge.
- Q Say, that this book here represents the road, now, was Mr. Isaacs's body lying this way or that way? A Laying right that way (indicating).
- Q That is the angle; that is the head in a southeasterly direction and the feet in a northwesterly direction? A Yes, sir.

MR. HAMMER: Towards the Myer's house?

WITNESS: Yes, sir; you might say the body was laying almost West and East, very near; kind of southeast and northwest like.

- Q When you speak of where the body was lying, the position in which it was lying, you speak of the position after Mr. Ludwig Hirsch had taken him up and had him in his arms? A Yes, sir. I don't know how he fell.
- Q You don't know in what spot he fell or exactly what position he was lying in when Mr. Hirsch got to him? A No, sir. He had lifted him up on his knee and was holding him by the head, and I took hold of his fee and we carried him in.

MR. SIPE: He hadn't moved his feet, as far as you know?

WITNESS: I do not know about that

gentlemn in the shirt-sleaves.

ICHROT SKALINGTON RESULTS BY MI. CONNAD:

q Who is this other man, Mr. Albert? A That Follow runs that restaurant.

MR. HAMMER: Mr. Keistert

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MH. SIPE: He hadn't moved his feet, as

first finds word for ob I 1888PTIV

THE COURT: Did you say the body was lying southeast and northwest, or southwest and northeast?

withess: You may say it was lying kind of west. The body was kind of cat-a-cornered.

Witness told to stand aside.

MEMO: court adjourned for dinner, and reconvened at 2:30 when testimony resumed as follows: (Wednesday afternoon Oct. 6, 1909).

DR. E. D. DAVIS, examined on behalf of the Commonwealth by Mr. Conrad:-

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

.

- Q You formerly practiced in the neighborhood of Lacy Spring, in this county? A Yes, sir.
- Q How long have you been practicing, Doctor? A Practicing for fifteen years.
- Q Were you called on to attend Louis Isaacs on the night that he was killed here by a blow from Mox Hirsch? A Yes, sir.

MR. HARRIS: Doctor, will you kindly speak a little louder? I cannot hear you.

WITNESS: Yes, sir.

- Q Did you afterwards attend the post mortem in the undertaker's establishment? A Yes, sir.
- Q What did the post mortem reveal as to the cause of the death of Louis Isaacs? A Well, there was revealed a rather extensive fracture with hemorrhage of the brain.
- Q Were you present when this photograph was taken of the head—the interior portion of the head? A I was present when the young—man came in to take it. I left before he had taken it.
- Q These fractures (using photograph) have been pointed out as extending out through here and down in here. This is the front

THE COURT: Did you say the body was lying southeast and northwest, or sentheast and northwest, or sentheast

WATERSS: You may may it was lying kind of west. The body was kind of cat-a-

witness rolf to atund saido.

WEMO: downt adjourned for dinner, and reconvened at 2:30 when testimony resumed an follows: (Mednesday afternoon Cot. 6, 1909).

DR. E. D. DAVIS, examined on behalf of the Commonwealth by

HE" COMMEG!-

Q Bootor, you are a practicing physician here in Harriconburg?

A Yes, Sir.

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Q How long have you been practicing, lector? A Practicing

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as extending out through here and down in here. This is the front

part of the head there, I believe? A Yes, sir.

- Q That has been described already by Doctor Firebaugh, the extent of those fractures? A Yes, sir.
- Q Those fractures extended to the base of the skull? A Yes, sir: across the base of the skull.
- Q what was the condition between the scalp and the skull at the point where the blow seemed to have been struck? A There was a considerable contusion of the scalp.
- Q What did that indicate? A That would indicate that a blow had been struck.
- Q The extent of the contution in any way indicate the severity of the blow, Doctor? A Well, it would suggest that it took a considerable blow to make that amount of contusion.
- Q What as to the extent of the fractures? What did that indicate as to the extent of the blow? A Well, judging from the extent of the fracture I would say that it would take a considerable blow to produce that amount of fracture.
- Q So far as observed by you, was this skull of this man normal in its thickness? A Well, as far as I am capable of judging it looked to be so.
- Q You were called to attend Mr. Isaacs before his death, I believe? A Yes, sir.
  - Q Shortly after the injury? A Yes, sir.
- Q That blow seemed to have been struck on which side of the judging from the fracture and what you saw head? A On the left side.
  - Q Was there any depression in the skull at the point where the blow was struck? A A slight depression; appeared very slight.
    - Q A very slight depression? A Yes, sir.
  - Q Was he conscious or unconscious when you reached him,
    Doctor, -- Louis Isaacs? A Well, he was what you call semi-conscious. I don't think he recognized me at all, but he responded to

part of the head there, I believe? A Yes, sir.

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a few questions that I spoke to him.

- Q That was what time of the night you first saw him?
- A Between eight and nine. I did not look. I judge somewhere about half-past eight or quarter of nine when I was first called.
- Q What time of that night did he die, Doctor? A Died between one and two.
- Q He died here at his home in Harrisonburg, in Rockingham County? A Yes, sir.
- Q At his home here in Harrisonburg, which, of course, is in Rockingham County? A Yes, sir.
- Q Did you advise the family of the Hirsches of his serious condition when you first saw him? A Yes, sir. I told them that I considered the condition a serious one and that I was unable to say at that time how serious it might be.
- Q Judging from the nature of the fractures and the extent of the contusion, and anything else in connection with the injury that you found, do you think it at all probable or likely that such a condition could have been brought about by simply striking the ground with his head, or falling on his head? A I think not, unless he would fall from a considerable distance.
  - · Q From a great height, you mean? A Yes, sir.

### CROSS-EXAMINATION BY MR. LEE:

- XQ Doctor, when you were making this autopsy did you make any measurements of the thickness of the skull of the dead man at the point of injury? A No, sir.
- XQ Do you know what the thickness at that point of the normal human skull ought to be? A No, sir, I do not.
- XQ Doctor, whereabouts on the human head is what in anatomy is called "the parietal eminences"? A I do not understand you.
- XQ will you indicate on your own head where what is known to you gentlemen of the medical profession as "parietal eminences"?

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- Q That was what time of the night you first saw him?
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A They are along there (indicating). They are called the parietal eminences.

XQ It is in the neighborhood of where this injury occurred, is it not? A Yes, sir.

XQ Now, take the fracture that resulted from this blow, that was in the neighborhood of the parietal eminence, was it not?

A Yes, sir.

XQ Was not the fracture you found there just such a fracture as is the common result of a blow at that point severe enough to create a fracture at all? A Yes, sir, I should think so.

XQ In other words, the fracture which you found and which is indicated by that photograph, is just such a condition as a doctor would expect to find as the result of a blow stricken at that point hard enough to create a fracture? A Well, yes, sir. You never know what the extent of the fracture would be of course.

XQ I believe that Mr. Gray, in his anatomy, lays it down as being a fracture of a very common character resulting from a blow at that point, does he not? A I do not recall now.

XQ As a matter of fact your own experience tells you that is true. So that, assuming of course which is the case that the blow was stricken there with sufficient severity to cause the fracture, there was nothing unusual about that fracture? A well, I am not prepared to say, Mr. Lee, in regard to that. In fact, I have had very little experience with fractures of the skull.

IQ But you do say that the result you found there would be a common and ordinary result of a fracture at that point? A well, I am really unable to say, sir. I would think so from a blow of sufficient force.

XQ That would be your opinion? A Yes, sir.

XQ A blow of sufficient force to create a fracture? A Yes, sir.

They are along there (indicating).

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XQ There would be nothing unusual about these outlying fractures running through the skull would there? A No, sir.

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XQ In other words, if a man receives a blow on the side of the head here at that point heavy enough to break the bone and fracture the skull, there would be nothing unusual in that fracture traversing certain parts of the skull even as far as the other side of the head, would there? A No, sir.

XQ Doctor, do you know Mr. Mox Hirsch, the defendant here?

A Yes, sir.

XQ How long have you known him, Doctor? A I have known him since my residence in Harrisonburg, probably before.

XQ How long have you lived in Harrisonburg? A Six and a half years.

XQ Have you ever been his physician -- ever treated him?

A Yes, sir.

XQ For what character of ailment, Doctor, have you treated him? A Probably for stomach disturbance -- sick-headaches.

XQ Was he subject to disturbances of the stomach resulting in sick-headaches? A Yes, sir.

XQ Do you know whether or not he is a man of unusual nervous temperment? A Well, I don't know that he is unusually so. He is rather of a nervous temperment, I would judge.

XQ Doctor, is it not a fact that he is of such an unusual nervous temperment that at times he has a very serious palpitation of the heart, so severe you can see it through his underclothing?

A Yes, sir, he has that trouble.

XQ What is that the result of, Doctor? A That could be the result of excitement.

XQ He has that in a very marked degree has he not? A Yes, at times.

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XQ At times? A Yes, sir.

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XQ Is it not a fact Doctor that that condition of his heart is rather unusual and much more accentuated than you would find in ordinary patients of his age? A Well, it is very much accentuated.

XQ As a matter of fact, Doctor, is not he rather a frail man?

MR. CONRAD: You are examining the witness on a point of your own and asking leading questions. You are making the Doctor your own witness along this line.

MR. LEE: Yes, I guess you are right about that. I did not intend to lead the witness. I will change my questions.

XQ I will ask you to state, Doctor, whether or not he is a frail or a robust man? A Well, he is not robust. Judging from his appearance I would say he has rather a frail appearance.

XQ If it came to your knowledge, Doctor, that on the day of this tragedy the defendant here only weighed 105 pounds, what would you have to say with respect to a man of his height, weighing only 105 pounds, as bearing on his physical condition? A What is his height?

XQ Would you be kind enough to come around and find out. I would like to know that. Have you something with which to measure him, Doctor? A No, sir, not with me.

XQ Are there certain tables, Doctor, standard tables, showing what would be the average normal weight of a man of a certain height? A Yes, sir.

XQ Have you those tables with you? A Not with me. I have them over at my office.

MR. LEE: (To accused) Now, suppose you go around there right against the wall, Mr. Hirsch, and let the Doctor -

MR. SIPE: Let the Sheriff measure him.

MR. CONRAD: As the Doctor has to do the testifying, better let him measure him

MR. LER: I say so.

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MR. HARRIS: Doctor, will you measure Mr. Hirsch, please.

MR. LEE: Try to get it as accurately as possible, gentlemen.

WITNESS: Five feet, six inches and a half.

MR. CONRAD: Five feet, six inches and a half?

WITNESS: Yes, sir.

XQ Do you know, Doctor, what ought to be the weight of a man 5 feet 6 inches and a half tall? A I could not say positively, sir, but I think about 145 to 148 pounds.

XQ Well, if it should transpire that Mr. Hirsch at the time of this trouble only weighed 105 pounds, he would be at least forty pounds below the normal wouldn't he? A Yes, sir.

XQ Would or would not that indicate a frailty of physical make-up? A Well, I suppose it would; yes, sir.

XQ These standard tables, Doctor, that you speak of are gotten up by the insurance companies -- life insurance companies -- I believe? A Yes, sir.

XQ Are you Examiner for any insurance company? A Yes, sir.

XQ You are? A Yes, sir.

XQ If a man is as much as forty pounds underweight — the man weighing 105 pounds when he ought to weigh 145 or 148 pounds — will your insurance companies issue a policy on his life?

Objection; sustained; exception for the accused.

Man who weighs only 105 pounds, when he ought to weigh 145 or 148, so far below the normal weight that you gentlemen, physicians, would regard him as a man not in good health? A No, sir.

XQ You would regard him as a normal man would you?

MR. CONRAD: Don't forget you are examining him as your own witness.

XQ Would you regard him as a normal man? A Well, not robustly

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MM. MANNIS: Doctor, will you measure Mr. Hirsch, please.

MR. LEG: Ter to got it as socurately as possible, gentlemen.

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### DIRECT EXAMINATION BY MR. CONRAD:

- Q What aged man is it that they are calculating on that weighs 145 pounds when he is five feet six inches tall? A Well matured man.
- Q Some men get fat as they get older and some get leaner, don't they? A Yes, sir.
- Q Is it not a fact that a man may be considerably less than the average and yet be more muscular than a man who weighs the average? A Yes, sir.
- Q Is it not a fact that athletes in order to increase their strength deprive themselves of the excess flesh and thereby get below the average normal weight? A I could not say as to that.

MR. LEE: Do you think that is a subject of expert evidence?

COURT: If that is an objection, objection sustained.

MR. LEE: I do object.

COURT: Sustained.

- Q Well, then, I do understand you to say, though, Doctor, that lack of weight does not indicate lack of muscular power? A Well, to a reasonable extent it does not.
- Q Now, you know Mr. Ludwig Hirsch, the father of Mr. Mox Hirsch, do you not? A Yes, sir.
- Q He is a man below the ordinary in stature, is he not? A I don't know what his --

MR. LEE: We object to that.

COURT: I expect it would be admissible by way of cross-examination.

MR. LEE: We note an exception.

Q Are you acquainted with the brothers and the sisters of Mox Hirsch? A Yes, sir.

80; RO, Sir.

# DIRECT BEABLHATION BY MR. GOWNAD:

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Nox Hirsan? A Yes, sir.

- Q You have practiced in the family have you, Doctor? A Yes, sir.
- Q Well, are they as a family, the brothers and sisters of Mox Hirsch, large people? A No, sir, they are not large.
- Q On the contrary, are they not frail in stature, possibly excepting Leon Hirsch? A No, sir. I would judge that they were about of average stature.
- Q I don't mean in height, I mean in flesh on the bone? I don't know whether you call that stature or not? A Taking the family characteristics, I judge they are about an average in stature and physical make-up.
  - Q Did you know Mr. Isaacs? A Yes, sir.
- Q Had you known him for sometime? A Well, since he has been living in Harrisonburg.
  - Q Some years? A I suppose two years.
  - Q Did you practice in his family? A Yes, sir.
- Q Mox Hirsch was a taller man than he was, wasn't he? A Yes, sir.
- Q So far as you saw Mr. Isaacs on the street and in his home, judging from his appearance, was he any more robust than Mom Hirsch?
- A Well, no. He was not as tall a man. He was apparently a broader man.
- Q Which is more condusive to strength, outdoor exercise such as Mox Hirsch was accustomed to, or clerking in a store, merchandising store such as Mr. Abel Miller has here? A It would depend very much on the individual as to that.
- Q This palpitation of the heart trouble that you could see through the vest. Did you ever notice anything of that kind before he was confined in jail? A Yes, sir; once or twice I saw him when he was sick.
  - Q I want to come back to these eminences on the side of the

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head and fracture: do I understand, Doctor, that you meant to say in answer to Mr. Lee's questions, that any blow on that part of the skull, which would produce any fracture at all, would be sufficient to produce as large a fracture as you found here in this head? A I said, in my opinion, any blow of sufficient force.

Q Any blow that was of sufficient force, to make such a fracture as was made in this case, would make as large a fracture as in this case? A No, sir; not in all cases.

Q It would be likely to make as large a fracture if it was as much force as in this case? You do not mean to say, if I understand you, any blow at all that would produce any kind of a fracture, -- the slightest kind of a fracture, -- would probably produce as much fracture as you found here? Do I make myself clear. I am a little confused in my language. A slight blow or a blow that would only produce a slight fracture there --

MR. LEE: If it only did that, it could do no more, of course.

Q Would a fracture on that place (indicating) depend for its extent upon the force with which it was made? A Yes, sir.

Q Would the fracture there be greater in extent or less in extent according to the amount of force used in making it.

A Yes, sir; I judge so.

### CROSS-EXAMINATION RESUMED BY MR. LEE:

AQ Mr. Conrad undertook to ask you about the history and attributes of the different members of the Hirsch family: is it not true that one of them has already died of consumption and that one has consumption now? A In one case I was only called in consultation, but I suppose she did die of tuberculosis.

And about the one living now; is not there one living that has tuberculosis now? A Not that I know of, sir. She is not strong chested but I never found any tubercular condition.

XQ Rather weak in the chest, though? A Yes, sir.

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IQ Mr. comed undertook to sek you about the history and attributes of the different members of the Hirsch Penily: is it not true that one of them has already died of communition and that one has consumption now? A In one case I was only called in consultation, but I suppose she did die of tuberowlosis.

NG And about the one living now; is not there one living that has tuberculosis now? A Not that I know of, sir. She is not strong chested but I never found any tabercular consistion.

### DIRECT EXAMINATION RESUMED BY MR. CONRAD:

- Q Who was present when this post mortem examination was made?
- A What, on Mr. Isaacs?
- Q Yes, sir. A Dr. Jones, Dr. Burnham, Dr. Firebaugh and myself.

#### CROSS-EXAMINATION BY MR. LEE:

XQ Dr., there is just one other question. Mrs. Hirsch, the mother of this defendant, was a very large woman wasn't she?

A Yes, sir.

XQ How much do you suppose she would weigh? A I don't know, sir. I have no recollection of ever seeing Mrs. Hirsch except a short time before she died.

XQ She was an unusually large woman? A She was a fleshy woman; yes, sir.

Witness told to stand aside.

## JOSEPH DORSEY, examined for the commonwealth by Mr. conrad:

- Q Were you at the stable of Hirsh Brothers, on Water Street shortly after the time this man Isaacs was struck by Mox Hirsch?
  - A Yes, sir.
- Q Who was at the stable with you? A A man by the name of Murray -- George Murray -- and Joe Hirsch.
- Q From there where did you go? A We left there and started to the house to get a lantern -- went there to get a lantern.
  - Q Started to the house? A Yes, sir.
- Q Did you meet Mox Hirsch on your way to the house? A Yes, sir.
  - Q Did you have any conversation with him? A Just one word.
- Q What was said to him by you and what did he reply? A I said, "What's the matter around there?" and he says, "Me and Isaacs had a fight and I knocked him down." That was all that passed

# DIRECT NAMED AND RESUMED BY MR. COMPAD:

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  - A dist, on Mr. Isagest
  - Q Yes, sir, A Br. Jones, Dr. Burnham, Dr. Firebengh and myself.

# CHORN-STANISHAVIOR BY MR. LIME.

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- XQ How much do you suppose she would weight A I don't know, sir. I have no recollection of ever seeing are. Hirsch except a short time before and died.
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- Q Who was at the stable with you? A A man by the name of hunray -- George Hurray -- and Joe Hirsch.
- Q From there where did you gov A we left there and started to the house to get a lantern -- went there to get a lantern.
  - Q .Started to the houses A Yes, air.
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- the you have any convergation with him? A Just one word.
- Q what was said to him by you and what did he reply?

  said, "What's the matter around there?" and he says, "We and lesson
  had a fight and I knocked him down." That was all that passed

between him and me.

- Q In what direction did he go then? A He came on out towards Main Street -- down Water Street.
- Q Did you see any indication of any scars on his face, or blood on his face, or anything of that sort? A No, sir.
  - Q Did he express any regret at all at what had happened?
  - A No, sir.

#### CROSS-EXAMINATION BY MR. SIPE:

- XQ Mr. Dorsey, you know the Hirsches well, do you? A Yes, sir.
  - XQ You are often about their premises at the stable are you?

    A Yes, sir.
  - XQ Do you know this little child of Mr. Isaacs, the baby?
- A I don't know whether he has more than one. I know one --a delicate looking child.
- XQ Have you ever seen Mox pet that child, playing with it or caressing it? A Yes, sir.
- XQ More than once? A Yes, sir, I think I have seen him two or three times about the stable playing and fooling with it.
- XQ What was his manner towards that child, that of affection for the child or otherwise? A Looked that way to me. I never thought anything else. I think he had it on his lap in the stable there and played with it.
- XQ How long before the death of Mr. Isaacs did you see instances of that attention of Mr. Mox Hirsch to that child? A I can't say that. Might have been a month or two -- different times I have been about the stable.
- XQ You have seen them there about the stable? A Yes, sir, different times.
- XQ Did you see Mrs. Arthur Hirsch that night after the fight,
  Mr. Dorsey? A she was standing up on the corner. When I got up

between him and me.

- Q In what direction did no go thout A he care on out towards hain Street -- down Water Street.
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  - XQ You have seen them there shout the stable? A Yes, sir, different times.
  - AT Did you see Mrs. Arthur Hirsch that night after the fight,

on the corner she ran up to the corner and was hollaring "'phone for a doctor."

XQ Where was Mox at that time? A He had done gone on down the street. See, I met him just before I met her. I heard her hollaring and that is the reason I asked him what was going on.

XQ Was any conversation or words addressed by Mrs. Arthur Hirsch to Mox Hirsch or by Mox to her as she passed around to the stable? A No, sir. None that I heard.

XQ You could have heard if anything of that sort had been said? A She was, I guess, when I met him, something like 15 steps from her. She was standing on the corner then. She seemed to be excited right smart. When I walked down to where Mr. Isaacs was, I don't know what she was saying, something, and Mr. Hirsch said to her, "You go on in the house."

XQ You heard him say to her -- A "You go on in the house."

MR. CONRAD: Which Mr. Hirsch, the father of these boys?

WITNESS: The father of these boys. He was sitting down in the street and had Mr. Isaacs kind of up in his arms.

MR. HARRIS: They hadn't taken Mr. Isaacs in the house then?

WITNESS: No, sir.

### CRESSHEXAMINATION BY MR. CONRAD:

- Q Mr. Dorsey, this child you speak of, did it have some peculiarity about its eyes? A I think maybe it did. Kind of delicate looking child.
- Q I mean, sort of cross-eyed, some defect in its eyes? A Yes, sir.
- Q That child is Arthur Hirsch's child, is it not, instead of being Mr. Isaacs child? A I do not know. It was a delicate looking child, the one I seen him with.
- Q You don't know that the child you saw him caressing was Mr.

  Isaacs child; it was a little child, and Arthur Hirsch has a little

  child that has cross-suce way experience.

on the corner she ran up to the corner and was hollaring "'phone

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The sew goldsears onth was now bilde out fant word f'sob now politice outild; it was a little oblide, and Arthur Hirsch has a little

child that has cross-eyes you speak of? A I can't tell you whether it was Mr. Arthur Hirsch's or Mr. Isaacs.

- Q I understood you in answer to these gentlemen, -- perhaps they misunderstood you, -- to say that the child was Mr. Isaacs'child.
  - A This child could walk.
- Q But whether it was Mr. Isaacs' or Arthur Hirsch's child are you prepared to say? A I can't say for sure.

## CROSS-EXAMINATION BY MR. SIPE:

XQ Did you infer that it was Mr. Isaacs child from any thing that Mr. Hirsch said? Was the child's name spoken of in your presence there?

MR. CONRAD: I object. You have no right to ask for his inferences.

THE COURT: Was it called by name in your presence?

WITNESS: No, sir.

- XQ Did any body tell you whose child it was? A No, sir.
- XQ You had the idea -- A (Interrupting) I had the idea that it was Isaacs child.
  - MR. CONRAD: It is not what he had an idea of; that is not testimony.
  - MR. SIPE: It explains his testimony. He says it was his idea.
  - THE COURT: I don't think he can explain what his idea was.

# Witness told to stand aside.

DR. E. D. DAVIS, recalled by Mr. Lee:

- XQ Doctor, there is one question I forgot to ask you. When did you see Mr. Mox Hirsch after this trouble? A The next day sometime.
  - XQ The next day? A Yes, sir.
  - XQ Where was he, in jail? A Yes, sir.
  - XQ Will you be kind enough to tell the Jury whether you noticed

child that has oross-eyes you speak of? A I can't tell you whather it was Mr. Arthur Hirsch's or Mr. Isquos.

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OROSS-EXAMINATION BY MM. SIPE:

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BR. N. D. DAVIS, rocalled by Mr. Lee:

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AG The next day? A Yes, sir.

XQ where was he, in jail? A Yes, sir,

XQ Will you be kind enough to tell the Jury shetner you netland /

any cuts about his mouth or lips? A I didn't notice any cuts.

There was an abrasion or bruise on the lower lip.

- XQ Where was that? Please show the Jury. A It was on the right side, according to my recollection, he had a very slight bruise on his upper lip.
  - XQ One on the upper lip and one on the lower lip? A Yes, sir.
- XQ What did that seem to be the result of? A Blow of some kind.
- XQ Were the lips cut? A No, sir. They were just abrased bruised where they had been made.
  - XQ Did he complain of any other part of his face hurting him?
- A Yes, sir, he complained of hurting about his temple, and also of his chest.
  - XQ That was the day after the trouble? A Yes, sir.

#### EXAMINATION BY MR. CONRAD:

- Q Was there any trouble in his temple, any bruise in his temple? A No, sir.
- Q Did you see any bruises on his chest? A No, sir, I did not examine his chest.
  - Q How much bruise was this on his lower lip, that was there?
  - A Well, it was not a large bruise.
- Q Could you cover it with a five cent piece? A Yes, sir, I suppose you could.
  - Q How about this bruise on the upper lip? A That was smaller.
  - Q Still smaller than a nickel? A Yes, sir.
- Q Well, now, a man could make that if he struck himself with his own fist, could he not? A Yes, sir, I suppose he could.
- Q He could make that if he ran against something in the dark, couldn't he? A Yes, sir.
- Q He could make that if he struck it against the side of his cell? A Anything of sufficient force to bruise that would cause it.

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oell? A Appthing of sufficient force to bruise that some of allee

Q You do not mean to say that a blow with a fist caused it?

A No, sir.

MR. SIPE: Did you examine the upper gum to see if there was any bruise on the gum itself?

WITNESS: No, sir.

Witness told to stand aside.

WEB MCGLAUGHLIN, examined by Mr. Conrad for the Commonwealth:

- Q Did you see Mr. Mox Hirsch shortly after -- on the night that Mr. Isaacs was killed? A It was between half-past nine and quarter of ten o'clock. I don't know the time exactly.
- Q Where was he when you saw him? A Down near the stable door.
- Q On Water Street, down near Hirsh Brothers' stable? A Yes, sir.
  - Q Who was he in company with? A Leon, his brother.
- Q Did you see any indication of anything about his face that looked like he had injured his face at all? A I did not notice anything at all.
- Q Did you ask him any question with reference to this difficulty; if so, what did you ask him and what did he reply? A I just said to him, "Here, what happened down here?" and he said, "I hit him."
- Q Did he say anything about having done it in self-defense or had to do it? A No, sir.
- Q Did he express any regret of any kind about it? A Not to me, no, sir.

Witness told to stand aside.

commonwealth here rested its case.

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estimate told to stand aside.

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the regret of any kind about its BILE . ton A to do 145

. Brita buts to stand aside.

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Q How long were you in the hospital there? A Eighteen months.

Q Have you had any other hospital experience besides that you have indicated, and, if so, tell the Jury what. A Following my services in Hartford I went to New York City and was there two year and a half, at Seton Hospital. While there I took a course in operative surgery. Then I had one year and a half private practice in South Carolina. For two and a quarter years I was Superintendent of the New York State Hospital at Raybrook, New York. That was the last work I done before coming here.

- Q How long have you been practicing medicine in this place?
- A Three months.
- Q Were you present at the autopsy that was performed on the body of Mr. Louis Isaacs? A I saw the body after the autopsy had been performed.
  - Q Did you see the skull after the top had been sawn off and

THE BRING ALL OF THE EVIDENCE INTRODUCED or offered to be introduced or behalf of the Commonwealth to maintain the issue on its behalf, thereusen the defendent, to maintain the issue on his behalf, introduced the following swidence:

- DR. M. T. BUIGHTAM, examined on bonglf of defendant by Mr. Loo:
- q Doctor, you are a practicing physician, I believe? A I am.
  - q would you be kind enough to tell the Jury of what school of medicine you are a graduate? A Harvard University.
    - q When did you graduate at Harvard in medicine, how long ago has that been? A Mine years since June.
  - q where ald you begin practicing in your profession after that? A in the Massachusetts State Hospital, at Tomiybury, Mass.
    - .sew fl A flatigson wilrand a test est o
- o Now long wore you in the hospital thoras A Rightness positing,
  - talatiqued lealbon morte tent that to the op mor his overt g
    - A Went to Hartford, Connecticut, and was surgeon for the energency hospital for six months following that.
  - The Mark ladiosted, and, if so, tell the Juny what. A Policylus you have ladiosted, and, if so, tell the Juny what. A Policylus by carylons in Markford I went to Mew York Oity and was there two year and a half, at Saton Hospital. While there I took a course in operative surgery. When I had one year and a half private brackles in south devoling. For two and a quarter years I was superficient of the Mew York State Hospital at haybrook, Mew York. Shat was the last work I done before coming here.
    - Q Now long have you been practicing medicine in this place?
      A Three months.

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- Of were you present at the autopay that was parformed on the body of Mr. Louis lasmos? A I saw the body after the autopay had been performed.
- And the awar meet had not ent moths limbs ent ees not bill 9

the brain taken out? A I did.

- Q In the condition it was in when that photograph was taken?
- A I did.
- Q Did you make any measurements of the thickness of that skull at the point of injury? A I did, sir.
- Q Doctor, at whose instance did you go there and make those measurements? A I was asked to go there by Counsel for the defendant. I made the measurements at my own instance.

MR. HARRIS: You went there at the request of Mr. Hammer?

## A Yes, sir.

- Q Mr. Hammer requested you to be present at the autopsy, but the autopsy had been completed before you got there? A Yes.
- Q But after you arrived there of your own volition you made some measurements of the skull? A Yes, sir.
- Q I would be glad, Doctor, if you would tell the Jury what at the skull measured the point of the contact,— the point of the injury? A 2.75 millimeters, or one-tenth of an inch.
- Q Have you the rule with you with which you made the measurements? A No, sir.
- Q Your rule on one side, I believe, shows millimeters and on the other side inches? A Yes, sir.
  - Q You measured it in millimeters? A Yes, sir.
- Q The skull measured at that point 2.75 millimeters? A Yes, sir.
  - Q And that, you say, is the equivalent of 1/10-th of an inch?
  - A Yes, sir.
- Q Then, if I understand you correctly, the skull at that point was 1/10-th of an inch thick? A Yes, sir.
  - Q That is an accurate measurement, Doctor? A Yes, sir.
- Q Did you measure the thickness of the skull at any other place, and, if so, what measurements did you make.

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  - Q That is an accurate measurement, Doctor? A. Yes, uir.
  - Q Did you measure the thickness of the skull at any other place, and, if so, what measurements did you make.

Q Doctor, you have stated that this skull was only one-half as thick as a normal human skull; what I want to ask is this, how much less violence would it require to fracture a skull one tenth of an inch thick than a marked human skull of normal thickness?

A I should think a blow of exactly half the violence would produce the same effect.

Q You saw the skull under the conditions in which it was and the fractures as represented by the photograph here? A Yes, sir.

Q To what extent, if any, would you attribute its condition to the thinness of the skull? A I don't quite catch your question.

Q You saw the skull, Doctor, and the fractures that existed in it? A Yes, sir.

Q To what extent would that condition be the result of the force of the blow or of the thinness of the skull? A The force of the blow would seem to be — I don't quite catch the point.

A Yes, 817, I took measurements of all parts of the simil, both on the venit and on the part connected with the base. I suppose I fork a dozen measurements. I took measurements much 8.75 millimeters, which was the thickest part of the second

- U Wie thlokest part of the shall was five militareters
  - A Tee, sir. The thickest part was 5 millimeters.
- Q And the point where the inpury was inflicted was 2.75 willimeters or 1/10-th of an inoh? A Yes, sir.
- Q Doctor, was that thickness at that point -- 1/10-th of an inch -- a normal thickness, or not? A It was not.
  - 9 May that thicker or thinner than the normal human skull!
- Q How much thinner? A I should think, to express it in a way, accord half as thick as the everage normal skull should be at that northern black.
- Q Doctor, you have stated that this skull was only one-half as thick as a normal human skull; what I want to ask is thin, how much less violence would it require to fracture a skull one tenth of an inch thick then a makes human skull of normal thickness?
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  - ent to times ent ed noitibnos tant bluow tantes tanv of process of the skull? A The force to the skull? A The force of the blow would seem to be -- I don't quite catch the point.

Q Of course, I know the blow, however light or severe it may have been, produced the fracture. A Yes, sir.

Q But what I want to get at is this: suppose the same degree of force had been exerted upon a perfectly normal skull as appears to have been exerted upon this skull, what, in your judgment, would have been the result? A I could not say.

Q But you do say that a very much lighter blow would have produced the results in this skull than would have been required to produce the same results in a normal human skull? A Yes, sir; I think that.

#### CROSS-EXAMINATION BY MR. CONRAD:

XQ Doctor, as an assistant or practitioner in any of these hospitals, or elsewhere, what opportunity have you had to become an expert in the matter of the extent of a blow, the amount of force, necessary to produce a given fracture? A I don't consider I have had any particular opportunities in that regard.

XQ You have had no opportunity then? A No particular opportunities whatever.

XQ You have seen fractures, of course, as a practitioner in hospitals? A Yes, sir.

XQ But the extent of the blow, you not having been present when the blows were inflicted -- the extent of the blows producing those fractures, was, in practically every case, unknown to you, was it not? A It was unknown to me; yes, sir.

XQ So that you are not in a position as an expert to state how much fracture a certain amount of force would produce, are you?

A I do not think that anybody is.

XQ And, therefore, as nobody is, you are not? A I do not claim it.

XQ Doctor, what is the thickness of the human skull at the

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YOU AND A THOU STEEN AS HODORY IS, YOU ARE NOT? A I do not digit it.

MQ Doctor, what is the thickness of the human soull at the

point where this blow was inflicted? A I think between four and five millimeters would be an average thickness at that point in the normal human skull — where it was fractured.

statement, -- any medical authority? A Beckham's Operative Surgery, last edition, gives the average thickness of the white skull as five millimeters. Judging from the known thick parts of the skull and the known thin parts of the skull, we can infer that the measurement at the point where the fracture occurred would be four millimeters.

xQ Beckham's Operative Surgery, last edition, says that the average thickness of the human skull of a white man, the average thickness taken all over over you mean, is five millimeters?

A Yes, sir.

xQ But it does not state what is the average thickness of the skull at the point at which this blow was inflicted upon it? A No, sir.

XQ And you know of no authority that does so state, do you?

A No, sir.

XQ Then your statement as to the average thickness is based upon the fact, is it, that Beckham's Operative Surgery says, that, taken as a whole, the skull's thickness is five millimeters, and as this is a thinner portion of the skull, therefore, it ought to be four millimeters? Is that what you mean? A No, sir.

XQ If your statement is based on Beckham's Operative Surgery --

A (Interposing) I understood you to ask me for an authority as to the thickness of the skull.

XQ I did. A That is what I answered.

XQ I mean to ask you, whether I did or not, for an authority upon the thickness of the skull at the point where this injury was inflicted? A I do not know any.

point where this blow was inflicted? A I think between four and the mount in the five millimeters would be an average thinkness at that point in the normal house skill -- where it was fractions.

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upon the thickness of the skull at the point where this injury was inflicted? A I do not know any.

XQ You do not know any authority on that point? A Not on that point.

XQ It must be left to the individual judgment of the physician?

A No, sir, I don't think you could state that.

ments. If a skull averages five millimeters it is easy to compute the thickness at any point by taking the known thick areas and the known thin areas to get the average of five millimeters. We know certain parts of the skull to be thicker and others thinner. We know where this particular part of the skull was. To get an average of five millimeters, there must be some parts of the skull seven or eight millimeters and some three or four millimeters to get the average of five.

TQ Does Beckham give the method by which he computed that five millimeters was the average? A No; but I don't know how a man could compute the average thickness of the human skull in any other way. I do not know that he computed it in that way.

IQ What is the thickness of the skull at that point (indicating point on head), just above the eyebrow? That is a thin portion of the skull, is it not? A That contains a ridge where it is thick, but directly internal to that is a thin part. I took a measurement at that particular point on this skull.

XQ I am asking you for the average thickness of the human skull at that point? A I should say three and a half to four millimeters. That is one of the thin spots — one of the thin areas.

XQ Then there are thick and thin areas all over the skull at different parts of the skull? A Yes, sir.

XQ So that, at last, we get back to the proposition, there is no recognized authority on the ordinary normal thickness of the

No tolt A finish point, on that points A Not on that point.

A Wo, sir; I don't think you could state that.

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If Then there are thick end thin areas all over the soull at different parts of the skull? A Yes, sir.

NO so that, at last, we get back to the proposition, there is no recognized authority on the ordinary normal thickness of the

human skull at the point on which you made this measurement on Mr. Isaacs's head, is there? A Do you mean, can I refer you to a work?

XQ Either by reference to a work or atherwise, there is no given normal thickness of the skull at the point at which this blow was inflicted, and you only arrive at the idea that the thickness there should have been twice what it was by supposing that Beckham in his method of calculation did it in the way you think it ought to be done? That is right is it not? A I suppose Beckham must have calculated it along those lines. I do not know what others he could have done.

XQ Doctors calculate it on fifferent lines? A This seems to be a matter of mechanics and not of doctors.

THE COURT: I do not understand whether the spot where the contact occurred in this case was a thick or a thin area?

WITNESS: That was one of the thin areas.

It is a thin place in the normal skull —
one of the thin parts of the normal
skull.

XQ Are there any thinner parts than that, Doctor? A No, sir, I think that is one of the thinnest areas. That is as thin as any part of the normal skull, except in the base. The anterior and middle fossae contain thinner parts.

MR. SIPE: How is the temple, back of the eye?

WITNESS: It is a little thinner there than the squamous portion of the temporal bone.

XQ Doctor, did you ever try to kill a fish by hitting on the ice above him? A No, sir. I have caught them through the ice.

XQ Did you observe the condition between the scalp and the skull of this man Isaacs? A Yes, sir.

NQ Did you observe at that time that there was evidence of a

hence skull of the point on which you make this measurement on Hr. Logical a head,

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Sparit and to strin parts of the normal skull string one of the normal skull within the normal skull within a the normal skull s

mint as at fair Are there any thinner parts than that, nootone A ss and part of the normal chill, except in the base. I think that is one of the thinnest areas. and middle fosses contain thinner parts.

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considerable blow, producing results at that point, did you?

A Yes, sir.

XQ Even taking this skull as a tenth of an inch thick, it required a blow of considerable force to produce such fractures as eminated from that blow, didn't it? A It required a blow to produce them.

- XQ Of course, and it required a blow of considerable force?
- A I think that I can state that.
- XQ You think that is true? A Yes, sir.
- XQ You were employed by the defense to go and make this examination and have continued in their employ, and are yet in the employ of the defense? A Yes, sir.

#### Witness told to stand aside.

- DR. W. G. CHRISTIAN, examined for the defense by Mr. Lee:
- Q Doctor Christian, you are a practitioner of medicine, are you? A Yes, sir.
- Q Doctor, from what school of medicine and surgery did you graduate? A The University of Virginia.
- Q Were you connected with the University of Virginia as one of the professors of any department of anatomy and surgery?
  - A I was professor of anatomy and surgery.
- Q Before you were professor of anatomy and surgery at the University of Virginia, were you not for some four or five years the demonstrator of anatomy? A I was demonstrator for four years.
- Q You were demonstrator of anatomy for four years and then you became professor of anatomy and surgery, and how long did you so continue, Doctor? A Eleven years, I think it was.
- Q Doctor, I will ask you what is the normal thickness of the human skull? I will ask you first: I hand you a photograph,

something the distribution at the point, did your

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Die W. G. CHRISTIAN, examined for the defence by Mr. Lee:

Q Doctor Christian, you are a practitioner of medicine,
are you? A Yes, etc.

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Doctor, which is said to be, and no doubt it is, a photograph of the base of the skull of Mr. Isaacs, deceased. You have seen that photograph before, since you have been here, have you not?

- A Yes, sir.
- Q There has been indicated to you the point of injury, has there not? A Yes, sir.
- Q I want to ask you what is the normal thickness of the human skull at that point? A A fraction over three-sixteenths of an inch.
- Q That would be, putting it in tenths, Doctor, a fraction over two-tenths of an inch? A Yes, sir.
- Q So that the thickness of the normal human skull at that point would be just a fraction over two-tenths of one inch?
  - A Yes, sir.
- Q I believe it has been shown here that 2.75 millimeters would be one-tenth of an inch. What would you have to say, Doctor, with respect to a skull only one-tenth of an inch thick at that point as to whether it was a normal skull or not? A I should think it would be abnormal abnormally thin.
- Q Would that be extraordinarily abnormal? A Yes, I think it would be extraordinarily abnormal.
- Q Would a skull one-tenth of an inch, at the point mentioned, have as much resistive power to a blow as the normal skull? A No, it would not.
- Q Would it, or would it not, be much more easily fractured by a blow? A It would be more easily fractured.
- Q Now, Doctor, I am going to ask you to tell the Jury upon what sort of investigation you have based your opinion as to the normal thickness of the human skull at that point? A Upon an examination of ten specimens of human skulls which I obtained from the anatomical department of the University of Virginia and which

Doctor, which is said to be, and no doubt it is, a photograph of the base of the shull of Mr. lesses, deceased. You have seen that Instograph before, alone you have been here, have you not?

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I measured with all the care I could and found that the general average was the one which I mentioned: some of them being a little thicker and some being a little thinner than three-sixteenths of an inch; but the general average, to be perfectly accurate, I found to be three-sixteenths and one-one-hundred-and-twenty-eighth of an inch.

- Q In other words, a fraction over two-tenths of an inch?
- A Yes, sir. The specimens were all skulls of white men that I could get at the time.
- Q Doctor, tell the Jury whether or not you would regard that investigation and that method of reaching your conclusion as a good and sufficient one? A That is the only one by which I see that it could be done.
- Q Is that the only method which a surgeon could follow in order to reach any conclusion at all? A I think so. I first selected a skull from the ten which I thought, judging by my eye, to be an average skull of those ten, and I took that to the engineering department of the University of Virginia and got one of the assistant professors in that department to measure at that point. I marked the point for him. Then I took that and remeasured the skull myself, and then measured the remaining skulls. I remeasured just to verify his measurements, and all measurements came out identically the same. Then I myself measured the remaining nine with that result.
- Q Doctor, can you recall ever having seen, in the handling of human skulls, any skull as thin at that particular point as one-tenth of an inch? A I do not remember one; and I did not encounter one in the course of my investigations.
  - Q You have, no doubt, seen a great many, have you not, Doctor?
  - A I have seen a good many.

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  A I have seen a good many.

## CROSS-EXAMINATION BY MR. CONRAD:

XQ You have seen a great many more skulls than you have measured, have you not? A Yes, sir.

NQ And you might have handled dozens of them as thin as this one and not have perceived it? A I think it is not very likely that I should have done so, but I might.

XQ The method then by which you arrived at that, you say, is the only one by which any man could reach any accurate conclusion as to the thickness of the skull? A I said it is the only one I saw.

XQ In answer to Mr. Lee, a moment ago, Doctor, you stated that the method adopted by you in taking ten skulls and measuring them was the only method by which a physician or surgeon could reach a conclusion as to the thickness of the skull?, A I don't think I said that. I think I said that was the only one I saw. It was my intention to say that.

XQ I, of course, could only judge intention by the words used -- (Memo: Second question and answer on p. 144 read by stenograpger, at request of Mr. Conrad, to witness.)

It is the only method by which you know it could be done?

A The only one I know.

XQ Then the method of calculation referred to by Dr. Burnham is not a good one, is it?

MR. CONRAD: I do not understand --

MR. LEE: He was measuring a number of skulls and taking the average. Dr. Burhham was giving you the average thickness of the entire human skull, which is quite a different thing.

XQ If the only method by which it could be arrived at is the

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method adopted by you, namely, to take ten skulls and take an average, then you know nothing of the method Dr. Burnham referred to whereby you take five millimeters as the entire thickness of the skull and then conclude by mathematical process of some means that at that point it would be a fraction ofer two-tenths of an inch at that point? A If you will allow me to explain, I was giving the average thickness of one definite point upon the human skull.

MR. LEE: That is what he was doing. Dr. Burnham's is the average of the entire skull.

XQ And Doctor Burnham based his calculation on what ought to have been the thickness of Mr. Isaacs' skull at that point, or arrived at his result by starting, as a basis, upon Beckham's five millimeter average thickness? A I know nothing about that.

XQ I just want to know which one of you had the right kind of process for arriving at it. Where are you practicing now, Doctor? A Gordonsville.

XQ When were you at the University of Virginia, Doctor?

A I was last there in 1905.

XQ You left there in 1905? A Yes, sir.

XQ You are not a professor at the University of Virginia now?

A No, sir.

XQ When did you begin there as professor? A I went there as demonstrator of anatomy in the fall of 1899. I think I became professor of anatomy in the fall of 1893.

XQ Just now you are engaged in ordinary practice as a physician at the town of Gordonsville? A Yes, sir.

XQ And, just like the Harrisonburg doctors, you engage in general practice? A Yes, sir.

XQ Gordonsville is no larger than Harrisonburg, is it, Doctor? A Not as large, I imagine.

XQ Doctor, do you agree with Dr. Burnham that, even according

method adopted by you, hemely, to take ten skulls and take an average, then you know nothing at the method Mr. Burthan referred to whoreby you take five millimeters an the entire thickness of the skull and then conclude by mathematical process of some means that at their point it would be a fraction ofer two-tenths of an inch at that point? A if you will allow me to explain, I was giving the average thickness of one definite point upon the human skull.

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Esneral practices A Yes, sir, XQ Cordoneville is no larger than Harrisonburg, is it,

Doctor? A Not as large, I imagine.

Iq Doctor, do you agree with Br. Surnham that, even apporting

to your judgment as to the thickness of this particular skull under investigation here — that even with that thickness or thinness, as you may choose to think it — it required a blow of very considerable force to have produced the extent and number of fractures as were found here in Mr. Isaacs' skull? A I could not say what the force of the blow was to fracture a skull of any thickness. I never saw a skull fractured.

XQ You do not know how much force, and have no idea how much force, it requires to fracture a skull of any thickness? A No. I never had but one means of testing that. I tried in the dissecting hall on one occasion to test the thickness of a negro's skull. I tried to fracture it with a pretty heavy hammer, a hammer that weighed probably two and a half pounds, the skull was lying on a slate covered table,— a slate about one and a half inches thick,— and I struck the skull with the hammer as hard as I could and did not fracture it.

XQ Did you break the hammer? A No, I did not break the hammer. That is the only experiment I ever made in that direction.

XQ Was that such a dry skull as we have exhibited here?

A No, it was a man recently dead. The body had just been brought to the dissecting hall. He had been hung.

XQ Doctor, are skulls of uniform thickness or do they differ?

A Skulls differ a great deal.

XQ Is it uncommon for them to differ? A No, sir; it would be very uncommon for them to be identical.

XQ Then, Doctor, if that is one of the thinnest portions of the head -- the place where this blow was struck -- there is more danger to life of an individual at that point from a given blow than to hit him on the back of the head? A It is a comparatively thin portion of the skull, but far from being the thinest.

XQ It is very dangerous to hit a man above the ear on the side

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of the head? A Yes, sir.

MQ Because of the thinness of the skull? A It is a dangerous place, but it is not so much thinner there than at other places. It is very much thinner in other places than there.

places -- and that is so with every body -- all skulls are thinner at that place, although they differ in thickness at that point, yet all are known to be thinner at that place, and, therefore, more liable to produce fatal injury by being struck at that point, is not that so? A More liable to fracture the skull at that point; not necessarily liable to produce injury -- fatal injury.

XQ It is more liable to produce concussion in the brain?

A Contusion or concussion. Concussion of the brain is not necessarily dangerous, but contusion is.

#### DIRECT EXAMINATION BY MR. LEE:

Q Doctor, the skull of a negro is very very much thicker than the skull of a white man, is it not? A It is considerably thicker. How much, I do not know. I never made any measurements to determine. It is very decidedly thicker.

MR. CONRAD: (Exhibiting a skull) Is that the skull of a negro or of a white man?

WITNESS: It is impossible for a man to make a positive statement. I should judge that is a white man's.

MR. CONRAD: If a negro's skull is very much thicker than a white man's, why is it impossible for you to tell whether that is a negro or a white man's skull?

whether the negro was a pure negro or white. They of course vary. I can tell you that is not the skull of a perfectly pure negro. The man that had that skull might have had some negro blood in him. I could not say that is not true.

of the head? A Yes, air.

Expense of the thinness of the shull! A It is a singerous place, wit it is not so much thinner there then at other
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XO But my reason of the being thinner thore than at other
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MR. CONRAD: If a negro's shull is very much thicker than a white man's, why is it impossible for you to tell whether that is a negro or a white man's skull?

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or white. Ther of shures vary. I
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of a perfectly pure negro. The man
that had that skull might have had
some negro blood in him. I could
not say that is not true.

XQ It is more white man than negro's skull? A I think so.
Witness told to stand aside.

DR. D. R. GOOD, examined for defendant by Mr. Hammer:

- Q Dr. Good, you are a practicing physician in this county?
- A Yes, sir.
- Q Where are you now practicing, Doctor? A Dayton, Virginia.
- Q You live and practice at Dayton? A Yes, sir.
- Q How long have you lived in Dayton? A Four years.
- Q Before commencing your practice in Dayton where did you practice medicine? A Harrisonburg.
- Q While a physician in Harrisonburg did you ever have occasion to wait on Mr. Mox Hirsch? A I did.
- Q How long were you his family physician? A For three years.
- Q Doctor, state whether or not you ever had occasion to set either of his arms broken arm.

MR. CONRAD: Object, because leading.

- Q Doctor, state whether or not you ever set any bones for him, and if so what did you do? A I have a faint recollection of putting a plaster cast on an arm, forearm. I think, possibly, one bone was fractured.
- Q I will ask you, Dodtor, do you know of your own knowledge whether the other arm has been broken? A No, sir, I do not.
- Q How long ago has it been since you set that arm for him, Doctor? A I cannot tell you exactly.
- Q Give us an estimate about how long? A It has been longer than five years.
  - Q Something like five years? A While I was practicing here.

    MR. CONRAD: He said longer than five years.

IC It is more white can then negro's skull? A I thick no.

DH. D. R. GOOD, exemined for defendant by Mr. Hammer;

- 2 Dr. Good, you are a grantfeing physicales in this county?
  - Will Con A
- O Where are you now practicing, Booton? A Bayton, Virginia.
  - Q You live and practice at Dayton? A Yea, sir.
  - Q How long have you lived in Dayton? A Four years,
  - Q Before commencing your practice in Dayton where dis you practice medicine? A Harrischurg.
- Q While a physician in Harrisonburg did you ever have cecanion to wait on Mr. Mox Hirsoh? A I did.
  - o How long ware you his family physician? A For three years,
  - Q Douter, state shother or not you ever had occasion to set etther of his arms -- broken arm.

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- Q Give us as estimate about how long? A It has been longor than five years.
- Q Something like five years? A while I was practicing here.

  NR. CONNAD: He eald longer than five
  years.

Q Doctor, what do you have to say as to Mr. Hirsch's physique, is he a weak -- weakling, so to speak -- or a strong, robust man?

A Well, he is not -- I consider him --

MR. CONRAD: Are you speaking now from some examination made, or just from casual observation.

MR. HAMMER: From his own observation and knowledge of the man.

Q You have been consulted by him, Doctor, even since you have been in Dayton? A Yes, sir.

THE COURT: Do you mean to inquire as to muscular strength, or health of body?

MR. HAMMER: Both.

THE COURT: Better ask one question at a time.

witness: As far as his physical condition and strength is concerned, I would not consider him hardly an average man, considering his height and build. He is not a heavy, muscular man. He is very light in that respect and below the average in weight. And as to his helth, he is hardly considered a strong man. He is not exactly frail, but he was a youngman that complained a great deal.

- Q Do you recollect, Doctor, for what troubles you treated him?
- A Principally for gastro-intestinal troubles -- indigestion.

### CROSS-EXAMINATION BY MR. CONRAD:

. XQ Doctor, can a man that has indigestion hit as hard a blow as a man who has not? A Well, he would possibly one blow. He might strike one about as hard under certain circumstances.

XQ I am talking about one blow. You do not know what his weight is, do you, Doctor? A No, sir, I have not weighed him. I do not know.

XQ While you were here didn't you see him frequently engaged

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MH. COMBAN: Are you spending now from some examination made, or just from a made, or just from a made observation.

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HR. HANNIER: BOTH.

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XQ I om talking about one blow. You do not know what his weight is, do you, Doutor? A. No. sir, I have not weighed him. I do not know.

No while you were here didn't you see him frequently engaged

Name of the

in work as drayman, handling trunks, barrels, boxes, and freight of all kinds -- hauling out here in his wagon on the streets?

A I do work recollect seeing him on the street when I was here five years ago. He was handling horses and stock, specially.

XQ You don't recollect whether you saw him doing that class of work or not? A No, sir; I do not recollect.

#### DIRECT EXAMINATION BY MR. HAMMER:

Q Doctor, you know as a matter of fact that Mr. Maximilian

Hirsch has not worked in that heavy business for the last 15 years,

has he? A I do not recall ever seeing him in connection with

that work.

Q I will ask you whether or not it is a fact that Mr. Maximilian Hirsch, the defendant here, has been engaged in the lighter work of trading and dealing in horses for the last ten or fifteen years?

A To my knowledge that has been his work rather than along the line of draying, as far as I can remember.

THE COURT: Who has done the dray work?

witness: The younger boys. I don't know whether I can call their names or not. Those younger than Mox.

Q You mean by younger boys -- A His younger brothers, Arthur and Rieves.

Witness told to stand aside.

- D. E. CROUSEHORN, recalled by Mr. Sipe for defendant:
- A State whether or not you at any time after this affray in which Mr. Isaacs lost his life you weighed Mox Hirsch, the defendant here? A Yes, sir, I did.
- Q When did that occur, Mr. Crousehorn? A It was either on Monday or Tuesday, but I am not certain which. It was sometime the first of the next week.
  - Q The first Monday following the date of this affray? A Monday

is work as drawman, handling trunks, barrels, boxes, and freight of all ginds -- handing out here in his usgon on the streets?

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# DIRKOT EXAMINATION BY MR. HAMMER:

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- Q The first Monday following the date of this affray? A Monday

or Tuesday; yes, sir.

Q As a matter of fact it was Monday, was it not? A I do not recollect. It was one of those two days.

Q And what did he weigh, Mr. Crousehorn? A He weighed 105 pounds.

#### CROSS-EXAMINATION BY MR. CONRAD:

XQ What scaled did you weigh him on, Mr. Crousehorn? A A pair that one of the Mr. Hirsh's brought there, I don't know which. I think they told me they got it around at the stable.

MR. SIPE: A pair of Fairbank's scales?
WITNESS: I do not recollect.

XQ It was a pair of scales brought to the jail by the Hirsches, you say? A Yes, sir.

XQ Do you know anything about the accuracy of those scales?

A They balanced, and I weighed myself on them, and I think they were near about correct.

MR. SIPE: You weighed me, too, didn't you?
WITNESS: I do not recollect that I did.

XQ When you weighed Mox Hirsch did he have his coat and his shoes on? A No, sir, he had neither one. He had his hat on, but no coat and no shoes.

THE COURT: Did you make any test of the scales to see whether they were right or not?

WITNESS: Before I weighed Mr. Hirsch I weighed myself and several of the family there but I did not make any test. Before I weighed Mr. Hirsch I saw that they balanced. At least when I went upstairs for Mr. Hirsch and came down the scales were balanced.

XQ A pair of scales that balance are not always accurate scales are they? A I do not know. I do not know much about scales.

or Massay; yes, sir.

Q As a matter of fact it was wonday, was it not? A I do not generated to the days.

Q And what did he weigh, Mr. drousehornt A He weighed 105 pounds.

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Seales are they? A I do not know, I do not know much about someter.

MR. HAMMER: How much was it to your average weight?

WITNESS: Near about my average weight.

HAMMER: If there was anything wrong you would have detected it when you weighed yourself?

WITNESS: Yes, sir; to any great extent I think I would.

WITNESS told to stand aside.

LUDWIG HIRSCH, examined for defende by Mr. Sipe:

- Q Mr. Hirsch, how are you related to the defendant, Mox Hirsch? A He is my son.
- Q How were you related to the deceased? A He was my son-in-law.
  - Q How are you otherwise connected with the Isaacs family?
  - A They are all on good terms with me.
- Q Another one of your sons married A My son Arthur married his sister one of the Isaacs. She is my daughter-in-law.
- Q Your son married a sister -- A Yes, sir, to the unfortunate boy.
- Q Mrs. Arthur Hirsch, the lady who has been attending court here, is the sister of Mr. Isaacs? A Yes, sir.
- Q Where was your son Mox Hirsch living at the time of this trouble? A He was living with me.
  - Q At your house, on the corner of German and Water Streets?
  - A Yes, sir.

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- Q How long had he been living there in your house? A He has been living with us ever since he got married -- After he had some trouble with his wife he came back, I reckon.
  - Q How long had he been living there at this time? He had

MR. HAMMER: How much was it to your aver-

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- A They are all on good terms with me.
- Q Another one of your sons married -- A My son Arthur
- Your son married a sister -- A Yea, mir, to the unfortunate married his sister -- one of the Issacs. She is my daughter-in-inw.
- q Mrs. Arthur Hirsch, the lady who has been attending court 0000."
- Q Whore was your son Mox Mirsoh living at the time of this hare, is the sister of Mr. Isaacst 'A Yes, sir.
- troubler A He was Maing with me.
- q At your bouse, on the copper of German and Water Streets?
- Yes, sir.
- some trouble with his wife he came back, I reckon. has been Living with us ever since he got merried -- After he had 9 How long had he been living there in your house? A He
- Q How long had he been living there at this time? He had

been living there several months? A Yes, sir, the last time for five or six months. I don't just recollect the time. Maybe longer than that.

Q How was your son employed; how was he then employed, and how had he been employed for several years prior to that time?

A Well, about seventeen or eighteen years ago he worked some on the wagon, but after that he was in the horse and cattle business, that is, working in the stable.

- Q Had he attempted in the last four or five years to do any heavy work of any sort? A He was not able to do any heavy work.
- Q In what way was he disabled from doing anything like heavy work? A In the first place he suffered a great deal with his stomach and with head trouble, and then he had a broken wrist and a broken arm.
- Q Do you remember the circumstance of his breaking his arms, did both fractures occur at the same time? A No, sir.
- Q Where were these fractures and where did the fractures occur, I mean to say, in what part of his arm? A I think the wrist.
- Q And where was the fracture, on his left arm? A On his left arm, right up in here (indicating).
- Q You are showing us now on your right arm. A On the left arm.
- Q Between the elbow? A Yes, sir. The horse ran off with him and he was hurt up in here.
- Q Both fractures were below the elbow, were they? A Yes, sir.
- Q And you say when his left arm was broken a horse ran off with him? A Horse ran away with him, and threw him out of a buggy.
- Q How was the other arm broken? A By him trying to get on a horse. He fell off, and hit his head and broke his wrist.

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  - Q How was the other arm broken? A By him trying to get on a horse. He fell off, and hit his head and broke his wrist.

- Q As a matter of fact both fractures occurred near the wrists on each arm? A Yes, sir.
- Q Referring to the general health of your son, how has that been for the last year? A It has been very bad.
  - Q Has he frequently had to consult doctors during that time?
  - A Yes, sir.
  - Q Has he been confined to his bed and room during that time?
- A During this summer he has been very bad and confined very often to his bed, and not able to do anything.
- Q How long before this affray had he been confined to his bed?

  A I think it was only a few days he was up.
- Q How long, Mr. Hirsch, has the condition of your son required the attention of doctors at short intervals? A About eighteen or twenty years.
  - Q What is his age now? A I think he is thirty-four.
- Q Who composed your family at the time of this difficulty, Mr. Hirsch? Who lived in the house with you? A Myself, two girls and all of my boys -- Mox, Arthur, Leon and Joe.
- Q Did Arthur? Arthur was not part of your family then, was he? A No, sir; he lived in the next house.
- Q You mentioned Arthur as living with you? A He is one of my sons. I just got mixed.
  - Q He lived on German Street, in the house right next to you?
  - A The house next to me; yes, sir.
  - Q Was your wife living at that time? A No, sir.
  - Q How long has she been dead? A Six years last summer.
- Q Something has been said about the family characteristics in respect to size; was your wife a large woman or a small woman?
- A My wife was large. Her average weight for years was 233 pounds.
  - Q Are any of your children dead? A Yes, sir. We have two

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  - A My wife was large. Her average weight for years was 335 pounds.
- Q Are any of your children dead? A Yes, sir. We have two

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dead and two still-born .

Q You speak of two daughters embraced in your family or household at the time of this difficulty; what two daughters were those? A Julia and Lessie.

Q Just compose yourself, now, Mr. Hirsh. I do not want to aggravate your feelings about these matters, but I want the Jury to know how everything was situated there. Mr. Isaacs, Mr. Hirsh, it appears had a child; how old was that child? A Seventeen months old, now.

Q How far did Mr. Isaacs live from your home? A Lived in the third house from the corner.

Q Was his child in your house often or not? A Yes, sir, it was brought down to the stable to me very often.

Q It was not only with your family in the house but often brought down, you say, to the stable? A Brought down to my stable; yes, sir.

your son Mox and that child, and what was the character of the treatment he accorded it in his presence? A He was very crazy after it. He treated it awfully good. He always taken it off of my lap when I had it, and gave it candy and pennies or whatever he had in his pocket, and he took it on the horse and out in the pony cart. We had a pony that high (indicating) and he often took it rides in the stable and rides on the street. He was very attentive to it.

Q On the day of this difficulty, I mean the day preceding the night when the difficulty occurred, where was Mox and what was he doing? A Well, he was out during the day — out on the farm bossing hands. We were cleaning out a pond we had there. And he came in to supper, somewhere near half past six or a quarter to seven. Then he went down to the stable and put his horse away,

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changed his clothes, and we all went to prayer-meeting that night --Mox, myself and Leon.

- Q That prayer-meeting was at the Jewish synagogue? A Synagogue or temple, out on North Main Street.
- Q Where did Mox go after the prayer-meeting? A We came out of the prayer-meeting together and we walked down the street, Mox, Leon and myself. When we got down to the Square Mox pulled off his coat and laid it across his arm, and we came on down to John Sullivan's cigar store. I am a great smoker and I went in there to get some cigars. I left them there and they walked on, and I presume went on passed my house. He was in the stable.
- Q When you got to the house -- A When I passed the stable I think he was in the stable.
- Q You noticed on your road to your house that he had stopped at the stable? A Yes, sir.
- Q When did you see him again, Mr. Hirsch? A I wasn't going in the stable that evening. I passed on by and went up on my porch and sat on the porch.
- Q Where abouts on your porch were you sitting? A I was sitting on the floor with my feet hanging down on the pavement.
- Q Sitting on the front of the porch floor with your feet out on the pavement? A Yes, sir.
  - Q Was there anybody else on the porch with you at that time?
- A There were a couple of boys there and I think one of my daughters, maybe both of them. I do not recollect.
  - Q Do you recall which one of the boys were there with you?
  - A None of my boys; a couple strangers.
- Q Did they remain until this affray occurred? A I think they staid there.

MR. HAMMER: Who were those men, Mr. Hirsch?
WITNESS: Couple of boys that clerk up at
B. Ney's.

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- changed his clothes, and we all went to prayer-meeting that night --
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  - they staid there.

MR. HAMMER: Who were those men, ur. Hirsch? WITHESS: Gouple of boys that elerk up at B. Mey's.

MR. HAMMER: What were their names?

WITNEWS: One was named Swartz and the other Goldenstein.

- Q Well, were you still there when Mox came along the street, passed there? A Yes, sir, I was still sitting there when Mox came passed there and had his coat lying across his arm.
- Q What did you next notice; tell the Jury now what you saw after Mox Hirsch passed you, going North, as I understand? A Yes, sir.
- Q On the East side of German Street. A Well, Mox has passed there only a few seconds or a few mimites when I heard a little noise down there I call it going down the hill, you know, going down German Street as we call it, going North heard somebody hollar "You God damned son-of-a-bitch I will kill you." Of course from there I got up. I recognized Isaacs's voice.
- Q Then what did you do? A I got up and walked that way and Mox was backing back and pretty fast and Isaacs was after him, and after having made a few steps Mrs. Arthur Hirsch here came in the way, and she got in with them until they got up nearly in front of Arthur Hirsch's house. There was a pile of lumber there. No, the first I seen of it I looked down that way and it looked like someone was down and sprung to his feet and got up, then they came this way towards me where I was. Mox was coming backward. I didn't recognize Mox until they came closer. Then I seen Isaacs right behind him until I got up to the pile of lumber that laid almost directly in front of Arthur's house -- the house right next to me. There I think Mrs. Arthur Hirsch, -- she was right by the side of Mox and Mr. Isaacs after him -- and when they got to the curb where the lumber lays right in the gutter, Isaacs hit Mox, I took it, a blow like on the head someplace, -I could not see, -- the thing was going pretty quick -- I couldn't see where he struck him. Buring these

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WITHRES: One one named Swarts and the

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- of the son passed you going North, as I understand? A Yes, sir.
- Q on the Rest elds of German Street. A Well, Nox has passed there only a few scoones or a few minites when I heard a little there only a few scoones or a few minites when I heard a little not know, going not the hill, you know, going down derman Street as no cell it, going north -- heard schoole holler "You God danned son-of-a-bitch I will kill you." Of course from there I got up. I recognised Isance's voice.
- you was enoring book and protty fast and Issaer was after him, and after having made a few steps Mrs. Arthur Hirsch here came in the way, and she got in with them until they got up nearly in front of arthur Hirsch's nones. There was a pile of impose there. Ho, the interest I mean of it I looked down that my and it looked like sensone was down and aprong to his feet and got up, then they came this way towards me where I was. Mox was coming backward. I didn't recognize mox until they came closer, then I seen lesses right behing him until I got up to the pile of lamber that laid almost directly in that Hrs. Arthur is house the nowse right heat to me. There I think Hrs. Arthur Hirsoh,— she was right by the side of Mox and think Hrs. Arthur Hirsoh,— she was right by the side of Mox and lumber lays right in the gutter, Issaes hit Mox, I took it, a plow himser lays right in the gutter, Issaes hit Mox, I took it, a plow interest y quick I couldn't see where he struck him. Tarring Mass prestry quick I couldn't see where he struck him.

During this strike by Mr. Isaacs Mrs. Arthud Hirsch, my daughter-in-law, got in between them, and Isaacs went to give Mox another lick and jumped after Mox, because I wanted to grab Isaacs,—I was almost within the length of my arm of him,— to separate him — I was a little too short — my arms weren't long enough to reach him—Mrs. Arthur Hirsch by some means got in between them, and when Isaacs made another knock he kind of made a jump like and jumped over Mrs. Arthur Hirsch and knocked her down. Of course she was a lady and by my looking back at her she began to set up, you know, and the other two got away from me, and this is when I suppose Mox hit Isaacs.

- Q Did you actually see the final lick that was struck by Mox? A No, sir, I did not.
- Q You were present when the picture was taken, showing when Mr. Isaacs fell, were you? A Yes, sir, I was present when the picture was taken.
  - Q Did you and Mr. Albert point out the place? A Yes, sir.
- Q In what attitude, now, Mr. Hirsch, was Mox and Isaacs when they passed from where the rubbish and stuff was laying by the pavement or gutter to the place where the final lick was struck?
  - A Mox was backing away all the time and backing pretty quick.
- Q How far was it from that point to where Mr. Isaacs fell in the street? A From the point where I saw it, I noticed somebody, it must have been Mox, looked like he was knocked down or had stumbled, looked like somebody sprung up, it was anywhere from 12 to 15 steps to where the old lumber pile laid, or rubbish from the building. And from there to where Isaacs' head laid to my notion it was from four to six feet furtherxawayx from the curbing on the other side of the street where I picked Isaacs up and had him in my arms.
- Q Now, about how far was it from the pile of rubbish in the street to the point where Isaacs fell?

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  the other side of the street where I picked Issaes up and had nim

  in my airse.
  - Q Now, about how far was it from the pile of rubbish in the street to the point where Isages fail?

A Well, I expect it was about two-thirds of the street — about 12 feet, something like that. Probably 15 feet. I did not measure it.

- Q Now, did you go immediately to Lou Isaacs? A Yes, sir, I went immediately to him and picked him up after he fell.
- were you the first one that touched his person after the blow was given that felled him to the ground? A Yes, sir, I was the first one. I was right with him and caught him and raised him up in my arm.
- Q Did Mox see you going to him and picking him up in your arms?

MR. CONRAD: I object.

THE COURT: Do you know whether Mox saw you, or not, when you went to him?

WITNESS: I think he did. I know he saw me.

- Q Mox was there on the ground was he? A He was to my notion, when I picked him up he was probably three or four feet away from me.
- Q Mr. Hirsch, was there any possible lack of attention there on the ground to Mr. Isaacs after he was struck: was there any want of ministrations of any sort to the person of Mr. Isaacs?
  - A No, sir, there was nothing there that we noticed.
- Q Was a doctor called for as quickly as possible? A I told somebody, I don't know who he was, whether it was Mr. Woodson or Mr. Albert, to call for a doctor. I told him to do it.
- Q And didn't one of your sons go for a doctor as quick as he could? A I don't know whether he did or not. I didn't take notice of any of my sons or anybody else. I was interested in the boy. I just hollared to some one for a doctor and asked some one to help me carry him in.
- Q Did you call for a camphor bottle? A I did after I had him in the house.

A Well, I oxpect it was about stort our guidence To obright-out Probably 15 feet. I did not tesute and

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him in the house.

appearances and your own observation, Mr. Mox Hirsch, your son, or your son-in-law, Mr. Isaacs? A My son-in-law was a heap stouter, better muscled, and heavier man. More active.

Q Mr. Hirsch, will you explain to the Jury — it is a disagreeable matter to refer to but I think it is proper they should know — what were the relations existing between the deceased and the members of your family at the time of this difficulty? A Well, the relations between Mr. Isaacs and my family were not very good — the whole family.

Q How were the relations between Mrs. Arthur Hirsch and your family? A The same, but she is bitter against the whole family. I believe she would poison me if she could.

MR. SIPE: Now, Mr. Hirsch, don't voluntier any such feeling as that.

MR. CONRAD: He is answering your question, sir.

MR. SIPE: I don't know. He may be answering it truthfully, but I do not care for him to go to that extent.

- give your son-in-law the very best ours possible after he man injured there that algoric A I nestately thought we did-ill that we possibly could do for him. They all were there.
- Q Mr. Mirsob, what was the size and meight of your son-in-last Mr. houls Issues? A According to my judgment my ann-in-last would have weighed anythere between 140 to 145 pounds; somethere along there.
- Q What was the character of his build; was he stoutly built, or not? A He was a very heavy, broad-shouldered man and good maneled man. I have seen him frequently with his arms rolled up, and he had massles lying here (indicating upper part of arm) bigger than up fist. Very stout man.
  - q Which wen the stouter man, so far as you could judge from appearances and your own observation, Mr. Nox Hirsch, your son, or your son-in-law, Mr. Isagos? A Wy son-in-law and a herp abouter, botter mascled, and heavier man, More active.
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- Q Did Mrs. Isaacs, your daughter, come to your house; did she visit at your home, or not? A Yes, sir.
  - Q And her child was there often? A Very often.
- Q Now, explain what relations existed between Mr. Isaacs, on the one part, and Mox Hirsch, on the other? A Well, their relations were not very good. Their talking-ship wasn't very good. They didn't talk.
  - Q They didn't talk together? A No, sir.
- Q Were not you yourself on friendly terms with Mr. Isaacs, your son-in-law? A We weren't on speaking terms.
- Q You and Mr. Isaacs were not on speaking terms at the time of this affray? A At the time this happened, at the time of this misfortune, we were not.
- Q How long before that had you had any conversation with Mr. Louis Isaacs? A The last conversation I had was somewhere along about Christmas.
  - Q Last Christmas? A When he kept store on North Main Street.
    - Q What was the character of that conversation?
      - MR. CONRAD: What do you mean by that?
      - MR. SIPE: I mean to bring out the relations that existed as shown by that conversation.
      - MR. CONRAD: Do you mean to ask what was the conversation.
      - MR. SIPE: I asked what was the conversation, as near as he can repeat it.
      - MR. CONRAD: Then I object to that question.
      - MR. SIPE: (To Court) I can ask what that conversation was? I did ask what was the character of it, to elicit what the relations were. I will ask him whether, in a conversation which he had, at that time, Louis Isaacs expressed threats which he afterwards communicated to Mox?

MR. CONRAD: That is not proper.

- Q Mid Mrs. Isanos, your daughter, some to your house; did
  - Q And har child wes there of ten? A Very often.
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MR. CONRAD: That is not proper.

MR. HAMMER: Q You say you had a conversation with Mr. Isaacs.
Why did you go to Mr. Isaacs' store upon the occasion to which you have just referred?

MR. CONRAD: I object.

MR. HAMMER: I will promise your Honor I will connect it and show it is mater-ial.

Objection; sustained; exception for the accused.

THE COURT: If you want to ask him if he used threats against Mox Hirsch you can ask that.

MR. HAMMER: Q I will ask you, upon the occasion, Mr. Hirsch, just before Christmas, when you went to see your son-in-law, Mr. Isaacs, you had a conversation with him with reference to the relations which existed between your son Mox Hirsch, upon the one hand, and your son-in-law Isaacs, upon the other, and whether in that conversation any animosity was expressed by Mr. Isaacs towards your son Mox? A Yes, sir, there was.

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Q Just state to the court what that conversation was, what he said? A Well, I went up-

MR. CONRAD: I object. I don't know what you are after.

MR. HAMMER: I am going to lead up and show threats upon the part of the deceased.

THE COURT: Why not ask him if he ever heard any threats.

MR. HAMMER: Your Honor will recall that
Mr. Conrad asked Mrs. Isaacs about
the relations that existed between
her husband and the other members of
the family. We have a right to go
into that matter; it is right to ask
this question upon the theory that
it will show the feelings that existed between the deceased and Mox Hirsch.

THE COURT: The ruling of the court to that objection, if there is one, is that the objection is sustained.

MR. HAMMER: Q You say you had a conversation with Mr. Isaacs.
Why did you go to Mr. Isaacs' store upon the cecasion to which you have just referred?

MH. COMMAD: I object.

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THE COURT: The ruling of the Court to that that objection is mustained.

Exception noted to ruling of Court for the accused.

## BY MR. SIPE:

Q Please state whether, in the conversation to which you have just referred, the deceased, Louis Isaacs, made any threats or expressed any animosity towards your son, Mox Hirsch, and, if so, state what he said?

MR. CONRAD: There are two questions there and I object to either one of them, until they have made out a prima facie case of self-defense.

MR. LEE: We contend that there has been ample evidence introduced in this case, both by the witnesses for the prosecution and by the witnesses for Mr. Mox Hirsch, to make a prima facie case of self-defense, and to allow us to introduce this evidence.

THE COURT: I think I will allow you to ask the question.

Q Now, Mr. Hirsch, please state what was said in that conversation?

MR. CONRAD: You mean communicated threats?

MR. SIPE: My purpose is to do that. I am doing it with the best of faith.

MR. CONRAD: I just asked you whether he was going to testify to communicated or uncommunicated threats.

A My son-in-law, Lou Isaacs, had insulted my two little girls --

MR. CONRAD: I object.

Q Tell what the conversation was.

THE COURT: No; you cannot tell the conversation. If Isaacs used any threats against Maximilian Hirsch you can tell it. Comfine your answer to that.

A Yes, sir; that night he said he would kill the damn son-of-a-bitch.

Q Did you tell Mox Hirsch about that? A I did, sir.

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BY MR. SIPE:

or expressed any animosity towards your son, were little so, at the said threeh, if so, at the said threeh, and any animosity towards your son, were little so, at the said?

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A Yes, sir; that night he said he would kill the damm son-of-

o Did you tell Nor Hirsch about that A I did, our.

MR. LEE: Do I understand your Honor to hold the witness cannot relate what passed between himself and Mr. Isaacs?

THE COURT: Not on examination in chief, but on cross-examination I think you could go into all the circumstances.

MR. LEE: No use for us to show the threat unless we can show the Jury the conditions under which that threat was made so they can understand the circumstances. Without stating anything as to what Mr. Ludwig Hirsch will testify, for I do not know that, suppose that he would testify he went to his son-in-law, Isaacs, for the purpose of bringing about a reconciliation, and, after that, had been met with that character of response from Isaacs, don't your Honor think that would be relevant testimony in chief, shedding light upon the character of the threat made. THE COURT: As I understand there is nothing before the Court

g I will ask you this question, but don't answer it because the court will probably not permit it to be answered. Now, Mr. Hirsch, please state under what circumstances the threat was made by Mr. Isaacs, and what conversation immediately preceded the statement of that threat by Mr. Isaacs?

Objection; sustained; exception for the accused

THE COURT: I am going to let the witness answer that question, after the Jury has retired, for the purpose of being ruled on, and you can put in the record what you expected to prove.

MEMO: (Jury retired from court-room).

Q Mr. Hirsch, if I have used any language or expressions in that question which you do not understand, if you want I will explain it.

A I wish you would explain it, please sir.

When I said "preceding" I mean the language that immediately went before the statement that he made. A On the night that I went up there there was some trouble between him and my girls. He insulted my girls. He said he would kick my little daughter,—her name is Julia — he would kick her out of the house. That hurt my feelings very bad. I went up there to see him about it and told

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the house. That murt institled by Elvis. He said he would blok by little daughter,--went of there plane are some prompte papaest him out the Eris. test fright out in A . show so that thomstels with stored what test shroceding, I seem the lengue biss I want I went up they's to to two med Media bilion of -- stift of south ABIA DEG.

him, I says, "Lou, if my little children does you any insult or does anything wrong to you, it is your place to come to me and I would correct them right before your face," and he says, "No, I aint going to do nothing of the kind. If they come in my house I will kick them out. And it's God damn equal to you, if you come in my house; and if that God damn son-of-a-bitch Mox Hirsch comes into my house I am going to kill him.

Q That is the last time you had any conversation with Mr. Isaacs? A Yes, sir.

THE COURT: We are not trying the case now, Mr. Sipe. The objection to the introduction of this testimony is sustained, and you save the point on that ruling.

MR. LEE: Of course, we save the point.

MEMO: court adjourned until 9:30 tomorrow

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THURSDAY MORNING, Oct. 7, 1909, testimony for defendant resumed, as follows:

LUDWIG HIRSCH, resumed stand and further examined by Mr. sipe for the defendant:

morning.

Q Mr. Hirsch, you were asked on yesterday evening with regard to a threat which you stated you had communicated to Mox Hirsch --

MR. SIPE: (To court) Now, I understand your Honor to rule that the circumstances which led up to this conversation were not admissible. Therefore, I want to caution the witness to state what was said and whether he communicated that to Mox Hirsch.

THE COURT: In that connection I want to say I have reflected on the propriety of that evidence. According to my best recollection of the evidence, the evidence of the threat made by the deceased is premature at this time, and if Mr. Conrad insists on his objection I will sustain it and strike out that evidence.

MR. SIPE: We would like to discuss that question.

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will stick them out. Aist it is not how a said the rout, if you come in I same to do nothing of the kind. If they come in my house I houses; and house I am going to kill him, correct then graft before your face, " she he says, "boo, if my little children dose you any inmit or That te the lest that you strong to grow, oful asmos nestrin xow shrid-\*BYDER MOTO ?

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THE COURT: First, let Mr. Conrad say whether he insists on his objection.

MR. CONRAD: I do not like to make an inquiry in the presence of the Jury. I do not know that I quite clearly understand the Court. I thought my objection yesterday was tenable on the grounds stated.

MR. SIPE: Q Now, Mr. Hirsch, merely state what threat was made by Mr. Isaacs on the occasion that you mentioned yesterday evening?

THE COURT: He answered that yesterday evening.

MR. SIPE: If that is correct I will not ask it.

THE COURT: He has answered that question.

That answer is ruled out and I understand the point is saved.

#### Exception for accused.

- Q Mr. Hirsch, did you notice Mox Hirsch's appearance, or the appearance of his face, soon after this affray? A Yes, sir.
- Q What did you observe, Mr. Hirsch? A Well, I observed he showed me where his lip had been cut. Where he had been hit in the mouth.
- Q was there any other injury besides on his lip? A somewhere along there, (inidating) he said, -- along his cheek here.
- Q Did you notice in his mouth any other evidence except what was on his lips? A I noticed a couple of of places here that were blood.
  - Q Blood spots? A Yes, sir.
- Q You say his mouth was bloody when you saw him next after the affray? A Yes, sir.
- Q Where did you next see Mox Hirsch? A I seen him right in front of the tanyard scales, right out on the edge, I mean, even with the building. There is a pair of scales in the middle alley. There are three buildings down at the tanyard, and between

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the second building and the third building, on Water Street, there is a drive-way through there, and he was standing next to German Street -- I mean, next to Water Street, towards my stable, right out on the edge of the walk.

- Q Your stable is immediately across the street? A Just across the street from there, yes, sir.
- Q The tannery is on the south side of Water Street and your stable is immediately across the street, on the north side of the street? A On the other side; yes, sir.
- Q How near is your stable to that alley which runs between the tannery buildings? A Just the width of the street.
- Q In order to enter that alley you would simply cross Water Street from your stable, would you? A Yes, sir.
- Q How did you meet Mox Hirsch there? A He sent for me to come down there.
- Q Did you have some conversation with Mox Hirsch at that time, or not? A I did, sir.
  - Q Will you state what that conversation was?

Objection; sustained; exception for the accused.

Q Were you within hearing distance of Mr. Baugher when Mox was there talking to you? A They were right close there. I think they were right behind me and Mox when I was talking to Mox?

Objection; sustained; exception for the accused.

MR. HARRIS: We have the right in the Bill of Exceptions to state what we expect to prove by this witness.

COURT: You can state what you expect to prove by that question.

MR. SIPE: I would like to interpose a question --

Q How long after the affray was it that you were sent for by Mox Hirsch and had the talk with him in the alley in the presence

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  - Q How near is your stable to that aller which runs between the tamery buildings? A Just the width of the street.
- Q in order to enter that alley you would simply erosa water Street from your stable, would your A Yes, mir.
- of our rol free all A Terest familia xol fees nov bib woll p
- on not? A I did, sir.
  - Tesw notisersvnoo tent tenw atgie pov Illy o

Objection; sustained; exception for the accused.

Q Were you within hearing distance of Mr. Haugher when Mox was there taking to you? A They were right close there. I think they were right behind me and Mox when I was talking to Mox? Objection; sustained; exception for the newsess.

UR. MARKIS: We have the right in the Bill of Exceptions to state what we expect to prove by this witness.

COURT: You can state what you expect to prove by that question.

MR. SIPE: I would like to interpose a question --

Q How long after the affray was it that you were sent for by Mox Hirsch and had the talk with him in the alley in the presence

of Mr. Baugher and of Mr. Branner? How long was it, Mr. Hirsch?

A I suppose it was something like anywhere between fifteen and twenty minutes. Somewhere along there.

MEMO: Mr. Sipe writes out what is expected to be proved in answer to previous question, and hands to court, as follows:

"Object of the question to prove that witnsess in the conversation, a part of which was overheard by Mr. Baugher, asked Mox What in the world was the matter? to which Mox responded, "Papa, I had to do it. I couldn't help it."

Thereafter objection again sustained by the court, and exception noted for the accused.

Q Mr. Hirsch, did you see Mrs. Isaacs baby that evening, immediately following this difficulty? A I did, sir.

Q Did you see any evidence of injury to that baby that night?

A I did not. I had it in my arms and mursed it -- that night and the next day.

Q You saw the condition of the child? It appeared to be playful and all right? A It hugged me and kissed me.

### CROSS-EXAMINATION BY MR. CONRAD:

xQ Mr. Hirsch, it was your son Joe who brought you this message was it not, that Mox desired to see you at the scales or the alley?

A I don't remember who told me; somebody did.

XQ One of your sons brought you the message? A It might possibly be, but I simply don't remember who brought the message.

At which you did meet him? A He sent for me -- that he would like to talk to me -- like to see me, and I went down there to meet him at the tannery scales, right in the tannery alley.

XQ Where was he when he sent that message to you? A I suppose he was in the stable or right close there.

of Mr. Paugher and of Mr. Branner? How long was it, Mr. Hirsch?

A I suppose it was something like anywhere between fifteen and twenty minutes. somewhere slong there.

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no where was he when he sent that measage to your A I suppose he was in the stable or right close there.

XQ Did you know where he was, or not? A There in the stable or right in front of the tanyard.

Did the messenger say that Mox gave any reason why he didn't come up there, or why he did not want to see you at the stable instead of over in the tannery alley? A To my recollection he was over in the tannery alley when he sent for me.

XQ Did the messenger say he was over in the tannery alley?

A No, he just said he was down on Water Street.

XQ You do not know who that messenger was? A I cannot recall . exactly whether it was one of my boys or probably someone else.

XQ Did you or either of your boys go over to the place on Bruce Street, there between the bark-sheds? A No, sir, I did not.

XQ (Repeating question and adding) -- after Mr. Leon Hirsch came back and brought the message from Mox? A No, sir.

XQ You say you did not. Did either of your boys? A No, sir.

XQ You say that Mr. Isaacs made a threat, which you said on the witness stand yesterday was, "I will kill the damn son-of-a-bitch; wasn't what he said, "I will kill the damn son-of-a-bitch, if he comes in my house"? A He said, "If he comes to my house I will kill the damn son-of-a-bitch.

XQ You didn't put the "if he comes to my house" in it yester-day when you referred to it -- in your statement to the Jury, did you? A I do not recollect. I think I did.

XQ Didn't you then leave off the part about "if he comes to my house"? A No, sir, I did not -- not that I can recollect.

XQ Mr. Hirsch, you say you were sitting on the edge of your porch at the time the difficulty started? A I did, sir.

XQ Now, didn't you, as a matter of fact, get on German Street after the difficulty had started? A No, sir, I did not.

XQ Didn't you? Did you have a conversation with Mr. J. N. Isaacs when he was here? A Joe Isaacs?

XQ Yes, sir, -- brother of the deceased man? A Yes, sir.

Joe Isaacs?

In the stable or the tanyard.

We not the messenger say that Mox gave any remon why he didn't news up there, or why he did not went to see you at the stable instead of over in the takeny alley? A To my recollection he was over in the takeny alley when he sent for me.

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IQ Yes, sir, -- brother of the decessed man? A Yes, sir,

XQ Yes, sir. A I did.

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this case, tell him that you could have prevented the whole thing if you had only gotten there in time? A No, sir, I did not. I have told him if my arms would have been a little longer I could have catched Lou Isaacs before he ran over Mrs. Arthur Hirsch, that I could have held him back. I really didn't care which one I grabbed. I was grabbing for one of them.

You ran out just too late to prevent the fatal blow? A I told him I was sitting on the porch when I seen them coming up the walk fighting, that I ran up and tried to separate them and to catch one of them, I didn't care which one I catched. I was trying to stop it, if it had been in my power. But I couldn't reach them in time. My arm was a little too short.

XQ What was the distance from where you were sitting down to where they were when you first discovered that there was any disturbance going on? A To my notion it was something like twelve steps. Something like that. Probably fifteen. That makes it nearly 30 or 35 feet, maybe more or less.

XQ And you knew there was a disturbance going on in which your son-in-law, Isaacs, was involved, at least, as soon as you heard this rock? A As soon as I heard his voice.

XQ And you had only thirty feet to go? A Yes, sir.

trouble at the edge of the gutter and the movement out to the center of the road, and the fatal blow, had occurred without your being able to get hold of either one of them? A If they were coming towards me I did not have thirty feet to go. They were coming towards me and I was some distance from them. They were coming pretty lively, I mean, for people coming as fast as they were.

XQ That would have saved you some distance, then, by their

IQ You, sir. A I did.

IQ Didn't you, in that conversation with him in reference to this case, tell him that you could have prevented the whole thing if you had only gotten there in time? A He, elr, I did not. I have teld him if my arms would have been a little longer I aculd have catched how lesses before he ran over hrw. Arthur Hirsch, that I could have held him back. I restly didn't care which one I grabbed. I was grabbing for one of them.

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IQ And you had only thirty feet to go? A Yen, mir.

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It would have saved you some distance, then, by their

coming towards you? A Yes, sir -- coming right rapidly. I suppose I had something like twenty feet to go until I got to them, but they were coming faster than I.

- xQ Did you see Mox throw a rock? A I did not see Mox throw no rock.
  - XQ You didn't see him throw any rock? A No, sir.
  - XQ Did you hear the rock strike the house? A I did not, sir.
- XQ Did that occur before you started down there, before you heard Lou Isaacs' voice? A If there was any thrown it must have been.
- XQ When you got there it was before Mrs. Arthur Hirsch had been knocked down, wasn't it? A I got there when Mrs. Arthur Hirsch was to my notion right by the side of Mox. Mox was coming this way and Isaacs was coming right towards him.
- XQ That was right at the edge of the curb? A They were going up that way, I suppose.
  - XQ Or was it on the pavement? A On the pavement.
  - XQ Just on the pavement? A Yes, sir.
- XQ You got there before she was knocked down? A I didn't see her knocked down. I seen her run over.
- XQ Whether she was run over or knocked down -- you say she was run over and others say she was knocked down -- you got there before that happened? A I seen her. I didn't get close enough to her, but I seen her.
- XQ How close were you to her then? A I suppose when I got in reaching distance I was, I suppose, a little over the length of my arm. If my arm had been longer I could have catched one of them.
- XQ And you endeavored, you say, to grab Mr. Isaacs? A I was grabbing the hindmost man.
- XQ If Mox was retreating right towards you he was the first man, why didn't you grab him? A I was not quick and he was going

numing towards you? A Yes, sir -- coming right rapidly. I suppose I had something like twenty feet to go until I got to them, but they were coming fantes then I.

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parks and new and now abrewed inght goldserfer and to we wan folder and and and win with the wan not quick and he was golden

close to the lumber pile.

XQ Why didn't you grab him before he crossed the lumber pile?

A Because I wasn't quick enough.

XQ The fact is, then, that you didn't take hold of either one of them at all? A I couldn't get hold of them.

XQ And you didn't say a word to Mox, -- and you made no effort to stop it neither by words nor acts? A I was scared, I couldn't talk. I was worried.

NQ You were scared, so scared you couldn't talk? A Yes, sir.

XQ So, neither by word nor act did you attempt to interfere, did you? A No, I don't recollect that I said anything to them, only I wanted to get between them.

XQ Now, you say, from the point where Mrs. Arthur Hirsch fell down, Mox was backing backward in the road until he got to the point where he struck Lou Isaacs? A Yes, sir, as near as I could see Mox was rushing backward until the unfortunate lick came.

XQ Now, did you see whether he did, or not? A I seen him backing; yes, sir.

XQ Do you remember saying on yesterday that your attention was attracted to Mrs. Arthur Hirsch's condition, and from that point out to the road you did not see them at all? A Yes, sir, I did, sir. I noticed them. When I turned they were probably making a step or two yet. The thing was very quick. Mox was backing towards Mrs. Myers' house, or in that direction, on the west side.

XQ And then you went right over, as soon as Mox hit Isaacs on his head with the board? A Yes, sir.

XQ Did you see him strike him on the side of the head with the board? A I did not see him strike him with the board.

XQ Did you see him strike Mr. Isaacs? A I did not.

XQ Then you were not looking at them at the time the blow was struck? A I looked but didn't see it.

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No Then you were not looking at them at the time the blow was struck? A I looked but didn't see it.

XQ Looking right at it and didn't see Mox hit him with the board? A I did not.

XQ What prevented your seeing it? A Well, I don't know. Probably it was done so quick I couldn't see it.

XQ You did see Mox retreating that night, did you? A Yes, sir.

XQ But you could not see him when he hit Isaacs with the board?

A No, sir, I could not.

XQ Did you see Mr. Isaacs fall? A Not that I noticed -- I thought that I noticed him drop but I couldn't be certain of it.

He was a few steps away.

XQ How many steps were you away at the time he fell? A Probably five or six or three, I don't recollect exactly.

XQ Three or five or six steps away? A Might have been not more than three: probably a little more than that.

XQ Well, where were you standing at the time Isaacs fell?

A I was on the other side of the lumber pile.

XQ Do you mean you were on the North, South, East or West side of the lumber pile? A Well, towards the middle of the street.

XQ Then you were between Isaacs and the lumber pile, were you?

A Yes, sir.

XQ Closer to the lumber pile or to Isaacs? A Well, I did not notice exactly. I didn't have time to reflect.

XQ And when Mr. Isaacs fell you are not sure you saw him fall, are you? A No. When I looked -- when I got my eyes that way I seen him laying there and I picked him up in my arms.

XQ Which side of him were you on, the upper or the lower side of him? A I was on the lower side. I had one knee down on the ground and had his head laying on my knew and arm together.

XQ And you took time to look up then and see where Mox was?

A I think I did.

XQ What was he doing? A He was just a little piece above there.

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XQ What provented your meating it? A Well, I don't know. Probably it was done so quick I souldn't see it.

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there.

XQ What was he doing? A I didn't look at him long because I had the other man to look at. I had my hands full there.

XQ Did you see him throw the board down? A No, sir.

XQ Did you see the board laying there beside of Isaacs?

A I did not.

XQ Did you say anything to Mox at that time? A Not while he was there I did not.

XQ He went away from there at that time? A He was further up the road. I did not notice which way he went. I have no idea; I had that man to attend to.

XQ You say that Mrs. Arthur Hirsch was knocked down by Mr. Isaacs? A I did not say so. She was run over by him.

XQ Who run over her? A Mr. Isaacs.

XQ He had to knock her down to run over her, didn't he?

A No, if she was down he didn't have to run over her.

XQ She was already down? A No, sir. I told you when he hit Mox Mrs. Arthur Hirsch got in between them in some way and when Isaacs went to make another break at Mox -- Mox was backing away -- and Isaacs aimed to make another break he ran over her and pushed her down on the lumber pile.

XQ Then you do mean to say that Isaacs ran over her and knocked her down? A Pushed her over. You may call it knocked down,
I call it pushed her over.

XQ Did you see Mox when he picked up that rock? A No, sir.

XQ Did you see him when he picked up this board? A No, sir, I did not.

XQ Then he had picked up both the rock and the board, if he had one in his hand, before you got down there? A He had no board in his hand when I saw him. He had his coat laying across his arm.

XQ He still kept his coat on his arm? A Yes, sir.

XQ What was he doing? A I didn't look at him long because I had the other men to look at. I had my hands full there.

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XQ Had his coat on his arm still when he was out in the road after Isaacs had been knocked down? A No, sir. I noticed his coat laying a little bit beyond the lumber pile, probably a foot or such a matter in the street.

XQ What was the distance out from the lumber pile to where Isaacs body was found, Mr. Hirsch? A I suppose it was something like fifteen feet I reckon. Nearly two-thirds across the street. I do not know how wide the street is.

MR. LEE: We stepped it and made it 30 feet from curb to curb.

XQ That is about 30 feet, is it not? A I think his head, to my notion, was laying some four or five feet from the west curb.

XQ You showed over there yesterday where his head laid?

A Yes, sir, as near as I could possibly do it.

XQ You were speaking of your relations towards Mr. Isaacs and his unfriendliness towards your family, you say: didn't you get a letter from him about two weeks before he was killed? A About one week -- yes, I got a letter from him.

XQ Inviting you to his home?

MR. LEE: A letter from whom?

MR. CONRAD: From Mr. Isaacs.

MR. LEE: You mean the dead man?

MR. CONRAD: Yes, sir.

XQ Asking that you all be on good terms and inviting you to his home? A Didn't invite me to his home. He apologized in his letter to me for not being on speaking terms.

XQ To which you never made any reply, did you? A I did not because I thought his conscience must have hurt him awfully to be living twenty or twenty-five feet of me if he couldn't face me.

XQ And although he tendered an apology you ignored it, paid no attention to it, and made no reply to it? A No, sir. I thought he ought to face me, being that close to me.

AT HEAD DEED ADDRESS ON HE STALL WHEN HE WAS OUT IN THE FORD

OUT INVINE A Little bit beyond the humber pile, probably a foot

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IQ And although he tendered an apology you ignored it, paid no attention to it, and made no reply to it? A No, sir. I thought he ought to face me, being that close to me.

XQ By the way, your son Rieves was here at the time of this difficulty wasn't he? A Yes, sir.

XQ Did you see him up at the corner at the time of the difficulty or just afterwards? A I do not recollect.

XQ He was here a few days after this man Isaacs was killed, wasn't he? A I think so, yes, sir.

XQ Where is he now, Mr. Hirsch? A I am not able to tell you.

XQ How long ago has it been since Mox had this fracture of his arms you speak of? A He had one of his arms broken, I think that must have been about something like 15 years ago, and the other one about three or four years ago.

Witness told to stand aside.

HERMAN ISAACS, examined for the defendant by Mr. Lee:

- Q Mr. Isaacs, you live in Baltimore, I believe? A Yes, sir.
- Q Are you the father of Mr. Lou Isaacs, the gentleman who was killed in this trouble? A I am the father of Louis Isaacs, yes, sir.
  - Q How old was your son, do you recall? A About 30 years old.
- Q I would be glad, Mr. Isaacs, if you would tell the Jury, whether or not he was or had always been a healthy, strong boy, and whether, in view of his size, he was a well developed, muscular youngman? A Well, my Lou, as well as I can remember, never had any trouble with his health. He was very well in his infancy., and after he was grown up I never had any trouble. I don't remember that I ever had occasion to call a doctor in for his health. And as to his muscular disposition, why, he was fairly well developed. I believe, as an average, he was fairly well developed.
  - Q What was his weight, Mr. Isaacs? A About 130 pounds.
- Q Do you know how tall he was? A He was an inch taller than I am.

XQ By the way, your son Hieves was here at the time of this difficulty wasn't he? A Yes, sir.

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.testinger to a file the remarks the file of the course of the

XQ He was here a few days after this man larges was killed,

IQ Here is he now, Mr. Hirsch? A I am not able to tell you.

IQ How long ago has it been since Mox had this fracture.or

his arms you speak of? A He had one of his arms broken, I think

that mist have been about something like 18 years ago, and the other

one about three or four years ago.

witness told to styre garde.

HANGMAN ISAACS, examined for the defendant by Mr. Loc:

- Q Mr. Imamos, you live in Baltimore, I believe? A Yes, mir.

  Q Are you the father of Mr. Lou Imamo, the gentleman who
  were killed in this trouble? A I am the father of Louis Imazon,
  yes, sir.
- Q Now old was your son, do you recall? A About 30 years old.

  Q I would be glad, Mr. Isanos, if you would tell the Jury,
  whether or not he was or had always been a healthy, strong boy,
  and whether, in view of his size, he was a well developed, customer
  yourgain? A well, my hou, as well as I can remember, never had
  mny trouble with his health. He was very well in his infancy., and
  after he was grown up I never had any trouble. I don't remanar
  that I over hat occasion to sell a doctor in for his health. And
  that I over hat occasion to sell a doctor in for his health. And
  that I believe, as an average, he was fairly well developed.
- . What was his weight, Mr. Issaes? A About 150 pounds. p

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Q How tall are you, sir? A I do not know, exactly, I think five feet two or three inches.

MR. SIPE: You were not here at the time of this difficulty? A I was not.

- Q You came here very soon afterwards? A I came here the day after.
- Q You were on friendly relations with both parties? A Oh, yes, I have no reason to be otherwise.
- Q And your relations are still the same, now? A Just the same way now.

WItness told to stand aside.

THOMAS WARREN, examined for the defendant by Mr. Sipe:

- Q Mr. Warren, you live in Harrisonburg? A Yes, sir.
- Q Do you know Mr. Mox Hirsch and the family well? A Yes, sir, I know them all.
- Q What is your present occupation, Mr. Warren? A I am agent for the Adams Express company.
  - Q Did you ever have occasion to be about Mr. Hirsch's stable?
- A Yes, sir, I am there a good deal. We board our horse there and they do our hauling -- extra hauling.
- Q Will you state to the Jury whether or not during the past spring and summer you have seen -- In the first place, do you know Mr. and Mrs. Isaacs? A Yes, sir.
- Q Have you ever seen them with their child in the carriage around the streets? A Seen them quite often. They came by our office frequently.
- Q. How far did they live from your office? A They lived as far as from here across the street. Just the other side of the bridge.
  - Q Your office is at the corner of German and West Market

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THOMAS WARLEN, exemined for the defendant by Mr. Sipe:

- o Mr. Warren, you live in Harrisonburg? A Yes, sir.
- o Do you know Mr. Nox Hirsch and the family well? A Yes,
- Q What is your present compation, Mr. Verrent A I am agent
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- Q. How far did they live from your office? A Thur lived as far as from here across the street. Aust the other side of the bridge.
  - definal dead has nemred to remree of the at eatito ruoy o

streets? A Yes, sir. They lives just across the bridge.

Q Will you state to the Jury whether or not you ever saw this child of Mr. and Mrs. Isaacs there about the stable, and whether or not you ever observed the treatment it received at the hands of Mox Hirsch? A Well, I am generally there on Sunday evenings, as a rule. Nearly always there are several children there, and I would see them there — different ones.

Q Have you seen this child of Mrs. Isaacs there? A I think I have seen this child, or some child.

- Q What was the treatment of this child by Mr. Mox Hirsch?
- A Just as nice as could be.
- Q What would he do? A Well, I would notice him rolling it around and playing with all of the children.
- Q Did you ever see him have this child in the cart? A Yes, sir. What I mean, in the little go-cart or whatever it is.
- Q Have you ever seen him using that cart with both of the children together -- Mrs. Isaacs and Mrs. Arthur Hirsch's child?

A I cannot recollect any occasion. There was nothing to impress it upon me, except just seeing him there with the children. I do not know any of the children real well, except one of Mr. Arthur Hirsch's children. I think it is a little girl. She was there nearly all the time.

Q She is the one that has something the matter with her eyes?

A She has something the matter with her eyes. She is a very sociable little thing.

Q And you saw this other young child there? A Yes, sir, saw the others there to. Sometimes there would be three or four children there.

Q You are satisfied that you --

MR. CONRAD: I object.

MR. SIPE: Go ahead, Mr. Warren.

MR. CONRAD: There is nothing for him to

atroute? A Yes, sir. They lives just sorose the bridge.

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    - -- now tent beingten our noy p

MR. CONNACD; I object.

MR. SIPN: Go ahead, Mr. Warren.

MR. COMPANY There is nothing for the to

say. You started to ask him a question and I objected and there is no question.

MR. SIPE: Go ahead, Mr. Warren.

MR. CONRAD: "Go ahead" what?

MR. SIPE: What were you going to say?
What were you going to say in answer
to the previous question I asked you?

WITNESS: I was going to say that I am satisfied that I saw Mr. Isaacs' little child.

Q And what was the character of treatment of that little child by Mox Hirsch? A Why, he was nice. Never saw anything wrong.

Q You saw nothing to indicate ill-will in that treatment?

A None in the world.

# CROSS-EXAMINATION BY MR. CONRAD:

know. I really don't know. I reckon it's baby hair. It is quite a small little child.

XQ Baby hair, do you mean all babies have the same color of hair? A No, I do not mean that. But you know how baby hair looks. It is not dark and it is not really light. I had nothing to particularly direct my attention to the child.

Therefore there is uncertainty in your mind as to whether this was the particular child that Mox was so affectionate with, isn't there? A Well, I don't say that he was particular affectionate to this child.

XQ I saw, by reason of your having nothing to attract your attention to it, there is uncertainty in your mind as to whether this particular child was the object of his attentions? A I say I have seen Mox there with the children.

I am satisfied that one of them was Mr. Isaacs child.

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MR. SIPR: 00 shead, Mr. Warren.

MR. CONTOLLS "Go about" Billion .RH

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I am satisfied that one of them was Mr. Issaes child.

- XQ Sometimes there were three or four children there? A Yes, sir.
  - XQ And you are satisfied that one was Mr. Isaacs child?
  - A Yes, sir.
  - XQ Just judging that it was with the Hirsch children?
- A Yes, sir. But I don't remember of his paying it any particular attention or doing anything more for Mr. Isaacs child than he did for the others.
- XQ You judged that it was Mr. Isaacs child from the fact that it was with Arthur Hirsch's child? A I judged it was Mr. Isaacs child from the fact that I would see Mrs. Isaacs with her frequently wheeling it along the street.
- XQ There is nothing unusual to see a baby carriage come past your office, along the pavement? A No, sir, but you suppose it is the woman's who is wheeling it.
- XQ How old was Mr. Isaacs child? A I do not know. I do not know that I ever saw the child out of the jumper.
- XQ You do not know whether it could walk, or not? A I never saw it walk that I know of.

Witness told to stand aside.

ISAAC HAWSE, examined for defendant by Mr. Lee:

- Q Mr. Hawse, how old are you? A Going on twenty-two.
- XQ Where do you live? A On Mr. Hirsch's place, -- farm.
- Q How long have you been living in this neighborhood?
- A Ever since I was about ten years old.
- Q How long have you been working for Mr. Hirsch? .A Ever since the 26th of May, -- last May.
- Q Where did you work for them? A Worked for them some on the farm and most of the time in the stable.
  - Q Most of the time at the stable? A Yes, sir.

NO Sometimes there were three or four children there? A Yes,

No vot are extisfied that one was Mr. Issaes obild?

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A Yes, Sir. But I don't remember of his paying it any partiendar attention or doing anything more for hr. Issaes child then
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q Mr. Rawse, how old are you? A Going on twenty-two.

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Q How long have you been living in this neighborhood?

A Ever since I was about ten years old.

q How long have you been working for Mr. Mirach? A Ever since the Seth of May, - last May.

Q where did you work for them? A worked for them some on the farm and most of the time in the stable.

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Arthur

- Q Do you know Mrs. Isaacs and Mrs. kean Hirsch and her husband? A Yes, sir.
  - Q Did you know their little children? A Yes, sir.
  - Q What is its name? A Miriam.
- Q Do you know who furnished milk -- procured milk for this little child to drink? A Mr. Hirsch furnished it most, but I did as far as I could.
- Q Whose duty was it at the stable to bring the milk and carry it to Mr. Isaacs house for Miriam. A I think the girld taken it to the house. I generally brought it from the farm. I think they taken it down and sometimes Miss Emma came for it.
  - Q Do you know this little child, Miriam? A Yes, sir.
  - Q Have you ever played with it yourself? A Yes, sir.
  - Q Did you ever have this little child out on the farm?
  - A Mr. Hirsch and I had it out there once.
  - Q Which Mr. Hirsch? A Mr. Ludwig Hirsch, the old gentleman.
- Q Have you ever seen this little child in company with Mox Hirsch? A Yes, sir.
  - Q Where? A In the stable.
- Q What were they doing there together? A When I seen them he had the baby on the pony, and one time I seen them he had the baby in the pony wagon.
- Q What was his treatment of that little child? How did he treat that child, as though he liked it or disliked it? A Treated it well when I seen him with it.
  - Q Was he kind and gentle with it? A Yes, sir.
- Q How many times did you see him with it? A I do not know exactly, but seen him time and again with it.

witness told to stand aside.

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- 0 Did you know their little children? A Yes, mir.
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LESSIE HIRSCH, examined for defendant by Mr. Hammer:

- Q You are Miss Lessie Hirsch, a sister of Mr. Mox Hirsch?
- A Yes, sir.
- Q Miss Lessie, where were you on the evening your brother and your brother-in-law had this difficulty? A Sitting out on the front porch.
- Q Who else was on the porch with you, Miss Lessie? A My sister Julia, Mr. Benjamin Goldstein and Mr. Aaron Swartz and my father.
  - Q I believe your brother Mox had been on the farm that day?
  - Q Yes, sir.
  - Q What time did your brother Mox come from the farm?
  - A Between half-past six and quarter of seven, I suppose.
- Q After he came from the farm what did he do? A I wasn't downstairs when he came in, but suppose he got supper.
- Q After supper where did he go? A Went to our temple, up at the synsgogue.
  - Q He went to the Jewish synagogue for services that night?
  - A Yes, sir.
  - Q After Church was over where did you next see your brother?
  - Q He passed out house, going north.
- Q What first attracted your attention to the difficulty between your brother Mox and your brother-in-law Isaacs? A I heard some noise, some hollaring.
  - Q Did any of the parties on the porch move at that time?
  - A Papa first.
  - Q What did your Papa do? A He ran out in the street.

MR. SIPE: What did you say?

WITNESS: He ran out in the street.

Q Did you go down there yourself where your father and your

LESSIN HIRSCH, exemined for defendant by Mr. Hammer:

- Q You are hise Leaste Hirsch, a sister of Mr. Nox Hirsch?
  - A Yes, sir.
- Q Miss Lessie, where were you on the evening your brother and your brother-in-law had this difficulty? A Sitting out on the front porch.
- q Who else was on the porch with you, Mies Lessier A My sieter Julia, Mr. Benjamin Goldstein and Mr. Aaronswarts and my father.
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  - Q Yes, sir.
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MR. SIPE: What did you say?

WITHESS: He ran out in the street.

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brother-in-law were? A I did.

- Q What was your father doing at the time you got there?
- A He had Lou on his knee, his head resting on his knee and arm.
- Q Something has been said, Miss Hirsch, about your brother having mistreated your sister's little child, the daughter of Mr. and Mrs. Isaacs, I wish you would state to the Jury whether or not you have ever seen your brother Mox Hirsch handle that little child or have anything to do with it? A Yes, sir, I have seen him take it in his arms and play with it and give it money and treat it very kindly.
- Q Did you see any of the difficulty or tragedy that took place there? A No, sir, I did not see it.

# BY MR. Lee:

- Q It is a fact that the porch of your house, the porch of which you speak, is very heavily covered with vines?
  - A With grape vines.
  - Q And this was in July when it was in full leaf? A Yes, sir.
- Q And that would prevent your seeing up in the street unless you were out on the pavement in front? A Yes, sir.

# CROSS-EXAMINATION BY MR. CONRAD:

- XQ At what point on the porch were you sitting? A I was sitting on this corner of the porch, on the bench.
- XQ If you were sitting on the porch next to the house when that occurred, you were sitting on the north side of the porch?
- A The bench was up against the house. The back of the bench was straight against the house, this way, and not against the railing.
  - XQ It was on the north side of the porch? A Yes, sir.
- XQ Your other sister was where? A She was sitting in the swing. There was a swing on the porch. The swing was on the south side of the porch.

bib I A Yorew wel-mi-restord

- q what was your father doing at the time you got there?

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  - XQ It was on the north side of the porch? A Yes, sir.

    XQ Your other sister was where? A She was sitting in the swing. There was a mring on the porch. The swing was on the south side of the porch.

It was in the center of the porch.

XQ Well, the first you knew that there had been this assault and that Isaacs had been knocked down, you ran out to the corner of Water Street and German Street and called for your father, didn't you? A No, sir, I did not.

- XQ Did your sister do that? A No, sir.
- XQ You did that at no time? A No, sir.
- XQ Do I understand you to say that your father jumped up and ran? A Yes, sir.
  - XQ He started right from the porch? A Yes, sir, he did.
- XQ And you did not get up to see what it was? A Indeed, I did.
- XQ But didn't see it? A I did not see it. It was over before I got there. It was done in a minute.

XQ Your father jumps up from right here on the edge of the porch and runs out in the road and you were sitting right on that porch? A Yes, sir.

XQ Before you could get out onto the pavement Lou Isaacs had been knocked down and was lying there in the road? A He was down when I got out there.

XQ Just as soon as your father jumped up and ran you knew something had happened, and you jumped up and ran out to see what had happened? A Yes, sir.

Witness told to stand aside.

- W. E. SNELL, Examined for defendant by Mr. Hammer:
- Q You are Mr. W. E. Snell, I believe? A Yes, sir.
- Q You live in the double house on German Street, at one time known as the old Helphenstein property, I believe? A Yes, sir.

It was in the center of the porch.

If well, the first you knew that there had been this assault and that I serves had been knocked down, you remout to the corner of Water-Street and Servest and Called for your father, didn't your 'A No, sir, I did not.

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W. E. SMELL, Examined for defendant by Mr. Hamser:

Q You are Mr. W. M. Snell, I believet A Yes, sir.

Q You live in the double house on German Street, at one time

- Q And that house, at the time when Mr. Isaacs met his death in this difficulty with Mr. Hirsch, was occupied on the noth side by yourself and wife, and the southern part by Mr. and Mrs. Isaacs and their little child? A Yes, sir.
- Q Between your kitchens, I believe, Mr. Snell, there was a door, which at one time was used to communicate with the two rooms?
  - A Yes, sir. There is still a door.
  - Q There is a door there at the present time? A Yes, sir.
- Q I will ask you if, on the evening of this tragedy after supper about the time you were going down the street and after Mr. Isaacs had returned from his work, you heard any conversation in the kitchen of Mr. Isaacs between Mr. and Mrs. Isaacs?
  - MR. CONRAD: Not what the conversation was, but whether he heard a conversation.
  - Q Just state whether you heard a conversation between them?
- A I do not know whether you would call it a conversation or not. I just heard Mr. Isaacs utter a couple of words.
- Q Now, then, sir, I will ask you to state what Mr. Isaacs said to Mrs. Isaacs on that occasion?
  - MR. CONRAD: I object to the question.
  - MR. HAMMER: We ask that the jury retire so your Honor may have the benefit of the answer before ruling on the testimony.
  - MEMO: JURY RETIRED from the Court-room, when the following questions were asked the witness in the presence of the Court and Attorneys.

(Last quest ion read to witness:) A Well, now, I cannot say who it was said to, but I heard him say "I'm tired of the way these people are doing." I don't know who he meant. That is all I heard.

. .

MR. HAMMER: That is leading up to another question. I am just trying to get in the whole conversation.

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HR. HAMMER; That is leading up to another question. I am just trying to get in the whole convergetion.

MR. CONRAD: That is the only question which is before the Jury.

THE COURT: Go on.

- Q Mr. Snell, you heard Mr. Isaacs make the remark in his kitchen? A Yes, sir.
- Q You went on into the front pf your house? A Yes, sir, I think I did. I don't know, now, whether I went on the street or not. I wont say about that. I went there in the course of a few pinutes. Maybe five mimutes and maybe not that long.
- Q I will ask you whether, when you got in the front room of your house, you heard Mrs Isaacs make any remark to her husband?
  - A Yes, sir.
  - Q . Will you state what he said, or what she said to him?
  - A She said"Lou, you come back."
  - Q "Lou, you come back"? A Yes, sir.
- Q I will ask you, then, Mr. Snell, if upon hearing that you made any remark? A Yes, sir.
- Q Tell what you said? A I said "Go ahead if you want to go."

THE COURT: You said what?

WITNESS: I said "Go ahead if you want to go!

THE COURT: Who were you talking to?

WITNESS: I just hollared it out.

Q You did not know at the time of the difficulty what was going on? A I don't know what was going on after that. I was joking that way. If I could say anything to tease his wife or he mine we did it just that way.

MR. CONRAD: You hollared it in a joke, without knowing there was any difficulty between Mox Hirsch and the dead man, you hollared for him to go on?

WITNESS: Yes, sir.

MH. CONRAD: That is the only question which is before the dury.

THE COUNTY: GO ON.

Q Mr. Small, you heard Mr. Issaes make the remark in his kitchen? A Yes, sir.

q You went on into the front of your house? A Yes, air, I think I did. I don't know, now, whether I went on the street or not. I wont say about that. I went there in the course of a few ginutes. Maybe five minutes and maybe not that long.

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WITHESS: You, sir.

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MR. SIPE: Did Mrs. Isaacs make any reply to you?

WITNESS: Yes, sir. She says, "You hush now," just in a kind of joking way, I taken it.

Q I will ask you if she didn't tell you to shut up your mouth, or words to that effect?

A Whether she did I wouldn't be positive. She told he to hush. It would be about the same as shut up your mouth, or something like that. That is all of the conversation that passed between us.

- Q Had you had your supper then? A Yes, sir.
- Q Do you know whether the Isaacs had had theirs? A couldn't say.

THE COURT: What was it you first heard?

WITNESS: The first words I heard was Mr.

Isases said, "I'm tired of the way
those people are doing."

THE COURT: You heard that through the kitchen door?

WITNESS: The door was shut.

THE COURT: What did you hear next?

WITNESS: I heard Mrs. Isaacs say, "Lou, you come back."

THE COURT: Where was Mrs. Isaacs then?

WITNESS: I taken it she was in the front room-

THE COURT: Where were you?

WITNESS: In my front room. Just a partition between us.

THE COURT: You heard what?

WITNESS: "Lou, you come back."

THE COURT: What next?

WITHESS: I told him to "Go ahead if you want to," not seeing either one during the whole thing. Never seen either one of them.

MR. SIPE: Did Mrs. Isaacs make any reply to you?

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MR. SIPE: Which way had he started to go at that time?

WITNESS: I couldn't say.

MR. CONRAD: You couldn't see through the partition?

WITNESS: No, sir.

MR. SIPE: could you tell from the sound of his voice?

WITNESS: No, sir.

MR. CONRAD: Your Honor can see that there is nothing in that. The witness don't even know that the first remark was addressed to Mrs. Isaacs. He has no earthly idea what they were talking about. There isn't the slightest proof here that it had any connection with the tragedy, or that it related to it in any way, shape or form: "I am tired of the way those people are doing"! No connection whatever between that remark and Mox Hirsch.

WITNESS: I said to Isaacs in a joking manner, you go ahead, and she said to me, "You hush up," or something like that. That sounded to me to be joking.

MR. CONRAD: Her words to you sounded to you a joke?

WITNESS: Yes, sir.

MR. CONRAD: Her appeal to come back, to him, was that an agonizing appeal for him to come back, as if she was in distress; did it sound like a serious condition in there?

WITNESS: No, sir, it didn't sound to me that way. No.

THE COURT: How long was that before the difficulty occurred?

WITNESS: I cannot tell you that. I came right out of the house just as soon as Mrs. Isaacs said "You hush" I came out of the door and came down the street.

MR. SIPE: That was after supper?

WITHESS: Yes, sir.

MR. SIPE: Which way had he started to go at that time?

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MR. SIPE: That was after supper?

WITEESES: Yes, sir,

MR. SIPE: What time do you get supper?

WITNESS: As a rule, between five and six, I quit work.

MR. SIPE: Was Mr. Isaacs on the outside of his house when you came out?

witness: Yes, sir. Standing on the pavement, when I came out of my door and looked towards the bridge.

MR. SIPE: Looked north?

WITNESS: Yes, sir.

MR. SIPE: What was he doing?

WITNESS: Standing there.

MR. SIPE: By himself, or did he have the baby-carriage and baby?

WITNESS: I would not be positive about it, but I am under the impression he did.

MR. SIEE: That he did have the baby and carriage?

WITNESS: That he did have the baby and carriage but I wont be positive.

MR. SIPE: Where was Mrs. Isaacs at that time?

WITNESS: I did not see her at all. I don't guess she knew I was in the house until I hollared for him to go ahead.

MR. CONRAD: It was customary for him to take the baby out after supper, in the carriage?

WITNESS: That was his rule the last thing before going to work and the first thing when he got home.

MR. CONRAD: (To the Court) To admit this evidence it seems to me would be to put in the case something that has no connection with it.

MR. SIPE: It has been proven that at that time, when this talk occurred which we seek to adduce in evidence, it was within a few minutes, certainly within half an hour, of the message delivered by the nurse, Jennie Croomer.

MR. SIPE: What time do you get supper?

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ed. The connection will be sustained. The connection of these remarks with the prisoner is not adequately shown to make them admissible or relevant testimony. It cannot be admitted as independent evidence. It is not sufficient to contradict Mrs. Arthur Hirsch. (To stenographer.) Note that this evidence of Mr. Snell's is given in the absence of the Jury and for the purpose of allowing the Court to pass on the question.

MR. HAMMER: Call Mr. Swartz.

MR. CONRAD: While you are waiting for Mr. Swartz, I would like to recall Mr. D. E. Crousehorn to ask him a few questions.

- D. E. CROUSEHORN, recalled for commonwealth, by Mr. conrad:
- Q There is a question I wanted to ask Mr. Crousehorn when you recalled him on yesterday which I omitted, which I will ask him while you are waiting for another witness. Mr. Crousehorn, will you tell me what the weight of this board is? A I weighed it this morning and it weighs two pounds and seven ounces.
- Q How has it been kept, as the board that was delivered to you by Mr. Albert? A Yes, sir.
- Q Has it been kept in a perfectly dry place ever since it was delivered to you? A Yes, sir.
- Q Now, just pass it over to the Jury, please. (Passed to Jury and examined by each of them.) Now, I want to ask you another question. At the time you were that with Mox Hirsch, after he woke up, what statement if any did he make to you as to whether or not he was excited or cool at the time he struck Isaacs? A He told me, he says: "I wasn't the least bit excited. I was just as cool as I am now.

#### CROSS-EXAMINATION BY MR. LEE:

XQ Mr. crousehorn, I would like for you to detail to the July the entire conversation which you had with Mr. Mox Hirsch in which he made a statement to you which you have just detailed to

THE COURT: The objection will be sustained.

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the Jury? A He just woke up .--

XQ What time of night was it? A That was something like six o'clock or a little after.

A Yes, sir, in the morning. Leon had already gotten up and gone out and I was sitting on a chair just outside of the door in the hall, and he says, "Come in and sit down," I came in and sit down on the edge of the bed. He says, "What do you think about this thing?" I says —

MR. CONRAD: Don't tell what you said to him.

MR. LEE: No, but just what he said.

A We talked a few minutes there about it, and I said --

MR. CONRAD: Never mind what you said.

WITNESS: I can't hardly tell what he said without what I said to him.

MR. LEE: I think if what the witness said is necessary to explain what he said I think it is material.

MR. SIPE: I think the colloquium should be given. Without that you could not understand it.

THE COURT: Witness best try to tell what Mox Hirsch said.

thought about the case, but give the conversation which resulted in his making that remark. A I said, "Mox, don't talk to me about this. I don't know anything about it and I don't want to hear about it." He said, "I understand, and I have already been to see Mr. Hammer and he told me to shut my mouth," he said, "it's something like that case of yours." I said, "Yes, I guess it is." He says, "What do you think will be the outcome of it?"

MR. CONRAD: Mr. Crousehorn must not state what his opinion was.

XQ Don't give your opinion as to what would be the outcome of it. A Then he says, "I'd been to church," he says, "I wasn't

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MR. COMRAN: Mr. Grousehorn must not state what his opinion was.

IQ Don't give your opinion as to what would be the outcome of it. A Then he says, "I'd been to church," he says, "I wasn't

the least bit excited. I was just as cool as I am just now."

XQ That is, when he came from church and met these people he was just as cool as he was then?

MR. CONRAD: I object. That is for argument: THE COURT: Was there anything more said?

wITNESS: I don't think there was anything more that I recollect now. After he told me that I cautioned him again. I didn't want to hear anything about it. "Don't talk to me about it," and he said, "All right."

XQ And that was the end of the conversation? A Yes, sir.

XQ What he did say to you was, He had just been to church and was coming from church and was perfectly cool at the time? A He says, "I just came back from church," he says, "I wasn't the least bit excited. I was just as cool as I am now."

XQ That is all he said? A That is all he said that had any significance at all. I believe he did say he hadn't been in much trouble except a couple of little warrant trials. I believe he told me that.

#### DIRECT EXAMINATION BY MR. CONRAD:

Q The laguage he used about being cool, to what was he referring when he said he had just come from church and was as cool as he was at the time he was talking to you?

Objection; overruled; exception for accused.

A In view of the conversation we had I took it to mean that he meant when the tragedy happened he was just as cool as he was then. I cannot give the language we both used between us there, but judging from it, I took it that that is what he meant.

Motion made to strike out the answer of the witness, overruled, exception for accused.

Witness told to stand aside.

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- A. M. SWARTZ, examined for defendant by Mr. Hammer:
- Q Where do you reside, Mr. Swartz? A I reside here in Harrisonburg, at present.
- Q For whom are you working? A B. Ney and Sons. Window trimmer and draper.
- Q Do you recall the evening that Louis Isaacs met his death in this place? A I recall there was an evening I was over to Mr. Ludwig Hirsch's home.
- Q Do you mean that you were at Mr. Ludwig Hirsch's home the evening Mr. Isaacs was killed? A I was, sir.
  - Q Whereabouts where you, in the house or on the porch?
  - A On the porch, sir.
  - Q Who were you with? A Mr. Goldenstein.
  - Q Who were on the porch? A The Hirsch girls and Goldenstein.
  - Q Miss Julia Hirsch, Miss Lessie Hirsch and Goldenstein?
  - A Yes, sir.
- Q While you were there did Mr. Ludwig Hirsch come to the house, or was he there when you got there? A Indon't remember exactly whether he was there or not.
  - Q Did you see him on the porch while you were sitting there?
  - A Yes, sir; he was sitting on the edge of the porch.
  - Q with his feet down on the pavement? A Yes, sir.
- Q Did you see him when he ran away from there? A I saw him when he got up and left.

MR. CONRAD: You didn't say he ran away from there, you say he got up and left?

WITNESS: No, sir, I didn't say he ran.

MR. CONRAD: Mr. Hammer said he ran away.

MR. HAMMER: You were sitting back in the porch some distance?

A I was on the bench.

A. M. SWARTE, examined for defendant by Mr. Hammer:

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MR. CONRAD: Mr. Harmer said he ran away.

MR. HAMMING: You were sitting back in the porch some distance?

A I was on the bench.

- Q Did you see any nof the difficulty between Mox and Isaacs?
- A I did not.
- Q The shrubery cut your view off? A Yes, sir.

#### CROSS-EXAMINATION BY MR. CONRAD:

- XQ Mr. Swartz, about how long were you there that evening?
- A I should judge an hour and a half.
- XQ If I understand what you mean, during that hour and a half part of the time Mr. Ludwig Hirsch came there and sat on the edge of the porch? A During the time, yes, sir.
  - XQ And got up and went away several times? A Yes, sir.
  - XQ During that time? A Yes, sir.
- XQ You do not mean to say, or undertake to say, that he was sitting there at the time of this difficulty because you did not know a difficulty was going on? A I did not, sir.

THE COURT: Did you know there had been a difficulty when you went away from there?

WITNESS: I did; yes, sir.

XQ Now, you were sitting on the bench, on the north or the south side of the porch, or in the swing? A I don't know the direction, whether it is north or south, but I was sitting on the backh.

XQ Then you were sitting by Miss Lessie Hirsch? A No, I was sitting with Julia -- won't exactly say, but think it was Julia.

XQ But, at any rate, none of the four of you, so far as you know knew of the fight—that this fight had taken place until Mr. Isaacs had been knocked down, until it was all over? A No, sir.

XQ Then who was the first person that came there and advised you of the fact that it had occurred? A I think it was Mr. Hirsch. The old gentleman, Mr. Ludwig Hirsch.

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  - Q The shrubery out your view off? A Yes, sir,

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XQ Mr. Ludwig Hirsch came there to the porch and told you about it? A Yes, sir.

XQ What did the youngladies do then? A I think the older one got up and went for the Camphor bottle.

XQ And you and Mr. Goldenstein left and went home? A Not exactly at that time. We staid there a few minutes.

XQ You found out that this man had been killed? A Wasn't exactly killed.

XQ You heard his condition was serious? A Yes, sir.

XQ And realizing it was the brother-in-law of these ladies you did not stay there? A It was only a family affair and I didn't want to mix in it.

#### witness told to stand aside.

LEON HIRSCH, examined for defendant by Mr. Hammer:

- Q were you at home the evening that your brother and your brother-in-law had the difficulty? A I was not.
  - Q Had you and your brother been together that evening?
  - A Yes, sir; we had been to the synagogue.
- Q After you were at church together where did you and your brother go? A Well, when we left the synagogue Papa, brother and myself were together; walked down the street together.
- Q Where did you leave your father? A I think that Papa stopped at John Sullivan's cigar store. I think he made the remark he was going to get some cigars.
- Q Where did you and your brother go? A We walked to the stable.
- Q Where did you go then? Did you remain at the stable or did you leave that evening? A Mox made a remark to me, whether I was going up to see cousin Bertie, and I told him no, I was going out driving.

XQ Mr. Ludwig Hirson came there to the porch and told you about 117 A Yea, elr.

If what the youngladies do then? A I think the older one got up and west for the camphor bottle.

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    - A Yes, sir; we had been to the synagogue.
- Q After you were at church together where did you and your brother go? A Well, when we left the synagogue Papa, brother and are together; walked down the struct together.
- of whore did you leave your father? A I think that Papa etopped at John Sullivan's eight store. I think he made the remark he was going to get some eigers.
  - Q Where did you and your brother go? A we walked to the stable.
- Q Where did you go then? Bid you remain at the stable or did you leave that evening? A Mox made a remark to me, whether I one going up to see coughn Bertie, and I told him no, I was going out driving.

Q What did you do? A Told the boy to put the horse away and he and I -- No, I am a little ahead of my story. He had a conversation with me going down to the stable.

any other place with you or did you leave him there? A To the best of my knowledge I got out of the buggy and told the boy to unhitch the horse, and he and I went over to the corner of the stable and had a little conversation, and then walked up to the corner together.

Q Up towards your house? A The Hirsch corner, on German Street.

Q Where did you go from up there? A It is right hard to tell unless you let me tell the reason I went from there.

Q State why you went and what you went for? A Went around to see how Mr. Isaacs was.

Q After you went around there where did you then go to Mr. Hirsch? A I think I came back and met Mox on the corner.

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to see how Mr. Isaacs was.

- Q You mean the corner of German and Water streets? A At the corner where I live with my father.
- Q You had left him at the stable? A No, I left him about the corner. We walked up there together.
- Q Then where did you and your brother go? A came back down together and walked up slowly to the corner of the bank the Colonial Company now occupies it I think probably they were fixing it up there we sat down on the corner in the door.
- Q That is the building located on the corner of Water and Main streets, near the Masonic building? A It is diagonally across the street from the Masonic building.
  - Q Is it the corner now occupied by the colonial Company?
  - A Yes, sir; and we sat down in the door together.
- Q How long were you together there? A I do not remember positively. I saw a man across the street that I wanted to see, and I called to him on a business matter.
- Q Where did you go from that point? A Mox and myself and this man that I called walked back down to the stable.
- Q How is that? A Mox and myself and this youngman that I called to across the street walked down to the stable together, leisurely, walking and talking.
- Q Did you see any persons passing there at that time, can you recall any of them? A If any person passed?
- Q Yes, did any persons pass where just you and your brother were there? A I do not understand the question. Do you mean at the stable or on the corner?
  - Q I mean on the corner? A Yes, sir.
- Q After you left the corner where did you and your brother go? A Went back down to the stable.
- Q Then where did you go? A My next impression is that we walked up the street and met you (Mr. Hammer) in front of the bank building.

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the corner shere I live with my father.

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walked up the atreet and met you (Mr. Heimer) in front of the bank building.

- Q From there what did you do? A Went up to your office..
- Q After going to my office did you leave my office and go anywhere? A I did; I went to Doctor Davis's house.
- Q And from there? A From there I came back down to your office.
- Q When you left my office did you meet anybody about the doors of the bank building -- with your brother?

A I came back down to the office and my best recollection is that you and Mox and myself walked down to the pavement of the bank, and there were standing — or near by, understand, a little below — officer Dillard and officer Dovel. I can't say positively whether I made the remark or Mr. Hammer made the remark, but one or the other made the remark, "I suppose you are looking for Mox?" and one of the officers, then — I do not know whether I have the right to say what they said, or not?

MR. LEE: That is unnecessary. He was arrested at that time?

A Yes, sir, he was taken in there. I suppose you call it "arrested," and later was taken before the Mayor.

Q I sent out for him that night? A Yes, sir.

MR. SIPE: You spoke of the bank building, you mean the First National Bank?

WITNESS: Yes, sir.

- Q Where he was arrested was on Main Street at the First National Bank building? A Yes, sir, at the entrance.
- Q It was at which entrance? A It was at the entrance, or it might have been down as far as Frazier's place, I am not positive. It was right about in that place that we got in conversation with the officers.
- Q Mr. Hirsch, something has been said about your brother Mox mistreating your sister, Mrs. Isaacs's child; state if you ever observed his conduct towards the little child, and describe it in your own way, and where you have seen him and the child together?