

INDEX

	PAGE
Notice of Appeal	1
Grounds of Appeal	2
Summons	3
Complaint	4
Answer	7
Reply	9
Motion to Direct	165
Charge of the Court	167
Plaintiff's Exception	173

PLAINTIFF'S TESTIMONY

Dr. Harry Sutter	
Direct	11
Cross	19
Rowland Blockson	
Direct	21
Cross	27
Wolffe Vogel	
Direct	29
Cross	34
Norvie Holmes	
Direct	38
Cross	42

INDEX (Continued)

	PAGE
Warren Risner	
Direct	46
Cross	48
William Swaverly	
Direct	49
Cross	51
Wesley Raine	
Direct	53
Cross	56
John Jordan	
Direct	60
Cross	63
Mary Raine	
Direct	65
Walter Zaluski	
Direct	66
Cross	68
Ethel Snyder	
Direct	72
Cross	79
Samuel P. Snyder	
Direct	82
Cross	94
Edith Snyder	
Direct	107

INDEX (Continued)

	PAGE
DEFENDANT'S TESTIMONY	
William F. Zwirner	
Direct	109
Cross	114
Margaret E. Bicking	
Direct	117
Cross	123
Mary H. Brackin	
Direct	147
Cross	151

PLAINTIFF'S TESTIMONY IN REBUTTAL

William Swaverly, Recalled	
Direct	153
Cross	157
Redirect	159
Norvie Holmes, Recalled	
Direct	160
Cross	162
Redirect	163

Table of Contents

Introduction	1
Chapter I	10
Chapter II	25
Chapter III	40
Chapter IV	55
Chapter V	70
Chapter VI	85
Chapter VII	100
Chapter VIII	115
Chapter IX	130
Chapter X	145
Chapter XI	160
Chapter XII	175
Chapter XIII	190
Chapter XIV	205
Chapter XV	220
Chapter XVI	235
Chapter XVII	250
Chapter XVIII	265
Chapter XIX	280
Chapter XX	295
Chapter XXI	310
Chapter XXII	325
Chapter XXIII	340
Chapter XXIV	355
Chapter XXV	370
Chapter XXVI	385
Chapter XXVII	400
Chapter XXVIII	415
Chapter XXIX	430
Chapter XXX	445
Appendix	460
Index	475

COPY
FILED DECEMBER 22, 1934

NEW JERSEY SUPREME COURT
SALEM COUNTY

ETHEL SNYDER and SAMUEL
P. SNYDER,

Plaintiffs,

vs.

WILLIAM L. BICKING and
MARGARET E. BICKING,

Defendants.

ACTION AT LAW

NOTICE OF APPEAL

To M. J. GREENBLATT, Esq.,
Attorney of Defendants.

SIR:

Please take notice that the plaintiffs appeal to the Court of Errors and Appeals of New Jersey from the whole of the judgment entered in favor of the defendants and against the plaintiffs in the above-entitled matter.

JAMES MERCER DAVIS,
Attorney of Plaintiffs.

Dated December 18, 1934.

A TRUE COPY
FRED L. BLOODGOOD,
Clerk.

NEW JERSEY COURT OF ERRORS AND APPEALS

ETHEL SNYDER and SAMUEL P. SNYDER, <i>Plaintiffs-Appellants,</i> vs. 10 WILLIAM L. BICKING and MARGARET E. BICKING, <i>Defendants-Respondents.</i>	}	ACTION AT LAW ON APPEAL GROUNDS OF APPEAL..
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The following are the reasons upon which the above-named plaintiffs rest their case in the above-stated cause:

- 20 1. The learned trial Judge erroneously charged the jury as follows:
- “If you should find that she was negligent, then you should consider whether or not, from all the testimony, all the evidence, the plaintiff himself was guilty of contributory negligence such as contributed in any way to this accident. If he did in any degree contribute to this accident through his negligence, that is, through his failure to operate his car as an
- 30 ordinarily prudent person would under the same circumstances, or that he did something that an ordinarily prudent person would not do under the same circumstances, which in any way contributed to the accident, then he cannot recover.”

2. The learned trial Judge erroneously charged the jury as follows:

“I tried to convey to you the idea that if Mr. Snyder was negligent in the operation of this car, neither of the plaintiffs could recover. If I have not conveyed that idea to you, I want to do so at this time. If he was negligent in the operation of this car, neither he nor his daughter can recover, because she was the owner of the car.”

JAMES MERCER DAVIS,
Attorney of Plaintiffs-Appellants.

10

SALEM COUNTY: ss. THE STATE OF NEW JERSEY, ss. To William L. Bicking and Margaret E. Bicking, defendants.

(SEAL)

YOU ARE SUMMONED to answer the annexed complaint of Ethel Snyder and Samuel P. Snyder, in an action at law in the New Jersey Supreme Court, and take notice that unless you file your answer to said complaint with the Clerk of the Supreme Court, at Trenton, within twenty days after service upon you of this writ and the annexed complaint, the plaintiffs may proceed in the suit and judgment may be entered against you.

20

WITNESS, Honorable Thomas J. Brogan, Chief Justice of the said Court, at Trenton, this 23rd day of May, 1933.

30

JAMES MERCER DAVIS,
Attorney.

FRED L. BLOODGOOD,
Clerk.

NEW JERSEY SUPREME COURT
SALEM COUNTY

	ETHEL SNYDER and SAMUEL	}	ACTION AT LAW
	P. SNYDER,		
10		}	COMPLAINT
	<i>Plaintiffs,</i>		
	vs.		
	WILLIAM L. BICKING and	}	
	MARGARET E. BICKING,		
	<i>Defendants.</i>		

The plaintiffs herein, residing in the Township of
Oldman, in the County of Salem and State of New
20 Jersey, say:

1. On or about the 19th day of April, 1933, the
plaintiff, Samuel P. Snyder, was lawfully driving an
automobile owned by the other plaintiff herein,
Ethel M. Snyder, along a certain highway in the
County of Salem, between Pedricktown and Penns-
ville, at or near its intersection with the highway
leading from Pennsgrove to Salem, all in the County
of Salem and State of New Jersey, and was traveling
30 in a careful and cautious manner.

2. Then and there the automobile owned by the
defendant, William L. Bicking, and driven by Mar-
garet E. Bicking, servant and agent of William L.

Bicking, was traveling in an easterly direction and was run and operated in so reckless and negligent a manner that the same was run upon and against the automobile owned by the plaintiff, Ethel Snyder, and driven by the other plaintiff, Samuel P. Snyder, and thereby seriously injuring the said plaintiff, Samuel P. Snyder, and destroying the automobile of the plaintiff, Ethel Snyder.

3. The negligence of which the plaintiffs complain 10
and of which the defendants are guilty, consists in
the fact that the said automobile owned by the de-
fendant, William L. Bicking, and driven by his serv-
ant and agent, Margaret E. Bicking, was run and op-
erated at a high and unreasonable rate of speed un-
der the circumstances; that no sound or other warn-
ing was given of the approach of the said automobile
of the defendants; that the defendants did not ac-
cord to the plaintiffs herein the rights which they 20
acquired under the circumstances; that the defend-
ants did not regard the presence of the plaintiff,
Samuel P. Snyder, and the automobile of the other
plaintiff, Ethel Snyder, in the premises.

4. The injuries inflicted upon the plaintiff, Samuel
P. Snyder, through the negligence of the defendants,
as aforesaid, consists of severe bruises, contusions,
and lacerations of his head, body and limbs and a
severe nervous shock, in consequence of which he
has and will in the future suffer great pain of mind 30
and body by reason of the permanency of his in-
juries, and he has been and will be compelled to lay
out and expend large sums of money in and about
attempting to cure his said injuries, and he has been

and will be unable to follow his usual occupation, thereby losing divers sums of money which he otherwise would have enjoyed.

And the plaintiff, Ethel Snyder, has lost the value of her car, which was destroyed by the negligence of the defendants, as aforesaid.

Wherefore, the plaintiff, Samuel P. Snyder, claims as damages of the defendants, the sum of \$10,000.00;

And the plaintiff, Ethel Snyder, claims as damages 10 of the defendants, the sum of \$1,500.00; and therefore, they bring their suit.

JAMES MERCER DAVIS,
Attorney of Plaintiffs.

20

30

NEW JERSEY SUPREME COURT
SALEM COUNTY

ETHEL SNYDER and SAMUEL P. SNYDER, vs. WILLIAM L. BICKING and MARGARET E. BICKING, 	}	<i>Plaintiffs,</i> <i>Defendants.</i>	} ACTION AT LAW ANSWER	10
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The defendants answering the complaint say:

1. They admit that on or about the 19th day of April, 1933, the plaintiff, Samuel P. Snyder, was driving an automobile along a certain highway in the County of Salem, but deny the remainder of paragraph one. 20

2. Paragraphs two, three and four are denied.

FIRST SPECIAL DEFENSE

The plaintiff, Samuel P. Snyder, operated the automobile of the other plaintiff herein at the time and place mentioned in the complaint in a reckless, negligent and careless manner and without any regard to the rights of others on either of the highways mentioned and described in the complaint. 30

SECOND SPECIAL DEFENSE

The collision of the two auto-boiles was caused solely by the negligence of the plaintiff, Samuel P. Snyder.

THIRD SPECIAL DEFENSE

10 The plaintiff, Samuel P. Snyder, was guilty of contributory negligence in the operation of the other plaintiff's automobile and his contributory negligence is computable to the other plaintiff herein, barring both plaintiffs from recovering.

M. J. GREENBLATT,
Attorney for Defendants.

20

30

REPLY.

NEW JERSEY SUPREME COURT.
SALEM COUNTY.

ETHEL SNYDER and SAMUEL
P. SNYDER,

Plaintiffs,

v.

WILLIAM L. BICKING and
MARGARET E. BICKING,

Defendants.

Action at Law.
Reply.

10

The plaintiffs, replying to the answer of the defendants, say that:

FIRST SPECIAL DEFENSE.

They deny the allegations set up and contained in this defense.

SECOND SPECIAL DEFENSE.

They deny the allegations set up and contained in this defense.

20

30

THIRD SPECIAL DEFENSE.

They deny the allegations set up and contained in this defense.

JAMES MERCER DAVIS,
Attorney of Plaintiffs.

POSTEA.

NEW JERSEY SUPREME COURT.

10	ETHEL SNYDER and SAMUEL P. SNYDER,	}	Action at Law. Postea.
	<i>Plaintiffs,</i>		
	v.		
	WILLIAM L. BICKING and MARGARET E. BICKING,	}	
	<i>Defendants.</i>		

20 The above stated cause was tried before Hon. Samuel M. Shay, Circuit Court Judge and a jury, on the 25th and 26th days of September, 1934, at the Salem Circuit.

Upon the direction of the Court, the jury returned a verdict of no cause for action in favor of the defendant, William L. Bicking, and against the plaintiffs, Ethel Snyder and Samuel P. Snyder, and the jury returned a general verdict of no cause for action in favor of the defendant, Margaret E. Bicking, and against the plaintiffs, Ethel Snyder and

30 Samuel P. Snyder.

SAMUEL M. SHAY,
Judge.

TESTIMONY.

NEW JERSEY SUPREME COURT.
SALEM COUNTY.

ETHEL SNYDER and SAMUEL
P. SNYDER,

Plaintiffs,

v.

WILLIAM L. BICKING and
MARGARET BICKING,

Defendants.

Action at Law.
On Appeal.

10

SHAY, J., and a jury.

20

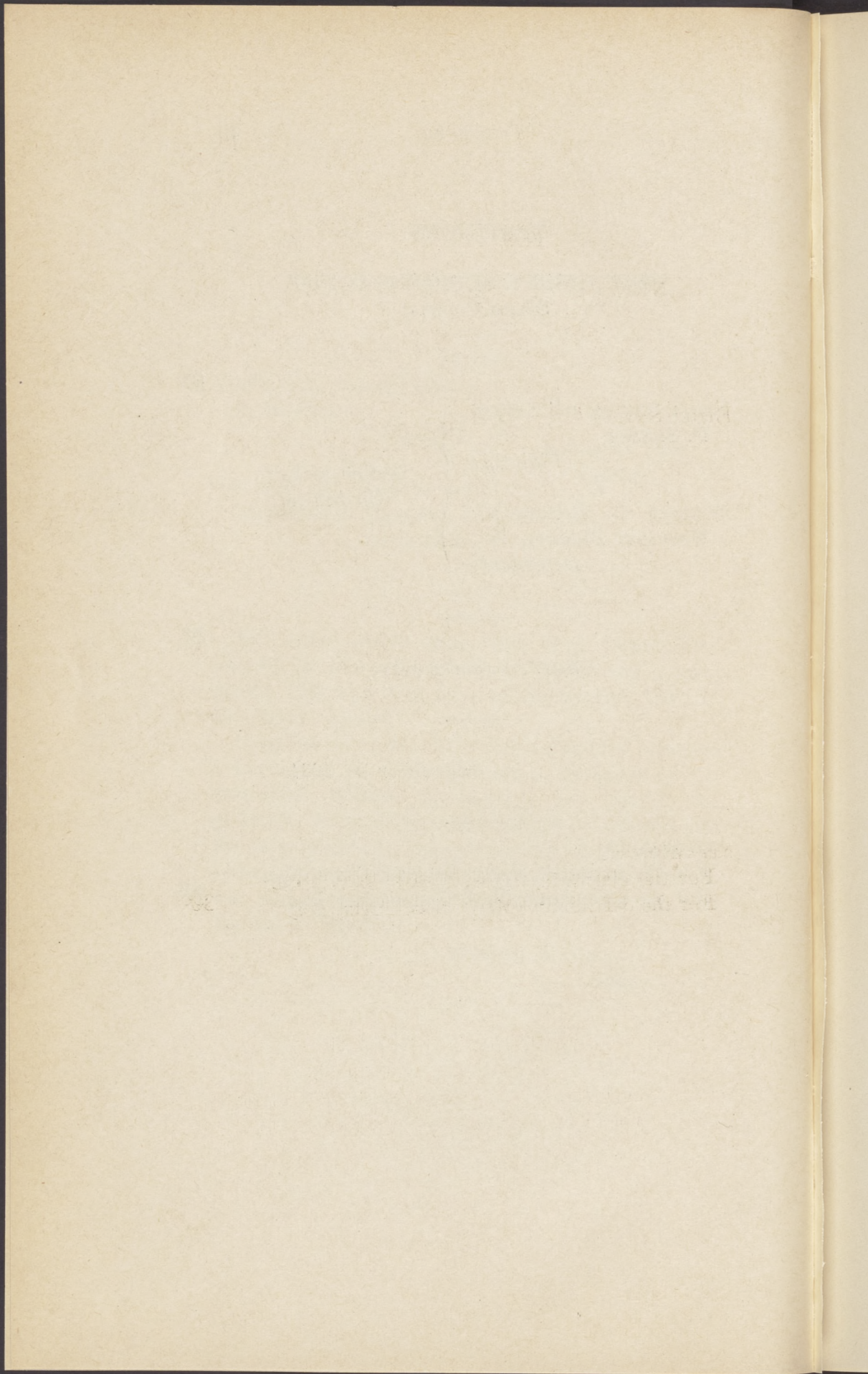
September 25, 1934.

APPEARANCES:

For the plaintiffs, JAMES MERCER DAVIS, ESQ.

For the defendants, M. J. GREENBLATT, ESQ.

30



(Mr. Davis opened the case for the Plaintiffs to the Jury.)

(Mr. Greenblatt opened the case for the Defendants to the Jury.)

MR. GREENBLATT—It is agreed between counsel that these three maps be offered. 10

(Received and marked Exhibits D-1, D-2 and D-3.)

MR. DAVIS—Counsel has agreed that we may use this unproven map, merely to show the direction of the highway.

THE COURT—A very good idea. 20

THE CASE FOR THE PLAINTIFFS

DR. HARRY SUTTER, Sworn.

By MR. DAVIS:

Q. You are a practicing physician, are you not?

A. Yes, sir. 30

Q. And your office is where? A. Penns Grove.

Q. How long have you been located there, Doctor? A. Two years.

Q. You graduated from what institution? A. Jefferson Medical College.

Q. What year, Doctor? A. 1931.

Q. You have been practicing in Penns Grove since you got through your hospital service, have you not?

A. Yes, sir.

Q. Did you attend Mr. Samuel Snyder, Doctor?

A. I did.

Q. When was the first time you saw him, I mean professionally? A. The first time I saw Mr. Snyder was in this case.

10 Q. Was it the day of the injury? A. The day of the accident, along about the middle of the forenoon.

Q. Where did you see him? A. At my office.

Q. Was he brought there, Doctor? A. He was brought there.

Q. What was his condition at the time you saw him? A. I should describe it as, he had a number of cuts on his both hands, especially on his right, and on his right arm and forearm, and he had brush burns and abrasions.

20 Q. A brush burn means what, Doctor? A. Well, it's, I should say, it's where someone has been having the skin scraped, and . . .

Q. Roughed up? A. Roughed up.

Q. All right. A. With dirt, and small pieces of glass, and these various brush burns, and abrasions, his face had a number of minor brush burns and abrasions on, and he walked into the office assisted by this friend that brought him there, and he was suffering also quite a bit from shock from the acci-
30 dent, and also from this wrenched back. I attended him that afternoon and sent him home.

Q. What was his condition, did you say he was suffering from shock? A. Yes.

Q. What did you do for him, Doctor? A. I had

him sit down, and immediately began to look him over carefully, and found he didn't have any broken bones, and cleaned up his wounds in various places, which took quite a while. I should say he was there an hour, or more.

Q. Give him any medicine? A. I don't remember.

Q. What was the condition of his left leg, Doctor?
A. His left leg was, I think the worst brush burn was on his left leg, with quite a bit of dirt and one 10
thing and another in it.

Q. He complained about that? A. Yes.

Q. Did you see him again? A. I saw him, that was on Wednesday, I saw him on Friday, and from then on for the next several weeks.

Q. And when you saw him on Friday, where was he? A. He was in bed.

Q. Was he in bed under your instructions, Doctor? A. Yes.

Q. Was he able to be up? A. No. 20

Q. You continued to see him, you say, for . . .
A. Periodically.

Q. Several weeks? A. Several weeks.

Q. And where was he when you saw him? A. He was in bed, until we were practically finished with him, at that time.

Q. Can you tell, Doctor, can you tell us now when you last saw him professionally following that siege of illness? A. I can't give you the exact date, I should say it was sometime in June. 30

Q. This was April 19th, as I understand, at the time of the accident, and you say you saw him sometime in June? A. Sometime in June.

Q. And what was his condition during that time,

Doctor? A. After he recovered from these various brush burns, and abrasions and cuts, the worst features we had to contend with were this badly wrenched back that he had, which I might say wasn't apparent when he walked in the office, or was assisted in there, so much as it was the first time I saw him at his home, and the shock.

Q. Tell us what you mean by shock, Doctor. A. Well, a shock, I should say shock is anything that
10 tends to destroy or alter the nerve functions of the body.

Q. Were his nervous functions disturbed? A. Yes, they were.

Q. How did it manifest itself to you, Doctor, as a physician? A. By his prostration.

Q. He was prostrated, was he? A. Yes.

Q. I don't assume that you tried his reflexes? A. Yes, I think I did, I went over him very carefully a number of times. The reason I say I think I did is because if I had remembered definitely going over him,
20 I would have remembered finding reflexes that were not normal. I don't remember finding reflexes that weren't normal for a man of his age.

Q. Was his prostration apparent to you as a physician? A. Yes.

Q. What about his strength, Doctor? A. His strength is greatly impaired.

Q. What about his heart condition? Maybe you had better go right along and tell us how these things
30 unfolded themselves, and what you did for him, tell us in your own way.

A. Briefly, after we had him in bed at home, he suffered from, his main item of complaint, after the pains and aches of his bruises and lacerations were

out of the way, which was quite a few days, a week or more, was the fact that his back bothered him, so much so that he wasn't able to lie comfortably, even in bed. As I remember, the weather was quite warm for that time of year, and considering his age and general condition, I debated for a while whether to strap his back or not, sort of postponed it from day to day, because I didn't want to do it, only I thought it was necessary, because for anyone that has to lie in bed strapped, it is not such a pleasant procedure 10 to have to go through. We didn't find that was necessary. The back slowly came around, until it was more of a minor affair. However, from the general shock of the accident, and the procedure, he didn't have his usual amount of strength. You spoke of his heart a while ago. His heart, for a man of his age, does not have any serious organic affair there. Of course, before the accident, we don't know what conditions were, as far as the rate of rhythm was concerned, but during the time I had him in bed, his 20 heart rate, his heart rate at various times would be rather irregular, and that sort of thing, so while it wasn't apparent to me, I laid to the general shock that he had that was causing this affair, and I watched it, and that's one of the reasons I also kept him in bed. Perhaps I should say kept him in bed longer than I would ordinarily, had it just been a matter of a wrenched back.

Q. Yes. A. And I kept him there until I thought 30 it was safe to leave him out, considering the fact of his age and his general strength, and the fact that his general organs, of course, have a certain amount of wear and tear, according to his age, and you always want to avoid the unexpected, if you can, and

we might say that he slowly gained in strength; in fact, I should say, for a man of his age, and all things considered, he got around really as fast as anyone could expect. It's been quite some time, over a year now, since his accident. I have not seen him because he called me, or I haven't seen him because he came to the office, for a number of months. However, it's been my privilege to attend other members of the family in that time.

10

MR. GREENBLATT: I don't know whether any other member of the family has anything to do with this.

THE COURT: I suppose, during the time he visited other members, he might have observed the man.

20

MR. GREENBLATT: I will withdraw it.

30

THE WITNESS: What I was going to say is that I have rather felt it my duty to sort of keep an apprehending eye on Mr. Snyder, both in the line of doctor and possibly as a friend, and asked him how he is at various times I saw him, and I remember late last summer, possibly later than this, his back still bothered him a great deal. However, he has been able to be out and around, and we cautioned him, and I appealed to other members of the family to see that he did not do the things that a man of his years, and one who had gone through this experience of the accident, should not do, bearing in mind the possibility of the unexpected. By that I mean the possible acute failure of some

vital function, and it has not happened. He has gotten along quite well, considering everything.

Q. Was he suffering from shock the last time you saw him, Doctor, or the result of shock? A. He was not suffering from the shock itself. He was suffering, however, from the effects of it. If you will allow me . . .

Q. I will be glad to have you tell us what you know about it, Doctor. 10

A. It's my impression, or opinion, abstractly considered, regardless of Mr. Snyder, or anyone, anyone who is in any sort of an accident, or happening, that is of sufficient grade, regardless of organic things, such as a broken bone, goes through an accident that leaves them prostrated for even a very short time, even under the best circumstances, they do not recover from that for some time. It's something that perhaps you can't lay a definite finger on, and call it "It's this," but it's shown by perhaps a nervous instability. 20

Q. Do you find that present in him? A. Now?

Q. Yes. A. I think so, I should say I do find it in him.

Q. Nervous instability? A. Yes.

Q. This nervous instability, the organs of the body, such as the heart, and the lungs, and the kidneys, are regulated by the involuntary nervous system, are they not, or what we call the sympathetic nervous system? A. Yes. 30

Q. Is that affected by nerve exhaustion? A. Yes.

Q. And nervous exhaustion, is that effected and brought about or caused by shock? A. Yes.

Q. Is this man, or not, suffering from nerve exhaustion? A. He is suffering from the effects of nerve exhaustion.

Q. What do you consider, Doctor, is the prognosis, the reasonable probability of his recovery in the future from this condition? A. I should think we should say that anyone of his years, who has gone through an experience such as this, will always have some effects from it.

10 Q. You think then he will not recover from the effects of this, fully, I mean? A. Not fully.

Q. Is he able to do the ordinary work that's done on a farm, would you advise it? A. Well, farming is work, manual work. It's been my observation that Mr. Snyder at the present time, perhaps this summer sort of supervised things. I don't . . .

Q. Can he do any farm work? A. He can't do hard manual work.

20 Q. And farm work is hard manual work, isn't it, Doctor? A. It is.

Q. What was your bill for services, Doctor? A. I rendered a bill, it's been quite a long time ago now, for \$33, to the family.

By MR. GREENBLATT:

Q. How much? A. \$33.

By MR. DAVIS:

30 Q. Was that completed, Doctor? A. Yes, and no. However, let it stand as \$33.

Q. How many visits did you make to him? A. I think I said eleven, eleven visits.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. You attended Mr. Snyder from the 19th of April, at your office, until sometime in June of last year? A. Yes.

Q. Since June you haven't attended to him at all, have you? A. Mr. Snyder has not called me, or the family have not called me to see him. 10

Q. So you haven't examined him professionally since sometime in June, 1933? A. Except to observe him.

Q. And you observed him only as a friend of the family? A. As the physician of the family.

Q. You didn't take his pulse, or examine his heart, since June of 1933? A. Yes.

Q. You testify now from your impressions of observing him by looking at him. What is his age, do you know? A. I think he is 78 or 79 at the present time. 20

Q. A man of that age usually doesn't or isn't able, irrespective of an accident, to do manual labor, is he, that's correct, isn't it? A. That's right.

MR. GREENBLATT—Will you read that question and answer back for me?

(Question and answer repeated.) 30

Q. You didn't have an X-ray taken of his back, did you? A. I did not.

Q. And the only way you knew that he had a

backache was what the patient told you? A. And by my observations of him.

Q. You can't feel pain, can you, Doctor? A. No.

Q. You couldn't? A. Not in him.

Q. It's what is known as subjective, isn't it? A. A subjective symptom.

Q. And I think you said that the pains of the abrasions and brush burns left after a few days? A. That's right.

10 Q. And that thereafter he complained of his back? A. Of his back.

Q. You treated him for that back condition, I suppose you gave him medicine, didn't you, Doctor? A. Yes.

Q. I think you also testified you didn't strap his back? A. I did not.

Q. Nor do anything to his back, except medically? A. Yes.

20 MR. GREENBLATT—That's all, Doctor.

By MR. DAVIS:

Q. Refreshing your memory, didn't you call on him in January of this year, for an ailment to his back? A. I don't remember, Mr. Davis.

Q. You won't deny that. Did you strap his leg, or bandage his left leg? A. Yes.

Q. Do you know when you took that off? A. I remember taking it off, but I don't know when.

30 Q. Do you remember when Dr. Ashley came to see him? A. Yes.

Q. Were you present? A. Yes.

Q. Did he not have at that time a bandage on his leg? A. I believe he did.

Q. Do you remember when that was, Doctor?
A. That was a reasonable length of time after the accident, but I don't remember how long.

MR. DAVIS—That's all.

ROWLAND BLOCKSON, Sworn.

10

By MR. DAVIS:

Q. Where do you live? A. Pedricktown.

Q. You were employed where? A. Dupont Company.

Q. Do you know Samuel Snyder? A. Yes, sir.

Q. Do you remember the day of this accident?
A. Yes, sir.

20

Q. Were you there some time that morning? A. I was there some time between 9 and 12 o'clock.

Q. See Mr. Snyder there at the time you went there? A. No, sir.

Q. What did you see, Mr. Blockson, when you were there? A. Well, about a quarter of a mile up the road I saw them towing a car away, and then, of course, I did see the marks where the automobile had turned over, the place where he had knocked the stop sign down on the other side of the street, and where he had gone over the fence, or to the fence, I believe a portion of the fence was knocked down. I didn't see them take the car away.

30

Q. And Mr. Snyder was not there when you were there? A. He was not, no.

Q. Did you see anything on the road, were there any marks on the highway? A. Yes, sir.

MR. GREENBLATT—I want to enter an objection, I want to know when this witness got there.

MR. DAVIS—He said between 9 and 12 in the morning.

10 MR. GREENBLATT—Certainly at that time a lot of automobiles could have travelled there, and made a lot of marks on the highway. It's too long a time, and too remote.

THE COURT—I think it is too remote.

MR. DAVIS—I am not pressing that, other witnesses I have that were there immediately afterwards.

20 THE COURT—Upon that theory it may be admitted, if you have other witnesses covering that particular spot from the time of the accident on down, to testify that these marks were the marks, then I will allow it, otherwise I won't.

30 MR. GREENBLATT—The other witnesses should be called first. This is too remote. The other witnesses might not know anything more than this witness did.

THE COURT—Perhaps you had better take them in their order.

MR. DAVIS—I want to use this witness, and as

I understand it, the order of calling witnesses is in the discretion of counsel.

THE COURT—Yes, but at the same time, if you get this testimony in, and it's not connected up later, it might prejudice the jury.

MR. DAVIS—I will promise your Honor it will be connected up.

THE COURT—Very good, I will allow it.

10

MR. GREENBLATT—The court will reserve me the right to strike?

THE COURT—I will.

MR. DAVIS—You always reserve that in every case.

20

Q. What marks did you see on the highway when you got there? A. The mark that I saw was on the Harding Highway and on the Perkintown Road. The mark on the Harding Highway was one which could not have been made by any other thing than an automobile tire skidding there very badly, and the marks on the Perkintown Road were marks of indentations in the road, and in the offing, which would indicate that it had been struck by something hard, and with great strength.

Q. Did you see the car as it was being towed away? A. Yes.

30

Q. Did you notice whether or not any of the wheels had been broken? A. Yes, the left rear wheel was completely gone.

Q. Were there any spokes left in the hub of the wheel? A. Very few.

Q. What kind of marks were these markings you saw on the street, what did they appear to be? A. They appeared to be exactly what would happen when a piece of rubber is very strongly pressed against the concrete, or the asphalt road, whichever it was.

Q. That was the road, were they on the Harding Highway? A. It was on the Harding Highway.

Q. Where were they? A. I should judge about a foot or two feet from the middle of the road, towards Salem. It would indicate that the car had passed . . .

MR. GREENBLATT—There's no indications about it, that's a conclusion.

Q. Just tell us what you saw on the road, not
20 what you think it was, what you saw there, what a camera would show. A. I saw a black mark on the road, in a crescent shape, about eight inches wide at the largest portion, extending perhaps three or four feet across the Harding Highway, from the middle to the side, that the automobile was approaching, was going.

Q. What did it appear to be, what might it have been caused by? A. A skid from a car.

Q. On the Perkintown Road were there any
30 marks like that? A. Yes.

MR. DAVIS—I move it will be stricken out.

Q. Where were those marks? A. They were off on the side of the shoulder of the road.

Q. On which shoulder? A. On the east shoulder.

Q. The east shoulder is in the direction of Atlantic City, isn't it? A. That's correct.

Q. What did those marks appear to be? A. They appeared to be indentations caused by something heavy and strong forcibly rolling over them.

Q. Were they sharp and jagged, or what? A. They were skids.

Q. They were skid marks? A. Yes. 10

Q. Did you measure the width of the paved portion of the Harding Highway? A. Yes, sir.

Q. How wide is the paved portion of the Harding Highway at that point? A. 18 feet.

Q. Did you measure the oiled surface of the Perkintown Road? A. Yes, sir.

Q. How wide is that? A. 18 feet.

Q. How wide are the shoulders on the Harding Highway? A. The shoulder in front of the house, in which the colored people live, 9½ feet to the grass plot in front of their house. 20

Q. 9½ feet from the concrete to the grass? A. From the concrete to the grass in front of the house.

Q. Yes, and how far is it from the grass to the fence? A. 6½ feet.

Q. And how wide is the shoulder on the opposite side of the Harding Highway? A. I didn't measure that, it may be . . .

MR. GREENBLATT—I object to it. 30

Q. Your judgment about it? A. My judgment would be it would be about the same.

Q. How wide is the shoulder on the Perkintown Road next to the Holmes house? A. It varies all

the way along the road. At that point it's about five or six feet.

Q. Did you see the stop sign on the north side of the Harding Highway, that is, along the Perkintown Road? A. Yes, sir.

Q. How far is that from the concrete of the Harding Highway? A. 34 feet.

Q. Did you take pictures of this car after the accident? A. Yes, sir.

10 Q. And when were they taken, Mr. Blockson? A. I don't remember exactly, but I have the date in my pocket, if I am allowed to look.

Q. Look, certainly. A. June 10th, 1933.

Q. June 10th? A. Yes.

Q. Where was the car at that time? A. That was just outside of the garage.

Q. At Snyder's? A. At Snyder's.

Q. Have you got those pictures? A. Yes.

20 Q. Will you produce them, please? A. Yes, sir.

Q. Are these the pictures taken of the car at that time? A. Yes, sir.

Q. And do they truly represent the condition as then existing with respect to the car? A. There may be two improvisations on this car, I took it out of the garage, and it was impossible to move it without putting an extra wheel on.

30 Q. You put the wheel on? A. So I strapped a wheel on, and I am not sure but I think the right hand rear door had been changed, in order to tow it up the road. Other than that, I believe it was almost exactly as it was when it left the scene of the accident.

Q. These pictures represent it as you took it? A. Yes, sir.

MR. DAVIS—I offer them.

MR. GREENBLATT—I object to them. This man said the car had been changed somewhat, he believed it had been changed.

MR. DAVIS—He told in what respect it had been changed.

THE COURT—He doesn't know, it's speculation 10
on his part.

MR. DAVIS—I am going to show that up until he came there the car had not been changed.

THE COURT—You had better offer them in evidence later on.

MR. DAVIS—They may be marked for identification? 20

THE COURT—Yes.

(Seven pictures received and marked Exhibit P-1 for identification.)

MR. DAVIS—Cross examine.

CROSS EXAMINATION

30

By MR. GREENBLATT:

Q. Where do you live? A. I stated before I lived in Pedricktown.

Q. You are related to Mr. Snyder? A. By marriage, I am his nephew.

Q. You are his nephew? A. Yes.

Q. You live anywheres near him? A. About two miles.

Q. You found skid marks on both the Harding Highway and on the other road? A. I found one skid on the Harding Highway, and marks which could not definitely be called skids, but they were
10 marks made by some objects being scraped across the road.

Q. What made you take those measurements of the highway? A. I was interested.

Q. Of your own volition, or were you interested in the case? A. I was interested.

MR. GREENBLATT—That's all.

By MR. DAVIS:

20

Q. Did I ask you to make these measurements just a few days ago, Mr. Blockson?

MR. GREENBLATT—I think he answered it, he said he was interested.

THE COURT—He may answer that.

Q. Did you make those measurements at my request? A. Yes, sir.
30

WOLFFE VOGEL, Sworn.

By MR. DAVIS:

Q. Mr. Vogel, where do you live? A. Philadelphia.

Q. How long have you lived in Philadelphia? A. Since January.

Q. Of this year? A. That's right. 10

Q. Before that where did you live? A. Penns Grove.

Q. How long did you live in Penns Grove? A. About five years.

Q. And were you engaged in business, Mr. Vogel, in Penn's Grove? A. I was, I was in the meat business.

Q. And in that business, did you call upon the farmers and the people in the community at their homes to serve them? A. I did, I ran a meat route. 20

Q. And a wagon, I suppose? A. A truck.

Q. You know the Holmes family at the corner of Perkintown Road and the Harding Highway? A. I do.

Q. And the Raines that also live across the street from them? A. Yes.

Q. Did you call on them as part of your trade? A. Yes, Mr. Holmes was the first stop.

Q. On this Wednesday morning, April 19th, 1933, were you on that route? A. I was. 30

Q. What kind of a car did you have, or a truck? A. A new Chevrolet.

Q. That's enclosed in the back, I assume? A. A panel body.

Q. Did you go to the scene of this accident? A. I was on my route going that way.

Q. Did anything happen as you were going on your route? A. I was travelling along about 40 or 50 miles an hour, and there was a car that passed me, and going in the same direction that I was going, and as I got to my first stop, or as I got there, I noticed that there was an accident there, and I stopped there, and think Mr. Raines was there and someone
10 else, just a young boy, and as I got there we found Mr. Snyder in the car there, and we started to tear the top off the car to get him out.

Q. You say you were going between 45 and 50 miles an hour? A. I was.

Q. When this car passed you? A. Yes.

Q. Now, when you got to the scene of the accident, did you see the car that had passed you? A. Yes, sir.

Q. Where was that located? A. That was right
20 on the road, headed the opposite way.

Q. On the Harding Highway? A. On the Harding Highway.

Q. But headed . . . A. Towards Penns Grove.

Q. Headed back towards Penns Grove? A. Yes.

Q. You saw there had been an accident there, and you helped Mr. Snyder out? A. Yes.

Q. How did you get him out? A. We pulled him through the top of the car, we had to break the top of the car open.

Q. What was his condition when you pulled him
30 out? A. He was cut and bruised, as far as we could see, and he was sort of in a daze, we really had to hold him up.

Q. Had to hold him up? A. Yes.

Q. After you got him out, did someone take him away? A. There was a lady there, I didn't know at the time. I think she came along in a Ford coupe, and took him away.

Q. Did you afterwards learn who she was? A. I did.

Q. Who was it? A. Mrs. *Graventa*.

Q. You didn't go away with her, did you? A. No, I did not, I stayed there.

Q. Was Mr. Snyder at that time suffering pain, or not? A. He seemed to be in a daze, and he was bleeding from his hand, if I remember correctly. 10

Q. Anywhere else? A. He had some cuts on his face, and bruises.

Q. Did you or did you not see the accident? A. I did not.

Q. You didn't see the cars when they came together? A. No, sir.

Q. I understand that it had happened before you got there? A. Exactly. 20

Q. Now, after this car had passed you on the road, which you afterwards recognized, you say, at the scene of the accident, did any other cars pass you? A. No.

Q. Between that and the accident, I mean? A. Absolutely none.

Q. What did you notice on the road, Mr. Vogel, at the scene of the accident? A. After they had taken Mr. Snyder away, there were skid marks just right before the corner, just a very few feet from the corner, that would be . . . 30

Q. Towards Penns Grove, or the other way? A. Towards Penns Grove, on the right hand side, going towards Atlantic City.

Q. Were they on the Harding Highway? A. On the Harding Highway.

Q. As I understand, west towards Penns Grove, on the Perkintown Road? A. That would be on the southwest side of the road.

Q. Of course, the Perkintown Road crosses the Harding Highway? A. Yes.

Q. How far away from the intersection of these two roads were these skid marks? A. I should
10 judge about anywheres from 10 to 15 feet.

Q. That's west of the Perkintown Road? A. That's right.

Q. And how long were those skid marks? A. About 10 or 15 feet.

Q. And then did they separate before the intersection of the two roads, do you understand what I mean? A. No, I do not, very clearly.

Q. You say these skid marks were about 10 or 15
20 feet long? A. Yes.

Q. Was there a place between those skid marks and the intersection of the highway, in which there were no skid marks? A. Yes.

Q. Were there any skid marks on the Perkintown Road? I withdraw that question. Did you see the car of Mr. Snyder, you say you took him out of it? A. Yes, we seen him.

Q. Where was that, please? A. That was on the southeast corner of the Harding Highway.

Q. What was it up against, if anything? A. A
30 pole there.

Q. There's a pole there? A. Yes.

Q. Did you see any marks leading from the position of this car of Mr. Snyder's towards the Perkintown Road? A. Going south?

Q. Going west, were there any marks leading from Mr. Snyder's car towards the Perkintown Road? A. Skid marks of any kind?

Q. Yes. A. No.

Q. You didn't see them? A. No.

Q. Did you see anything in the Perkintown Road? A. No, the only other marks, besides skid marks, was marks on the Harding Highway, as if something had been shoved or pushed strenuously.

Q. What kind of mark did it make on the Harding Highway? A. Just like a scratch on the concrete. 10

Q. Did you see anything to make such a scratch there? A. It could possibly have been from the broken wheel of Mr. Snyder's car.

Q. Was Mr. Snyder's car so placed it might have done that? A. Yes, that is, in the direction that the mark went.

Q. That's what I meant, all right. I show you seven pictures, that have been marked here for identification P-1, and ask you to look at them, and tell us whether or not they fairly represent the Snyder car at the time you saw it? A. That is the car. 20

Q. Do they represent the car? A. Yes.

Q. Fairly? A. Yes, sir, we even marveled at the . . .

MR. GREENBLATT—Objected to.

THE COURT—Sustained. 30

Q. You saw this car on the day of the accident?

A. Yes, sir.

Q. Did you see it afterwards? A. No, sir.

Q. And so that, as I understand your testimony, this represents the car as of the day of the accident?

A. That's right.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

10 By MR. GREENBLATT:

Q. You came up immediately after the collision?

A. That's right.

Q. While both cars were still there? A. Yes, sir.

Q. And all the occupants of both cars were still there? A. Yes, sir.

Q. The Nash sedan was found on the Harding Highway after the accident? A. Yes, sir.

20 Q. Right on the surface, or was it on the right shoulder? A. It would be the right shoulder, facing, not the right shoulder, the center of the road, facing Penns Grove, headed towards Penns Grove.

Q. Was the car entirely on the concrete? A. Yes, sir.

Q. Was any portion of it on any shoulder? A. No, sir, that is the Nash car, wasn't.

Q. It was turned somewhat around? A. Almost completely around.

30 Q. Now, the other car was on the so-called Perkintown Road, was it? A. After the accident it was lying on the southeast corner.

Q. And you said there were no skid marks of any kind on the Perkintown Road? A. No, all the marks were on the Harding Highway.

Q. All the marks you saw or observed were on the Harding Highway? A. That's right.

Q. That was at the intersection? A. Sir?

Q. That was at the intersection of these two highways? A. That was on the right hand side of the Harding Highway.

Q. On the right hand side of the Harding Highway going to Atlantic City? A. That's right.

Q. And that was the side of the highway where the Nash car was supposed to proceed? 10

MR. DAVIS—No.

MR. GREENBLATT—I will withdraw that, and reframe it.

Q. The Nash car was going from Penns Grove to Atlantic City, wasn't it? A. Yes, sir.

Q. And the proper place for that car to proceed was on its right side, wasn't it? A. It should have 20 been there, yes.

Q. And the skid marks that you observed were on the right side? A. Yes, sir.

Q. Going towards Atlantic City? A. That's right.

Q. And at the intersection of this Perkintown Road? A. No, not on the very intersection, just previous to the intersection.

Q. Before the intersection, so that the marks were closer to Penns Grove than to Atlantic City? A. That's the idea. 30

Q. How far is that point from Penns Grove? A. I should judge about two miles.

Q. You had gone about two miles? A. No, I had not gone about two miles, I had gone two miles when I reached that corner, approximately that.

Q. What kind of a car were you driving? A. 1933 Chevrolet truck.

Q. This Perkintown Road, I suppose you are familiar with that crossing? A. Yes, sir.

Q. Do you know of any stop signs that were there at the time of the accident? A. There are signs on the Perkintown Road.

Q. On both sides? A. I am not sure about both sides.

10

MR. DAVIS—We will admit there are on both sides, and were on both sides.

THE WITNESS—I am sure that one was to the side of the Holmes home.

Q. Is that the side from which Mr. Snyder came? A. Yes, sir.

Q. Across? A. Yes, sir.

20 Q. So that when Mr. Snyder approached this Harding Highway he faced a stop sign? A. That's right.

Q. And that sign faced in to his right? A. On the right side of the road.

Q. The car coming from Penns Grove on the main highway, the Harding Highway, was to Mr. Snyder's right, wasn't it? A. Yes, sir.

Q. And are you the operator of a car? A. I was up until January.

30 Q. You had a New Jersey license at that time? A. Yes, sir.

Q. Under the rules of the road, the Traffic Act, at that time, the car proceeding from Penns Grove to Atlantic City had the so-called right of way, didn't I?

MR. DAVIS—That's not fair, to ask a layman a matter of law.

THE COURT—Objection sustained, it might be confusing.

MR. GREENBLATT—Exception.

(Exception noted for defendants.)

Q. When you took Mr. Snyder out of the car, he was promptly taken into some other car and sent to the doctor? A. Yes, sir, this car drove up, and this Mrs. Graventa, who I later found out who she was, took him away. 10

Q. She took him to the doctor's? A. I don't know where she took him.

Q. Did anybody else go with her? A. Not that I can recall.

Q. She was alone in her car? A. That I know of, yes. 20

Q. Then you proceeded on your way? A. That's right.

MR. GREENBLATT—I think that's all.

By MR. DAVIS:

Q. How far were you away from the scene of this accident at the time this Nash car passed you? A. There's a stretch out there we used to call the Big Woods. I should judge that's just about half way. 30

Q. That's about a mile from the scene of the accident? A. That's right.

Q. You say she passed you, so you didn't see the accident? A. That's right.

Q. Mr. Vogel, let me ask you this. You saw, of course, the Snyder car that was there? A. After the accident.

Q. Did you see any marks that were made in the movement of that car? A. The only marks I could see were skid marks, and where something had been pushed or shoved, and they were on the right hand
10 side of the intersection of the Harding Highway and the Perkintown Road.

Q. Did they reach over to the Snyder car? A. Exactly.

Q. But the skid marks were made before by some car before it arrived at the crossing? A. That's right.

Q. That is, a car coming from Penns Grove? A. Yes, sir.

20 MR. DAVIS—That's all.

NORVIE HOLMES, Sworn.

By MR. DAVIS—

30 Q. You live at the intersection of the Perkintown Road with the Harding Highway? A. I do.

Q. How long have you lived there? A. About six years, as near as I can give it, or seven.

Q. This is your house which is shown in this picture, D-2, is it not? A. That's it.

Q. And it is likewise your house that is shown over here in D-3? A. Yes, sir.

Q. And is this your house that is shown here in D-1? A. That looks like Mr. Raine's.

Q. Your house is on the west side of the Perkin-town Road, isn't it? A. Yes, sir.

Q. And it is on the north side of the Harding Highway? A. That's right.

Q. So that if you are coming from Pedricktown to go to Pennsville, your house would be on the right hand side of the road? A. Yes, sir.

Q. And if you are going from Penns Grove to Atlantic City on the Harding Highway, your house would be on the left hand side of the road? A. Yes, sir.

Q. And your house is close to the road, is it not, close to both roads? A. Yes, pretty close.

Q. It's closer, is it not, to the Perkintown Road, than it is to the Harding Highway? A. I think so.

Q. You remember this 19th day of April, 1933, that is the date when Mr. Snyder was hurt in an accident out there in front of your house? A. I remember the accident there, but I don't remember the date.

Q. You don't remember the date, I don't mean that, you remember the accident happening? A. Yes.

Q. You say, "Yes"? A. Yes, sir.

Q. And did you hear the accident? A. Yes, I did.

Q. The collision of the two cars? A. Yes, sir.

Q. Did you see it? A. I did not.

Q. You couldn't see it, could you? A. I could not.

Q. Where were you at that time? A. I was in the field back of the barn, in the garage, that is.

Q. Being in your lot, at the back of the barn, that prevented you, did it not, from seeing the intersection of the two roads? A. It cut my view off.

Q. What were you doing there? A. I was out in the field working.

Q. Did you see Mr. Snyder's car when it passed your house? A. I saw a car when it passed along
10 the driveway there.

Q. You mean by the driveway, the Perkintown Road? A. The Perkintown Road.

Q. Did you see the car that passed along the Harding Highway? A. I had a better view of that where I was at.

Q. You had a better view? A. I seen that.

Q. You saw that? A. Yes.

Q. Was your view obstructed of the Snyder car along the Perkintown Road? A. It was, the road
20 is dug out there a little, I could not see it so very good.

Q. Are there any trees along your line there? A. Trees, and we have got there a chicken house.

Q. So that obstructed it somewhat, did it? A. Yes, it did.

Q. But from where you were standing, did anything obstruct your view of the Harding Highway? A. There wasn't anything that way, only before you get to the intersection I couldn't see it.

30 Q. Because your house interfered? A. And the garage.

Q. You say you saw this car coming? A. Yes.

Q. At what rate of speed was it going, fast or slow?

MR. GREENBLATT—Objected to, the view was obstructed.

THE COURT—You had better qualify it.

MR. DAVIS—He says he was in the position so that he could not see the intersection, the collision, but he saw Mr. Snyder's car going along, and saw this other car going along, and he heard the collision.

10

THE COURT—Ask him if he could see it.

MR. GREENBLATT—He said he didn't see the accident, he saw the car previous, until it got in view of the garage.

By THE COURT:

Q. Did you see the car before the accident? A. 20
I saw it before the accident.

Q. Up to the time when? A. The house cut off my view, I couldn't see it then, after it got so far.

Q. It cut the view for what distance? A. From the intersection.

Q. For what distance? A. I should judge where I am standing out across the street.

THE COURT—Up to that time, he can testify up to that time, but he can't testify to something he couldn't see. 30

MR. DAVIS—I had understood all that, he said he was in a position where he could not see the

intersection of the two roads, but he could see the Perkintown Road, and the other road.

THE COURT—Very good, I will allow it.

By MR. DAVIS:

Q. Now, I am asking you what speed was this car travelling along the Harding Highway, fast or slow?

A. It was going fast.

10 Q. Going fast, and did you then hear the collision? A. After a few minutes, because I didn't pay much attention, because I see so many cars go along, I would not do anything else.

Q. You saw one car? A. Yes.

Q. And then you heard the crash? A. Yes.

Q. You didn't go out there at that time, did you?

A. No, I didn't go out there.

20 Q. When you learned . . . Did you learn it was Mr. Snyder involved in that accident? A. I didn't know his name, I heard about it, you know.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

By MR. GREENBLATT:

30 Q. You heard the crash and knew there was a collision? A. Yes.

Q. You didn't go out to it? A. No, I didn't go out.

Q. You kept on working in your field, you didn't

go out there at all? A. No, I didn't go out there at all.

Q. When was the next time you heard about that accident, when you heard anybody say anything to you about that accident? A. I couldn't recall that.

Q. Did anyone speak to you about this accident at any time since the day it occurred? A. I can't recall, it was many there.

Q. So that on the day that it occurred, you didn't even go out and look at it? A. No, I didn't go out. 10

Q. The cars were taken away before you went out there to take a look at it? A. I didn't go out at all.

Q. You didn't go out the next day to take a look at the scene of the accident? A. No, sir.

Q. Or any time? A. No, sir, I didn't.

Q. Then how do you remember this accident, you didn't know Mr. Snyder, did you? A. I saw him.

Q. You didn't know Mr. Snyder, and I think you said a minute ago there are a lot of accidents over there, is that what you said? A. I didn't know which one it was. 20

Q. You didn't know which accident this was, did you? A. I did not.

Q. Sure you don't, and there have been a number of accidents over there near your house, haven't there? A. Sometimes there's a lot of them around there, I don't pay any account to it.

Q. You didn't pay any attention to this accident at all on that day? A. No, I didn't go out there. 30

Q. Do you remember what color the cars were? A. No.

Q. You don't even know the color of the cars? A. No.

Q. And there are a lot of cars going by there every day? A. Lots of them.

Q. And was this car that you saw going fast, was it a yellow colored car, or a black colored car, or don't you know? A. I would not say, but I think it's a green car.

Q. You think it's a green car? A. Yes.

Q. And what kind of a day was it? A. I didn't pay any attention.

10 Q. You don't know whether it was raining that day, do you? A. I do not.

Q. You don't know, and what kind of a car did Mr. Snyder drive in, was that a black car? A. I couldn't say what kind of a car.

Q. Was it a large car? A. I couldn't say, I didn't pay that much attention.

MR. GREENBLATT—I think that's all.

20 By MR. DAVIS:

Q. I understand that you were working out there in the field? A. Yes, I was working in the field.

Q. How far were you away from the Perkintown Road? A. I judge I was a couple of hundred feet away, or more.

Q. How far were you away from the Harding Highway? A. I was about, I judge, 150 yards or more.

30 Q. That's about 300 feet, 450 feet away. Now, you saw these two cars pass? A. Yes, sir.

Q. You heard a collision? A. Yes, sir.

Q. That's right, isn't it? A. Yes.

Q. You didn't have to go out there when you were

in your home, it's right out in front of your place?

A. Yes.

Q. The whole thing is right in front of your house? A. Yes, sir.

Q. You didn't stop working, as I understand? A. No, sir.

Q. Kept right on with what you were doing? A. I was there piling up some flowers we had cut off.

Q. Getting ready to burn them, were you? A. Yes, sir.

10

Q. You then heard Mr. Snyder had been involved in an accident? A. Yes, I heard the name, but I didn't know him, see.

Q. You heard the name, but you didn't know Mr. Snyder personally? A. No, sir.

MR. DAVIS—That's all.

By MR. GREENBLATT—

20

Q. Who came to see you about testifying here today? A. Who came to see me?

Q. Yes.

MR. DAVIS—He wants to know who asked you to come here and testify, who talked to you about it. A. Mr. Davis' son, I think.

Q. And when was the first time that you were talked to about this case? A. I don't recall that, to tell you the truth, I don't know, I don't recall.

30

MR. GREENBLATT—That's all.

MR. DAVIS—That's all.

WARREN RISNER, Sworn.

By MR. DAVIS:

Q. Where do you live? A. Penns Grove.

Q. And how long have you lived in Penns Grove?

A. About 19 years.

Q. Did you one time live on the Perkintown
10 Road? A. I did.

Q. How far was that from the Harding Highway?

A. I should say about two miles and a quarter.

Q. That's towards Pedricktown? A. No, the
Harding Highway would be down this way.

Q. I ask you if you . . . A. Yes, towards Ped-
ricktown.

Q. Do you know Samuel Snyder? A. Very well.

Q. How long have you known him? A. Ever
20 since I have been old enough to know anything.

Q. That's been how long, if you don't mind tell-
ing us your age? A. Not a bit in the world, 50 to
55 years.

Q. During these past 20 or 25 years, have you
known Mr. Snyder well? A. Very well.

Q. How far did you live away from him when
you lived on the farm? A. Going up the road, I
should say a mile and a half.

Q. And across through John Graventa's place,
30 how far? A. That would not have been over a
mile.

Q. Since you left the farm, have you seen Mr.
Snyder from time to time? A. From time to time.

Q. What was his condition of health, as you ob-

served it, up until the time of this accident? A. Very good, as far as I could see, when I would meet him, and see him at work in the field.

Q. You say you saw him working in the field from time to time up until the time of this accident? A. Yes.

Q. And is your answer that his health was good also up to the time of the accident? A. So far as I could see to look at him, and by his actions I would see up there. 10

Q. As he now appears before you, does he look better or worse in health than he did prior to this accident? A. Not so good.

Q. Did you go to the scene of the accident, Mr. Risner? A. I was going out the Harding Highway. I happened to come along where the accident had happened.

Q. About what time?

MR. GREENBLATT—Was it on the same day? 20

A. The same day, and Mr. Snyder, they had just got him out of the car when I stopped.

Q. Then Mr. Vogel was there? A. I don't know, I didn't recognize him.

Q. Did you see Mrs. Graventa there? A. Yes.

Q. Did they take Mr. Snyder away while you were there? A. No.

Q. Did you leave before they took him away?

A. Yes, I left before they took him. 30

Q. Did you see any marks on the highway at that time? A. I didn't look for any, and didn't see any.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. You left before they took him to the doctor?

A. Yes.

Q. How long did you stay there? A. I didn't stay there but a very short time.

10 Q. How many minutes? A. Maybe not over five minutes, I can't just say about minutes.

Q. What was Mr. Snyder doing during the time you were there? A. When I got out of my car, and went down to the wreck, I met Mr. Snyder coming away from the wreck.

Q. He was walking away from the wreck? A. He was walking with the assistance of somebody.

20 Q. And during the five minutes you were there, what did Mr. Snyder do? A. I don't know, I went on then and looked at the wreck.

Q. And after that, where did you go? A. Then I come back, and got in my car, and went out the Harding Highway.

Q. Didn't you talk to Mr. Snyder? A. I spoke to him, I said, "Sam . . .

Q. I didn't ask you what you said to him, I asked you did you talk to him? A. Yes.

30 Q. After talking to him, you left? A. Yes, immediately, I may have stayed around there a minute or two afterwards.

Q. When was the last time you had seen Mr. Snyder before the date of the accident? A. I couldn't give you the date, but I travel up by his home quite often to Pedricktown.

Q. Once a month? A. Yes, maybe two or three times, four times a month.

Q. You just go by? A. Go by.

Q. You didn't stop? A. Not very often.

Q. So that when you observed him, you observed him on his property at a distance? A. I observed him on his property sometimes at a distance, sometimes close to the road, sometimes out in Pedricktown.

MR. GREENBLATT—That's all.

10

By MR. DAVIS:

Q. What did you say to him? A. I asked him if he was bad hurt, and I didn't get any reply, so I didn't bother, I couldn't, he didn't answer.

MR. DAVIS—That's all.

MR. GREENBLATT—That's all.

20

(At this time a five-minute recess was taken.)

WILLIAM SWAVERLY, Sworn.

By MR. DAVIS:

Q. Are you on the panel of Jurors here? A. Yes, sir.

Q. You live in Pedricktown? A. I live about two miles outside of Pedricktown, on the Auburn-Pedricktown Road.

30

Q. On the Auburn-Pedricktown Road? A. Yes.

Q. Did you for many years live in Pedricktown?

A. Yes.

Q. You were raised there as a child and a young man? A. Yes, sir.

Q. You know Mr. Snyder?

MR. GREENBLATT—May I ask for a side bar conference, for a moment, please?

10

AT SIDE BAR

MR. GREENBLATT—The witness being on the general panel, and he so testified, and in view of the fact he is to testify to the plaintiff's good health, or condition previous to the day of the accident, objection is made to him appearing as a witness.

20

THE COURT—Overruled.

MR. GREENBLATT—Exception.

(Exception noted for defendants.)

Q. You know Samuel P. Snyder? A. Yes.

Q. You have known him all your life, have you?

A. Yes, sir.

30 Q. What was the condition of his health, as you observed it, before this accident? A. Very good, he always seemed to be a robust man, and was doing a lot of work, I never remembered him being sick, or anything.

Q. Do you notice any difference in his appearance

now, from what it was before this accident? A. Yes, sir, a considerable difference.

Q. Is he better now, or worse? A. Much worse appearing.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

10

By MR. GREENBLATT:

Q. A little older, too, isn't he? A. Yes, sir.

Q. He operates his farm now, doesn't he? A. I don't think he is able to work it now as well as he did before.

Q. As a matter of fact, he does supervise the operation of his farm? A. I imagine he does, yes.

Q. Don't you know it? A. No, I don't know it. 20

Q. When was the last time you saw Mr. Snyder?
A. Yesterday.

Q. How long ago hadn't you seen him until yesterday? A. Sometimes I will see him three or four times a day, other times it may be a week or two.

Q. When was the last time you saw him? A. I couldn't exactly answer that, I just don't remember exactly.

Q. Was it a month, or more than a month ago?
A. It has not been a month, no, sir.

Q. Did you ever see him on his farm? A. Yes, sir. 30

Q. In the last year? A. Yes, sir.

Q. What was he doing on his farm? A. He wasn't doing any hard work, I seen him sort of walk-

ing around like that, you know, I would not see him in the field doing any hard work.

Q. Was he cultivating? A. No, sir.

Q. Walking around, you say? A. Yes, sir.

Q. And did he have help there at the time? A. Yes, sir.

Q. The same help that he had a year ago? A. I believe he has, yes.

Q. Is it the fact he has had that help for several 10 years, some help? A. I think he has.

Q. You didn't find any change then from the previous year? A. I have not been over his farm to see what help he did have on his farm, when I would see him was when I would be going past his farm, something like that.

Q. He looks the same, doesn't he? A. No, sir.

Q. And what did he do a year ago on his farm, if you know? A. A year ago?

Q. Yes. A. Well, he didn't do a whole lot a 20 year ago.

Q. Did you visit him at his home when he was sick? A. No, sir, socially I never visited Mr. Snyder.

Q. How far do you live away from him? A. I have lived within about a mile practically all my life.

MR. GREENBLATT—That's all.

MR. DAVIS—That's all.

WESLEY RAINE, Sworn.

By MR. DAVIS:

Q. You live at the intersection of the Harding Highway and the Perkintown Road, don't you? A. Yes.

Q. Across the road from the Holmes place? A. Yes, sir. 10

Q. And do you remember the date Mr. Samuel Snyder met with this accident at your place? A. Yes, sir.

Q. It is said here to be on the 19th of April, 1933. Is that about to your recollection? A. Right there, yes, sir.

Q. Where were you at the time of this accident? A. I was working in a spotting bed right along the road. 20

Q. That's a sort of hothouse? A. I had my head in a spotting bed when it happened, of tomato plants.

Q. This spotting house, or hothouse, runs along, sort of along the Perkintown Road, doesn't it? A. Yes, sir.

Q. It is directly outside your house? A. Yes, sir.

Q. Did you see these cars coming? A. No, sir.

Q. You, of course, paid no attention to them that way? A. No, sir. 30

Q. Who was working with you? A. The boy.

Q. Grandson? A. Yes, grandson.

Q. What was the first thing that attracted your attention, Mr. Raine? A. Kind of a slam-bang.

Q. A noise? A. Yes, sir.

Q. I suppose you looked up at that, didn't you?

A. Yes, sir, when I looked up the car had about made its last flop, and he wasn't very far from me.

Q. Coming towards you? A. I was about ready to move, yes, sir.

Q. Was it coming to you head-on, or otherwise?

A. Right this way sidewise, first the wheels was up, then the top, as near as I could figure it out.

Q. Turning over, was it? A. I don't know how
10 many turns it made, I couldn't say.

Q. Then it came to a stop against what? A. A little old pole I had sticking up there.

Q. Was it a stop sign? A. Yes, sir.

Q. And you are speaking now of Mr. Snyder's car, aren't you? A. Yes, sir.

Q. Did you see the other car? A. Yes, sir.

Q. And where did that stop? A. That was on the road, as near as I can tell, heading towards Penns Grove, when I saw it.

20 Q. Heading towards Penns Grove when you saw it? A. Yes, standing still, see.

Q. But you had been just lifting that . . . A. I had just lifted it out of the bed.

Q. How far east of the Perkintown Road was this Chandler car? A. Not very far.

Q. How far? A. Maybe 20 feet from the center of the road, I don't think it was any further than that.

30 Q. I called it a Chandler, it was a Nash car I am speaking about. A. A Nash car, yes, sir.

Q. That was about 20 feet from the intersection of the Perkintown Road? A. Yes.

Q. Turned around? A. Yes.

Q. And headed towards Penns Grove? A. Yes.

Q. Then what did you do, Mr. Raine? A. Well, I didn't hear any noise in the car, didn't hear anything moving, so I told the boy, I said, "You had better see . . .

MR. GREENBLATT—Don't tell us that.

Q. What did you do? A. I told the boy he had better go and see how many was dead in the car.

MR. GREENBLATT—I ask that be stricken.

10

Q. What did you do then? A. The boy, he went over to the car, I stayed where I was around the bed.

Q. Did you finally go over to the car? A. After while, yes, sir.

Q. What did you see? A. Pulled Mr. Snyder out of the top of it, helped do it, and set him on the road.

Q. How did he look at that time? A. I don't know which looked worse, him or the car, they both was tore up, as near as I could see. 20

Q. What did you notice about his appearance? A. His hand was tore up, he could not hardly walk on one of his legs.

Q. Bleeding? A. Yes.

Q. Was there any blood on his face? A. Maybe there was, I would not say.

Q. But you did see some blood? A. Yes.

Q. You say he could hardly stand? A. Well . . . 30

Q. Did you say anything to him? A. He could navigate, I asked him if he was hurt, and he said he was.

Q. Where was the Nash car? A. The Nash car was out on the road, the main road.

Q. And where were the occupants of that car, did you see them? A. I didn't take notice at the time, no.

Q. Did you see any marks on the road? A. No, sir, I didn't look for any.

Q. You didn't look at any time? A. No, no, sir, I didn't bother with them.

MR. DAVIS—Cross examine.

10

CROSS EXAMINATION

By MR. GREENBLATT:

Q. You didn't take much interest in that accident at all, did you? A. I was working, I was busy.

20 Q. You were working and busy, and you didn't take any interest? A. Sure, I wanted to see who was hurt, and tried to help them out.

Q. You didn't know where the occupants of the Nash car were? A. I didn't take notice, in a second there was several people there.

Q. You sent your grandson, how old was he? A. He is about 19 or 20, I guess.

Q. You sent him to take a look and see? A. I told him he had better see if anybody was hurt.

Q. You told him to see if anybody was hurt? A. Yes.

30 Q. You didn't tell him to see if anybody was dead, as you a minute ago said? A. Yes.

Q. Which is the truth? A. I told him he had better go see if anybody was killed in that car, because I didn't hear no commotion of no kind.

Q. So you will have it that way now? A. Yes, sir.

Q. After he went there, did you follow him at any time afterwards? A. Sure, 15 or 20 minutes after, I was all around there, you know.

Q. 15 or 20 minutes after you came out to the car, and which car did you first go to? A. I went to the one closest to me, the one tore up outside.

Q. That was resting against the top sign? A. Yes. 10

Q. I think you say when you looked up the car took its last flop? A. Yes, about when I got straightened out.

Q. You don't know whether it had flopped before that, of your own knowledge? A. I would not say, no.

Q. When you saw it, it took a flop on its side? A. It did.

Q. You can't say on your oath that it took any flops before that? A. I couldn't say it took any more than one. 20

Q. It rested against this stop sign? A. Yes.

Q. Immediately afterwards, Mr. Snyder came out through the top? A. Yes, sir.

Q. Was it your grandson that helped him out? A. He was right there.

Q. He helped him out? A. He was one of them, he was right there, whether anybody else was there or not, I couldn't say.

Q. Mr. Snyder's hand was bleeding? A. Yes, sir. 30

Q. Do you remember which hand it was? A. No, I do not.

Q. And that's about all the blood you saw? A. Yes.

Q. And he walked? A. Yes, sir.

Q. And he talked? A. Yes, sir.

Q. And that was immediately after the accident?

A. Yes, sir.

Q. The Nash car was on the concrete highway, wasn't it? A. Yes, sir.

Q. When you looked at that car was it standing
10 still? A. Yes.

Q. That car didn't move at all after the collision?

A. No, sir.

Q. And stayed just where the accident occurred?

A. Yes, sir.

Q. How long did Mr. Snyder stay around there?

A. I would not say, not very long, I imagine he was there 15 or 20 minutes, maybe longer, a little bit.

Q. After that some neighbor of his came along and took him to Penns Grove? A. Somebody took
20 him, I don't know who.

Q. Was it a man or a woman? A. I couldn't say.

Q. You don't know who took him? A. No.

Q. You don't know whether it was a woman? A. No.

Q. Or whether it was a man? A. No, sir.

Q. Do you know in what sort of a car he was taken? A. How is that?

Q. Do you know what sort of a car? A. No, I
30 do not.

Q. Was it a truck? A. I couldn't say, I didn't see him leave.

Q. Was there anybody else there at the scene of the accident outside of you and your grandson? A.

There was quite a few people there, I don't know who they were, because there's a car going by there every few minutes.

Q. You didn't see either one of these cars until you heard the collision? A. No, sir.

MR. GREENBLATT—That's all.

By MR. DAVIS:

Q. Where did this Nash car stand when you first saw it, after the accident? A. It stood on the Harding Highway, but it was headed towards Penns Grove, and about 20 feet from the corner, that is, the middle of the road where it comes across. 10

Q. About 20 feet? A. I imagine so.

Q. That was east on the Highway? A. Yes.

Q. East of the Perkintown Road? A. Yes.

Q. Of course, you don't know where the accident occurred? A. No, sir, I didn't see it. 20

MR. DAVIS—That's all.

MR. GREENBLATT—That's all.

JOHN JORDAN, Sworn.

By MR. DAVIS:

Q. You are the grandson of Mr. Raine, that was just on the stand, aren't you? A. Yes, sir.

Q. Were you working with your grandfather the day that this accident happened to Mr. Snyder? A. Yes, sir.

Q. You know Mr. Snyder? A. Only I never saw him before that day.

Q. This is the man sitting here (indicating) that was in that accident? A. Yes, sir.

Q. What were you doing, John? A. Plucking tomatoes.

Q. Did you see these cars, either of them, before the accident occurred? A. No.

Q. You didn't see either of them coming down the road? A. No.

Q. What was the first thing that called your attention to the accident? A. I heard them hit together.

Q. You heard them come together, then what did you do? A. I looked up.

Q. What did you see? A. Saw a car rolling over.

Q. Saw a car rolling over? A. Yes, sir.

Q. Did it roll over? A. Yes, it rolled all the way over.

Q. And which car was that? A. Essex.

Q. Was that Mr. Snyder's car? A. Yes, sir.

Q. Or the one he was in? A. Yes, sir.

Q. Did it roll over more than once, did you see it roll over more than once? A. I saw it roll about once.

Q. When it came to a standstill where was it? A. Up against the stop sign.

Q. How far was that away from where you were working? A. About 50 feet, I guess, not that, I guess about 30 feet.

Q. Then what did you do? A. I didn't do anything.

10

Q. Yes, you did, John, you did something, what did you do? A. My grandfather told me to go over there.

Q. Did you go? A. Yes, I tore the top off the car, and helped him get out.

Q. When you started to tear the top off the car, was anybody there? A. Anybody, not right then.

Q. Who helped you to get him out? A. Nobody.

Q. Did you see Mr. Vogel? A. No, sir.

20

Q. The man that testified here this morning? A. Never saw him.

Q. You didn't see him? A. No.

Q. You don't know what time he got there? A. No.

Q. Were there other people there? A. Afterwards.

Q. After what? A. After the accident, 10 or 15 minutes afterwards.

Q. There was a lot of people came there very shortly after the accident, John? A. Yes.

30

Q. And then what did you do? A. I helped him walk over a little ways.

Q. Helped what? A. Over to the other car.

Q. You helped who? A. Mr. Snyder.

Q. Did you see the Nash car? A. Yes, I saw it.

Q. Where was that? A. Out on the Harding Highway.

Q. Whereabouts on the Harding Highway? A. It was about 20 feet east of the intersection.

Q. 20 feet east of the intersection, and what way was it headed? A. Pointing towards Penns Grove.

Q. You don't know which way the car came from, 10 do you? A. No.

Q. And was it standing still, or moving? A. Standing still.

Q. Was anyone in it, or was it empty when you looked at it? A. Two women were in it.

Q. Did you see them get out? A. Yes.

Q. Recognize this young lady sitting here (indicating)? A. She was driving it.

Q. She was the driver of that car? A. Yes.

Q. She was the driver of the Nash car, is that 20 right, John? A. Yes.

Q. You saw this young lady sitting here get out from the car, did you, from this Nash car? A. I couldn't say, one of them got out, the other one sat in it.

Q. You saw her doing the driving? A. Yes.

MR. DAVIS—Is it admitted this is Mrs. Bicking?

MR. GREENBLATT—Yes.

30

MR. DAVIS—Cross examine.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. You didn't see the accident at all? A. No.

Q. You saw neither car in motion before the accident? A. No.

Q. You saw the Essex car, in which Mr. Snyder was, turn over once, you say? A. Yes, once. 10

Q. And it didn't turn completely over, but it fell over on its side? A. No, it turned over, and then rested on its side.

Q. It turned over and rested on its side, isn't that right? A. Yes.

Q. And the wheels were . . . A. Pointed north.

Q. Towards Atlantic City? A. No.

Q. Pointed towards Penns Grove? A. Pointing towards Pedricktown. 20

Q. It wasn't resting on its wheels? A. No, on its side.

Q. On the right side or the left side? A. On the left side.

Q. Was it fully over on one side? A. Yes.

Q. That's what you saw? A. Yes.

Q. You didn't see it make a complete turn all the way around, did you? A. I couldn't be sure about that.

Q. What? A. I couldn't say sure about that. 30

Q. You didn't see it, did you? A. No.

Q. You didn't go anywhere near the scene of the accident until you were told to do so? A. I didn't move.

Q. You didn't move? A. No, for about a minute, I guess.

Q. You didn't see Mr. Vogel around there? A. No.

Q. You know him, don't you? A. No.

Q. Did you see the car in which this gentleman was taken away? A. See what?

Q. Did you see the car in which Mr. Snyder was taken to Penns Grove? A. No, I didn't.

10 Q. Do you know who took him to Penns Grove? A. No.

Q. Do you know whether it was a lady or a man that took him to Penns Grove? A. I didn't see him go.

Q. You didn't even see him go? A. I know he left, but I didn't see him go.

Q. How long did Mr. Snyder stay around there? A. Not very long.

20 Q. Was this your grandfather that preceded you on the witness stand? A. Yes.

Q. You were in the courtroom when he testified? A. Yes.

Q. You heard him say 15 or 20 minutes?

MR. DAVIS—Don't answer, I object to it, you can't ask questions of one witness based upon the testimony of another witness.

THE COURT—Sustained.

30 Q. How long will you say Mr. Snyder stayed around there? A. 10 or 15 minutes, not very long.

Q. What was he doing during those 10 or 15 minutes? A. He wasn't doing anything but standing around.

MR. GREENBLATT—That's all.

MR. DAVIS—That's all.

MARY RAINE, Sworn.

By MR. DAVIS:

10

Q. What is your first name? A. Mary.

Q. You are the wife of Mr. Raine, who was on the stand a while ago, aren't you? A. Yes.

Q. And grandmother of this boy, John? A. Yes, sir.

Q. Of course, you live at home with your husband there, at the corner of the Harding Highway and the Perkintown Road, don't you? A. Yes.

20

Q. How long have you lived there? A. About 26 years.

MR. DAVIS—I wish you would talk out.

THE WITNESS—26 years.

Q. Where were you when this accident occurred?

A. I was in the house.

Q. You didn't see what happened then, did you?

A. No, sir.

30

Q. Did you hear anything? A. I heard it, but I didn't see it.

Q. When you heard it, what did you do? A. After I heard the accident, then I walked to the win-

dow and looked out, and then I walked away, and I didn't go out at all.

Q. Did you see Mr. Snyder? A. No, I didn't see Mr. Snyder.

Q. So you didn't go out at all to the scene of the accident? A. No.

Q. Is that all you know about it? A. That's all I know.

10 MR. DAVIS—Cross examine.

CROSS EXAMINATION

MR. GREENBLATT—No questions.

MR. DAVIS—That's all.

20

WALTER ZALUSKI, Sworn.

By MR. DAVIS:

Q. Where do you live? A. Penns Grove.

Q. Are you a dealer in automobiles? A. Yes, sir.

30 Q. Did you sell an Essex car to Miss Snyder? A. Yes, sir.

Q. Do you know whether it was the car that figured in this accident? A. Yes, sir.

Q. And when did you sell it to her? A. 1929.

Q. What was the price of it? A. The selling price was \$850.

Q. And did you see it before this accident, did you see this car in February of 1933? A. Yes, I seen it before February, I don't know exactly when.

Q. About that time? A. Yes.

Q. Did you look at it? A. Yes.

Q. And examine it? A. Yes.

Q. Was that done with the idea of seeing what condition it was in, or not? A. There one time we had talked about trading it in, and we appraised the car at \$350 to \$420. 10

Q. You appraised the car at that time at \$350 to \$420? A. Yes.

Q. In your opinion was that the fair market price of the car at that time? A. At that time?

Q. At that time? A. Yes.

Q. Is it your opinion that was the fair market price of the car? A. Yes, sir. 20

Q. The accident occurred, it appears here, on the 19th of April. How long before that was it you examined this car? A. The car was two years old.

Q. How long before April 19th was it you had looked at this car, and appraised it at \$350 to \$420? A. That was around Christmas.

Q. And what do you think it was worth on the 19th of April? A. It was not worth anything.

Q. I mean before the accident. A. Before the accident, \$350.

Q. Did you see it after the accident? A. I didn't see it, quite a while ago I seen it, a year afterwards. 30

Q. Where did you see it? A. In Mr. Snyder's yard.

Q. What condition was it?

MR. GREENBLATT—I think that's objectionable, a year afterwards, after the collision.

THE COURT—One year after the collision?

MR. DAVIS—I am going to show the car was in identically the same condition it was at the time of the accident.

10 THE COURT—Very good.

Q. I show seven pictures here, marked P-1 for identification, and ask you to look at them and tell us whether or not the car was in that condition at the time you saw it after the accident? A. That's right.

Q. When you saw it could it have been repaired?

A. It was beyond repair.

Q. What was it worth, if anything? A. Not
20 over \$25.

Q. Did you take it in trade, or buy it? A. I took it for an old car, a lady, she thought she could use it around the farm.

MR. DAVIS—Cross examine.

CROSS EXAMINATION

30 By MR. GREENBLATT:

Q. Where did you see the old car? A. Standing in the back yard.

Q. What kind of car was this? A. Essex coach.

Q. And did you know what a new car of that type, an Essex coach, sold for in 1933, at the time of the accident? A. A new car in 1933?

Q. Yes, what did a new Essex coach sell for in 1933? A. A new Essex coach sold for \$870 at that time.

Q. You know this car was three years old, wasn't it? A. Yes.

Q. At the time of the accident? A. Yes.

Q. And you still thought it was worth \$350? A. 10
Yes, sir.

Q. Do you know what the blue book value of that was?

MR. DAVIS—I object to that. Judge Palmer ruled on that question yesterday, and I think correctly, on the ground that what the blue book says is pure hearsay. A car, this man puts a value upon it, upon looking at the car, and seeing what condition it is in, how much it has been used, how many 20
miles it had on it. You see the blue book, as I understand, if a car is taken out of the warehouse in 1933, in 1933 the blue book value is so much, whether it ever ran a mile, or not.

THE COURT—I know that.

MR. DAVIS—So it seems to me it's utterly incompetent and irrelevant.

THE COURT—Do you have any authorities on it? 30

MR. DAVIS—Except Judge Palmer ruled that way yesterday. I have no adjudicated cases on it.

MR. GREENBLATT—It's always been admitted in cases I have been in heretofore, as a guide to the Jury.

THE COURT—I should say it would not be conclusive, but I think possibly it might be an element they might consider, together with his testimony.

MR. DAVIS—I will withdraw my objection.

10 THE COURT—I will allow it as an element.

Q. Do you know what the blue book value of that car was in April, 1933? A. I didn't pay any attention about the blue book in 1933.

Q. Do you know what it was? A. No.

Q. This figure of \$350 or \$400 was far in excess of the blue book value, wasn't it?

20 MR. DAVIS—He said he didn't know.

THE COURT—Will you repeat the question?

(Question repeated.)

MR. DAVIS—I object to it, on the ground that the witness has already stated he didn't know anything about the blue book.

30 THE COURT—Then he would not know, he ought to be able to say that himself. Answer the question.

A. The blue book, we didn't go at that time by the blue book, we went by the condition of the car.

Q. As a matter of fact, the blue book value was lower than what you are saying? A. Yes, it was lower, we are supposed to do that.

Q. A lot lower? A. I don't know how much lower.

Q. How long had you been in the automobile business? A. Since 1929.

Q. What cars do you sell? A. Hudson and Essex.

Q. You sell the Essex car today? A. Terra- 10 planes today.

Q. You sold this car originally to Mr. Snyder? A. Yes.

Q. Or to Miss Snyder? A. Yes.

Q. When this car was damaged in this accident, you traded it in for another car, did you? A. I did, for a used car.

MR. GREENBLATT—That's all.

20

By MR. DAVIS:

Q. You sold them the truck, didn't you? A. A business coupe.

Q. What you sold them was a business coupe, it has a truck in the back? A. That's right.

MR. DAVIS—That's all.

30

ETHEL SNYDER, Sworn.

By MR. DAVIS:

Q. You are one of the plaintiffs in this case? A. Yes.

Q. You are the daughter of Mr. Samuel Snyder here, aren't you? A. Yes.

10

MR. DAVIS—Please talk out.

Q. And did you own the automobile that figured in this accident, Miss Snyder? A. I did.

Q. And how old was it? A. It was a 1929 model.

Q. You paid for it what? A. \$860.

Q. How many miles had it been run? A. Approximately 30,000.

20 Q. And you have seen these pictures here, P-1 for identification, have you not? A. I have.

Q. Does that truly represent the condition of the automobile after this accident? A. It does.

Q. Before this accident what condition was your car in? A. Very good.

Q. You had taken good care of it, had you? A. Tried to.

Q. How old is your father? A. He will be 78 next month.

Q. 78 next month? A. Yes, sir.

30 Q. And what was his condition of health before this accident? A. Very good.

Q. His farm has how many acres? A. I think about 58 or 59 acres.

Q. What does he grow on it? A. Tomatoes, peppers, egg plants, corn and sweet potatoes.

Q. How long have you been on that farm? A. I think somewhere about 19 or 20 years.

Q. During all that time has your father farmed it? A. He has.

Q. What did he do on that farm before this accident? A. We only had one man that was there, all the time, with the exception of the pickers that we would have for tomatoes, and the cutting of the as- 10
paragus, and we had some asparagus, too, and outside of doing those things, he just had one man and himself.

Q. Did he do any of the work? A. He did at that time, before the accident.

Q. Did he do all sorts of work around the farm? A. Yes, he did.

Q. What was the condition of his memory before this accident? A. Very good.

Q. What was the condition of his health? A. 20
Very good, he never had a doctor before.

Q. Never had a doctor? A. Never had a doctor before.

Q. I am not going to ask you how old you are, but during all the time you have known your father, did you ever know him to have the services of a doctor? A. Never.

Q. Of course, up to the time of this accident? A. Never had a doctor.

Q. And you say the condition of his memory, and 30
of his mind and everything generally, was good? A. Very good.

Q. What has been the condition of his health since this accident, I suppose . . . Strike that. I

suppose you heard of this accident shortly after it happened, didn't you? A. I didn't know of it until Friday night when I came home from my work.

Q. You work in Trenton, you are secretary to one of the Justices, are you not? A. I am.

Q. When you came back on Friday night, what condition did you find your father in? A. He was in bed.

Q. What was the condition of his health? A.
10 Well, his leg was bandaged, and his arm, and he was very much bruised, and he cried when he saw me, and he was in a very nervous condition.

Q. Was he suffering any pain? A. His back was the principal thing.

Q. Go ahead and tell me how he got along, and what you noticed about him. A. I know he was in bed, more or less, all that summer, and we had to have someone to attend to all the work, he couldn't do anything, even supervising, until after . . . We
20 had to get an extra man, until after October, the last of October.

Q. This was the 19th of April, and you say until the last of October you had . . . A. After the sweet potato crop was harvested.

Q. That was in October? A. Last of October.

Q. You had an extra man? A. Yes.

Q. Was that occasioned by reason of the fact that your father was unable to do this work? A. It was, entirely.

30 Q. How long was he in bed, if you know? A. I think between six and eight weeks.

Q. After he got out of bed, was he able to do anything at all? A. No, he wasn't, and this year, why, he does go out and around the farm, and we have

had to have extra help beside the regular man we always have.

Q. That's during this year? A. And he really doesn't do the supervising, to any great extent, because I was home over two months this summer, and I had all the ordering over the phone of the baskets and things we have to have, and attended to any bank matters, and his memory is not good, that's all.

Q. His memory is not good? A. No, it isn't.

Q. You have noticed that has failed since this accident? A. Yes, and he is in a very nervous state. 10

Q. What do you notice about his nervous condition? A. Well, if we talk now about anything that's out of the ordinary, or, I know my mother was taken sick a few weeks ago, and it upsets him, and he cries, and I don't know what you would call it, whether you would call it just a nervous reaction, I suppose, from the accident.

Q. You say he cries at anything that's unusual? A. Yes, and he never did that before. 20

Q. His memory is not as good as it was? A. Very poor.

Q. What do you notice about any complaints about his back? A. Well, that's the worst feature, that's the reason he can't do anything on the farm, because farm work is heavy, and he can't lean over, like going out in the field, or laying tomatoes, like he could two years ago, he can't do that now.

Q. Why? A. Because his back is so bad.

Q. Did he have any complaint of that kind before this accident? A. Never. 30

Q. What else do you notice about him, if anything? A. Well, I don't know that there is anything, except there seems to be this nervous condition that

never existed before, and his memory, and he does complain of his back continually.

Q. What about his strength, has he got as much strength as he had before? A. No, because he can't do things that he formerly did. He can't go out in the field, he can't drive any truck, or drive a car, he has never driven a car since, and he doesn't even drive a team of horses.

Q. Is it because he is unable to do it? A. Be-
10 cause he is unable to do it, he hasn't the strength to manage them.

Q. Do you know what was paid to the extra man for the year 1933? A. I think he came around on the 20th or 21st.

Q. Of what, April? A. April, 1933.

Q. Yes. A. And we paid him \$1 a day, and gave him his board, that was for every day during the week.

Q. \$7 a week and his board? A. And his board.
20

Q. And that was from April 20th, you think? A.
20th or 21st

Q. Until . . . A. The last of October.

Q. Would you say October 30th? A. Around the 30th, yes, sir.

Q. When did he come this year? A. Well, we haven't had him regularly, but during the setting out the tomatoes and during the rush season of asparagus and that, we have had him in three or four times a week, whenever we would find we would have to
30 have him, approximately, about three days a week.

Q. During this whole season? A. During this whole season. During this month we have not had to have anyone there before.

Q. That's September? A. That's September.

Q. So that during 1934 you have had a man about three days a week? A. About that.

Q. Beginning what time, Miss Snyder? A. Well, during the asparague time we had to have him for a week.

Q. When did he come there to go to work? A. Around in April, April of this year again, the latter part of April.

Q. Suppose we say May 1st, that would be certain, wouldn't it? A. All right. 10

Q. May 1st to say until September 1st? A. May 1st to about August 15th, probably.

Q. August 15th? A. Yes, and then next month when we start on sweet potatoes we will have to have him all the time beside our regular help.

Q. Was there any other expenses attached to this illness of your father's? A. Except the doctor bill.

Q. Was there any other help that your father was called upon, or required to have? A. Beside this one man we had that we had to have to get out the tomatoes, we had to have two outside men. 20

MR. GREENBLATT—There's been some testimony presented showing that they employed one extra man. Now, I think the young lady is about to testify that they employed more than one extra man to replace the father. That, apparently, to me seems impossible.

THE WITNESS— Not when you are setting out 30 tomatoes, it isn't.

MR. GREENBLATT—It seems to me it would only take one man to replace her father, placing or setting out tomatoes.

THE COURT—Unless he's an unusual man.

MR. DAVIS—If there was no man in your office, it would take two men to do your work.

THE COURT—You don't want to be personal that way, that's rather embarrassing to the Court, see what I mean?

10 MR. DAVIS—I mean when the boss is away, no hired man does the work his boss does.

THE COURT—No.

Q. What I am trying to find out, this extra man . . .

MR. GREENBLATT—Exception.

20 (Exception noted for defendants.)

Q. What I am talking about is this extra man that you had in putting out the tomatoes. Was that the usual thing, or was it occasioned by reason of your father's inability to attend to his business? A. In a sense it was, because he had to have them, because he was not there just to supervise them himself, and tell them how they should do, you see, and it really required two extra, because the other man we had, just for three or four days, probably at that
30 time.

MR. GREENBLATT—Then I will waive that question, it doesn't appear to be great, and I will waive that question.

Q. Was there anything else you know, Miss Snyder, about it? A. No, that's all I can recall.

MR. DAVIS—Cross examine.

(At this time a recess was taken until 10 o'clock A. M., tomorrow, Wednesday, September 26th, 1934.) 10

Salem, N. J., September 26, 1934.
Trial of the cause resumed at ten A. M.

20

ETHEL SNYDER, resumed.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. Now, Miss Snyder, I think you testified yesterday that your father always employed one extra man on the farm—A. That's right. 30

Q. —before the accident? A. That's right.

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

Q. That means that your father and one man usually did all the work on the farm? A. No, I don't mean that.

Q. Except during the rush season, when you needed extra help? A. Yes, and also he had Italians for the picking of—

Q. He had extra pickers? A. Yes.

Q. I mean for the regular work on the farm throughout the major part of the year he just employed one man besides himself for that purpose?

A. Except during the rush time.

Q. Except during the picking season? A. Yes.

10 Q. Or other rush time? Yes.

Q. And that was extra. Were you present at the time your father was examined by a Supreme Court Examiner in the office of your father's counsel, Mr. Davis, in Camden? A. I was.

Q. For the purpose of refreshing your memory, that was on August 11, 1933? A. Yes.

Q. You remember that, don't you? A. I don't know whether that was the date. I know I was present.

20 Q. You know what a legal document is, depositions, when you see one, don't you? A. I do.

Q. And you see that before you? A. I do.

Q. You see the date on it? Is it August 11th? A. It is.

Q. You were present when your father was examined by me? A. Yes.

Q. Do you remember having him testify to questions as follows—

30 MR. DAVIS—I object to it. She did not have him testify to anything.

(The question was withdrawn.)

Q. Do you remember hearing your father testify in your presence as follows—

MR. DAVIS—I object to that. This is outside of her case and prying into the case of Mr. Snyder. It certainly can have no relevancy whatsoever. She cannot be called upon to comment upon the testimony of her father as to whether it is true or false and it cannot be used for the purpose of impeaching or contradicting her. 10

THE COURT—It is not covered by the direct examination?

MR. GREENBLATT: Yes. She testified herself yesterday and repeated it this morning as to what extra help was employed on that farm. That is her direct examination, repeated this morning, for the purpose of refreshing her memory. 20

MR. DAVIS—And now he wants to ask her if her father did not testify to something contrary.

THE COURT—That is objectionable.

(An exception was noted for the defendants.)

SAMUEL P. SNYDER, Sworn.

DIRECT EXAMINATION

By MR. DAVIS:

- Q. Your name is Samuel P. Snyder, is it not? A. Yes, sir.
- 10 Q. Mr. Snyder, you are not accustomed to the witness stand, but if you will just take your hand down we can hear you a lot better. A. All right, sir.
- Q. You are a farmer, are you not? A. Yes, sir.
- Q. And your farm is at Pedricktown, New Jersey, is it not? A. Yes, sir.
- Q. Were you born there, Mr. Snyder? A. I was.
- Q. How many years ago was that? A. Well, I was born there in 1858. Fifty-eight years now.
- 20 Q. What is that? A. Seventy-eight years.
- Q. That is better. You were born there seventy-eight years ago? A. Yes, sir.
- Q. And you have lived in that one neighborhood all your life? A. Never moved out of it.
- Q. How long have you been on the farm which you now occupy? A. I bought it in 1911 and moved there in 1912.
- Q. How many acres does it have? A. Fifty-eight and a half.
- 30 Q. Have you been farming that farm during all these years, Mr. Snyder? A. All these years but the last two, to do the main work.
- Q. What was the state of your health before this accident in 1933, Mr. Snyder? A. I never had a

doctor in my life until this. Never was in bed before in my life. That is saying a good bit.

Q. You mean from illness, of course. A. Yes.

Q. Never had a doctor? A. Never went to bed until then.

Q. And did you do some of the work on the farm?

A. At that time?

Q. Yes, during those years. A. I certainly did. Done more than any man I had.

Q. Does that apply to the year before you had 10 this accident? A. Yes, sir.

Q. You were then seventy-six years old, weren't you? A. Seventy-seven, wasn't I? Well, yes, seventy-six.

Q. About that? A. Yes.

Q. And your health was good then, wasn't it? A. Yes, sir.

Q. Your eyesight good? A. I should say so. Don't wear no glasses, hardly, to read with.

Q. And your hearing is good? A. Fine. 20

Q. This was your daughter's car that you were driving on that day, wasn't it? A. Yes, sir.

Q. Where had you started from and where were you going? A. I left home about nine o'clock, somewhere along there, and started down from Pedricktown to Perkintown on the new concrete road—not concrete, but gravel road, going to Salem.

Q. You were coming to Salem? A. Yes, sir. When I got—

Q. That was going southward, wasn't it? A. 30 Yes, sir, going to Salem.

Q. Did anything happen to you before you got to this crossing? A. Not anything happened to me, only I saw a car coming—

Q. Just a minute. Take your time. We will get there. Was anyone riding with you? A. No, sir.

Q. You were familiar with this road, weren't you? A. Yes, sir.

Q. You had travelled it frequently? A. Yes, sir.

Q. Did you know who lived in the corner there on the right-hand side? A. I did.

Q. This man Holmes? A. Yes, sir.

Q. Did you know who lived on the opposite corner? A. Yes, sir, Mr. Raine.

Q. As you approached that road, was it your intention to go across or turn? A. My intention was to go straight across.

Q. Was there a stop sign— A. Yes, sir.

Q. —on the right-hand side of that road as you approached it? A. Yes, sir.

Q. Just take your time and in your own way tell us what happened, what you did and what happened.

A. Well, when I had stopped on the stop street—

20 Q. You haven't stopped yet. You were travelling along the road? A. Yes, sir.

Q. Did you stop? A. Yes, sir.

Q. Where did you stop? A. Right by the stop sign.

Q. That is on the near side of the road? A. Yes, sir.

Q. Did you bring your car to a complete stop? A. Yes, sir.

Q. And then what did you do? A. Then I
30 looked to my left.

Q. And what did you see? A. A car coming, and I let it pass, and then I—

Q. You saw a car coming from your left and you allowed that to pass? A. Yes, sir.

Q. During that time was your car standing still?

A. Sure.

Q. After that car passed what did you next do?

A. I looked to my left and looked to my right and I didn't see anything from the left, but I saw a car coming from the right.

Q. Where was that car that you saw coming from your right? A. Down by the—those—that house on the left there, coming this way. Down there by the garage.

10

Q. That garage is on the right-hand side going towards Pennsgrove? A. Yes, sir.

Q. How far away is that from this crossing? A. I should judge four hundred yards.

Q. There was nothing between you and that car, was there? A. No, sir.

Q. That is, there was no turn in the road and no buildings? A. No, sir.

Q. Nothing of the sort? A. No, sir.

Q. You say that car was four hundred yards away, in your judgment? A. Yes, sir.

20

Q. Have you ever measured that distance? A. No, sir.

Q. Why do you say four hundred yards? A. Well, because I think it is that far.

Q. Are you familiar with that distance? Have you travelled that road? A. Sure. We go that way when we go to Pennsgrove.

Q. Did you see anything unusual about that car that was coming to you? A. Well, I thought she was making an ordinary speed at first.

30

Q. When you looked at that car four hundred yards away and looked to the left and had seen there

was nothing coming, what did you next do? A. Then I looked to the right and I saw that car.

Q. And then what did you do? A. Then I started to cross. Thought I had plenty of time to go across.

Q. What gear did you start your car in? A. On second.

Q. You started it on second? A. Yes, sir.

Q. Does your car move fast or slow in second?

10 A. Very fast.

Q. Very fast? A. Yes, sir.

Q. Well, did you shoot out or did you go at the ordinary rate of speed? A. I went across in second, good.

Q. Then what happened to you? A. Well, the last I knew is when the car struck me.

Q. And where were you? A. My front part of the car was on the gravel road and the rear was very close to it, I think.

20 Q. Then what happened? A. Well, that's all I did know.

Q. Was there anything to obscure or to prevent the driver of the other car from seeing you? A. No.

Q. You were struck, then? A. Yes, sir.

Q. Were you conscious or unconscious after that?

A. Well, I knew nothing when they taken me out of the car.

30 Q. While you were in the car after the accident up until the time that they took you out, did you know anything? A. No, sir.

Q. When did you come to consciousness? A. Well, I couldn't tell you how long it was, really.

Q. Where were you when you came to conscious-

ness? A. When they led me out of the car and came up to where the other car stood.

Q. Then how did you feel? A. I couldn't see nothing, hardly. I was dazed.

Q. Then how did you feel? Did you have any pains or aches or anything? A. I certainly did.

Q. Where were your pains and aches? A. Head, back and arms and legs.

Q. Go ahead and tell me just what happened to you. A. Well, then Mrs. Gaventa came there and took me to Dr. Sutter at Pennsgrove and he dressed my wounds. 10

Q. Where were you wounded? A. This arm, this leg.

Q. That is your left leg? A. Left leg.

Q. Your right arm? A. Right arm, and my face was full of glass.

Q. Anywhere else did you have any pains or aches? A. In my back. That was the main thing, my back. 20

Q. After you went to Dr. Sutter's office where did you go? A. Home the same way we went down.

Q. So they did bring you back to this— A. That's the way we mostly come and go home, you know.

Q. Then you were taken home and put in bed, were you? A. Yes, sir.

Q. Then how did you feel? A. I felt mighty rough, tough.

Q. That doesn't tell us anything. Where did you feel any pain, if you felt it? A. In my back, the same place. 30

Q. Your back? A. Yes, sir.

Q. Did you have any other pains? A. Yes, sir.

Q. Where were they? A. In my legs and arms and face.

Q. Were you sore? A. Surely was.

Q. Was that confined to any one place or was it over your entire body? A. Seemed to be all over me.

Q. Were you in bed? A. Yes, sir.

Q. How long did you stay in bed? A. Why, I judge six or seven weeks. More than that, probably,
10 straight, without ever getting up.

Q. What about your nervous condition? A. Well, there it is. My nerves is gone.

Q. At that time were you nervous? A. No, sir.

Q. I am speaking about after the accident and while you were lying in bed? A. Why, sure I was nervous, yes.

Q. You say you were very nervous while you were in bed? A. Yes, sir.

Q. And you say you were in bed about six or
20 seven weeks? A. I should say so, yes. All of that.

Q. And after you got out of bed what was your condition? A. Well, I couldn't do a thing. I sat up—went out on the porch and sit around.

Q. How did you feel? A. Pretty bad.

Q. Did you do any work that summer? A. Very little. Overseen, told them, probably, some mornings what to do, you know.

Q. Did you go out in the field and do anything? A. No, sir, not that summer, to do work.

30 Q. That is all I mean, and when I say that summer, when did you do any work? A. Didn't do any that Fall.

Q. Didn't do any that Fall? A. No, sir. Had my help right on up until they got my potatoes out.

Q. Whom did you have helping you? A. Well, I had my brother-in-law, for one.

Q. Was that your regular helper? A. Oh, no.

Q. Extra? A. I had a colored man. This makes the tenth year he has been there.

Q. Your brother-in-law, then, was extra, was he? A. Yes, sir.

Q. And what did you pay him? A. A dollar a day and board.

Q. How long was he at your place? A. Why, 10 he was there on up until through October.

Q. When did he come, do you remember? A. He came the first week I was hurt.

Q. What day of the week was it that you were hurt? A. The 19th of April.

Q. That is the day of the month. What day of the week? A. Wednesday, I think.

Q. You say he came that week and stayed through October? A. Yes, sir.

Q. Did you have anybody else? A. Yes, sir, I had to have somebody to help along with the work. 20

Q. Were they steady? A. Well, until they got my sweet potatoes and tomatoes out.

Q. When was that? A. The same year.

Q. I understand, but this was in April that your brother-in-law came? A. Yes.

Q. When did this other man come, this extra man? A. I think he came in to put out tomatoes about the 28th or 29th of April.

Q. Then that is about a week after you were hurt, or ten days? A. Somewheres about that. 30

Q. How long did he stay? A. Well, it took us about two or three weeks to get squared up.

Q. Did you usually employ that man or another

man when you were well? A. Only employed one man and myself and then had a dropper if we had to have sweet potatoes to drop, sprouts, that way. Have a boy.

Q. What did you pay this other man? A. I paid him \$1.25 a day.

Q. Let us understand this thing right, Mr. Snyder. Your brother-in-law is named George? A. Yes, sir.

Q. Did you have another man besides George that
10 you took on regularly? At that time, I am speaking about. A. Well, I had my colored man.

Q. I understand that. You had him all the time? A. Yes.

Q. You had your brother-in-law, George? A. Yes, sir.

Q. He took your place? A. Yes, sir.

Q. Now, did you have another man, still? A. Yes, I just told you I had another man.

Q. That is what I want to make sure about. And
20 he came there, you say, about the 28th or 29th of April? A. Yes.

Q. You paid him \$1.25 a day? A. I did.

Q. Feed him? A. No, sir.

Q. He fed himself? A. Yes, sir.

Q. How long did he stay there, Mr. Snyder, in your employ? A. Why, I imagine it took us about four or five weeks at that time.

Q. He worked there during that time? A. Yes, sir.

Q. Did you have any other man that you did not
30 usually employ during that year? A. No, I don't think I had.

Q. Then, of course, I assume that you had your pickers— A. Oh, yes.

Q. —that you have every year? A. Yes, sir.

Q. Beginning this present year were you able to do any farm work? A. I haven't. Ain't done any.

Q. Why? A. Because my back wouldn't allow it. I couldn't get up or get down.

Q. You have trouble with your back? A. Yes, sir.

Q. Did you have a man employed in your place?

A. Yes, sir.

Q. Whom did you have employed? A. Mr. 10
Lloyd. A fellow by the name of Lloyd.

Q. When did he begin to work for you? A.
Why, he commenced somewheres along—right after I got hurt.

Q. No. I am speaking now about 1934. A. Why,
he commenced about the 1st of April.

Q. 1st of April? A. Yes, sir.

Q. How long did you keep him? A. Kept him
until away in the Fall.

Q. I am speaking of this year, Mr. Snyder. A. 20
Well, he just quit. Just got through with him.

Q. You just got through with him? A. Yes.

Q. When did he go? A. Why, he is down to
Pedricktown can house.

Q. That isn't what I asked you. A. When he
went?

Q. Don't be in a hurry. Take your time. When
did he quit working for you? A. About a week or
ten days ago.

Q. Suppose we say the 1st of September? That 30
would be certain, wouldn't it? A. Yes.

Q. What did you have to pay him? A. \$1.25.

Q. A day? A. Yes, sir.

Q. Did you feed him? A. No, sir.

Q. Have you had any other extra man this year?

A. I did. I had a colored man to help cover all the tomatoes and peppers.

Q. How long was he employed? A. I judge it took us about eight or ten days.

Q. What did you pay him? A. I paid him \$2.50 a day.

Q. For eight or ten days? A. Yes, sir.

Q. Suppose we say eight days. That would be
10 certain, wouldn't it? A. Yes.

Q. That is the only extra help that you have employed this year on account of your illness? A. Yes, sir.

Q. What is the condition of your health now? A. Well, it ain't very good, I can tell you that. Anybody can see it.

Q. How do you feel? A. I feel not able to do much of anything. I can go out around the farm and tell them, probably, what to do.

20 Q. Have you got the strength you used to have?
A. Oh, no.

Q. What is the condition of your back? A. Well, it is always sore.

Q. Do you have any pain? A. I sure do.

Q. Where is that pain? A. Right across the back here.

Q. Do you have any other pain? A. Not of any account.

30 Q. How is your memory now compared to what
it was before this accident? A. Why, it is nowhere near as good. I can't remember much now.

Q. What is your nervous condition? A. Well, very nervous.

Q. Do you feel upset in your mind —A. Yes, sir.

Q. —from time to time? A. Yes, sir.

Q. You are bothered that way, are you? A. Yes.

Q. Do you have any trouble with your heart that you are conscious of? A. Well, there is times I do, but it don't bother me so much now. Nothing like it did at first.

Q. Did you ever have that trouble before this accident? A. Never.

Q. Will you stand up down here on the floor a minute, Mr. Snyder? 10

(The witness left the witness chair.)

Q. I notice you are bent over a little. A. Yes, sir.

Q. Were you that way before this accident? A. No, sir; no, sir.

Q. Are you conscious of the fact now that you are bent over a little? A. Didn't take notice of it much. 20

Q. You didn't take notice of it? A. No, sir.

Q. Can you stoop over there? Can you? A. Yes.

(The witness stooped.)

Q. Stand with your legs straight out? A. No.

Q. Is that the best you can do? A. Yes, sir.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. In 1932, Mr. Snyder, you operated that same farm? A. Yes, sir.

Q. That had the acreage of almost sixty acres, didn't it? A. Yes.

10 Q. And you planted peppers and corn and some hay, I suppose? A. Yes.

Q. And tomatoes? A. Yes.

Q. Had a cow and a horse? A. No, sir. Had horses, but no cow.

Q. And you always employed steady help on the farm throughout the year? A. Certainly.

Q. You always had at least one man throughout the year, or did you have more than one man? A.
20 Sometimes I would have to have somebody to drop sprouts or something like that.

Q. But during the winter season you had one man? A. Yes, sir.

Q. And that was always, I suppose? A. Yes, sir.

Q. Now, during the winter season last year, after the accident, you only had this same one man, didn't you? A. Yes, sir.

Q. Throughout the winter? A. So that during
30 the winter you had no extra expenses because of your accident? You had no extra help? A. No, sir.

Q. The extra help that you got in 1932 before this accident was during the planting season and during

the harvesting? Is that right? A. That is what I said.

Q. And you always got extra help in 1932 and 1931 and back in those years during the harvesting and planting season, didn't you? A. Yes, but—

Q. That is right. And at other times you always had just one man? A. Yes, sir.

Q. In 1933, in April, after the accident, in the place of yourself you employed your brother-in-law, George? A. Yes, sir. 10

Q. And then during the planting season you got some extra help? A. Yes, sir.

Q. And during the harvesting season you got some extra help? A. Yes.

Q. George did the work that you were supposed to do? Isn't that right? A. That's right.

Q. The other extra help were doing the extra work that in other seasons you also employed extra help? A. Oh, no.

Q. In other years? A. I didn't have to have them as long. 20

Q. You had George there, didn't you? A. Yes, sir.

Q. Didn't George do all that you usually did? A. No, I don't think he could do as well as I did.

Q. So did you have to employ two men to do your work? A. I didn't say so.

Q. Well, how many men did you employ to do your work? A. I had two extra men in 1933 on up until late in the Fall. 30

Q. In 1932 how many extra men did you have? A. Two part of the time.

Q. Part of the time? Will you tell the Court and jury for how many weeks you were required in 1933

to have that extra man? You said part of the time. We want to know what part. A. Well, he commenced in April and he laid off one month. That was in July, and then we finished on up until the truck was gone.

Q. Commencing April 20th in 1933 you had two extra men?

MR. DAVIS—He says the 28th or 29th of April.

10

Q. Sometime in April of 1933 you employed George and one other man? A. Yes, sir.

Q. And you kept George and that other man for how long? A. I told you we kept him the whole season.

Q. Except what month? A. The man that took my place was there the whole season, if that is what you want to know.

Q. What I want to make sure of, Mr. Snyder, is
20 whether it was necessary for you to employ more than one man and for how long after your illness. A. I told you about within a month as long as the other man.

Q. I think you said on direct examination that the collision occurred after you crossed, or you said part of your car, at least, was on the shoulder— A. I did.

Q. —I suppose that is what you would call the south shoulder of Harding Highway? A. Yes, sir.

30 Q. Was all of your car on the shoulder or was any portion of it on the concrete? A. I couldn't tell you.

Q. Do you remember—soon after you were hurt you went to bed? A. Yes, sir.

Q. And I think you said you were there seven weeks or thereabouts, or eight weeks? A. Eight.

Q. And Dr. Sutter was your doctor? A. Yes, sir.

Q. And he came to see you eleven times, he said? A. Yes, sir.

Q. What did he do for your back? A. Why, I thought he was going to strap it, but he told me afterwards it didn't need it.

Q. You thought he was going to strap it? A. 10 Yes, sir.

Q. And he told you afterwards that it wasn't necessary? A. It wasn't for that, yes.

Q. So that all that was done for your back was rest in bed? A. My back is not right yet.

Q. No. I asked you what was done. You were just given rest? Is that all? A. Do you suppose I had no pain or nothing?

THE COURT—Answer the question.

20

Q. What medical attention was given to your back? A. Why, bathing and one thing and another.

Q. And what else? A. He examined me.

Q. Any medicines put on your back? A. No. Rubbed some kind of stuff, yes.

Q. And rest? A. Yes.

Q. When was it that you first got out of bed? A. Well, I couldn't tell you just the date.

30

Q. When did you go back to work on the farm? A. I walked over the farm, I suppose, about once towards evening or morning; sometimes during the day.

Q. What did you do? A. Done nothing.

Q. Did you ever do anything on the farm since?

A. Sure I have. I told you that.

Q. Now tell me what did you do on the farm since the accident and when did you first start to do any work on the farm? A. 1934.

Q. In what month? A. Well, I couldn't tell you exactly that.

Q. Did you do any work in 1933? A. Not a bit,
10 only to walk around and try to boss the men.

Q. Do you remember going to Camden with your daughter? A. Yes, sir.

Q. To the office of Mr. Davis? A. Yes, sir.

Q. On August 11, 1933? A. I do.

Q. How did you go to Camden? A. In the car.

Q. In an automobile? A. Yes, sir.

Q. Who drove the car? A. My daughter.

Q. You were at that time very nervous, weren't you? A. Yes, sir.

20 Q. And you had been hurt in an automobile accident? A. Yes, sir.

Q. And in spite of that nervous condition, you again went in an automobile? A. I certainly did. I don't know how else I would get there.

You went to Mr. Davis' office, and do you remember seeing me there? A. Yes, sir.

Q. And do you remember being questioned by me? A. Yes, sir.

30 Q. And a stenographer taking down what you said? A. Yes, sir.

Q. Do you remember being asked this question: "There was a collision before you crossed the intersection there?" and the answer, "Yes. Well, as they got beyond the intersection." Now, when you said,

"As they got beyond the intersection," to whom were you referring? A. I don't understand you.

Q. All right. I will repeat that. I asked you this question at that time: "There was a collision before you crossed the intersection there?" That is referring, Mr. Snyder, to the location where this accident occurred. And your answer was, "Yes. Well, as they got beyond the intersection." Who was it that you were referring to when you said, "They got beyond the intersection." A. It must be those people. 10

Q. That is Bickings? A. It must be.

Q. So that they were beyond the intersection when the collision occurred? Is that right A. Well, you mean they was to the right of the line?

Q. Just exactly what you said is what I want to know. You say now that you referred to the Bicking car when you testified in Camden that the collision occurred as they got beyond the intersection. That is correct, isn't it? 20

MR. DAVIS—He admits he said that. It is in the record.

Q. Now do you remember this question: "Did the collision occur on the concrete or off the concrete?" and do you remember answering, "On the concrete"? A. I said that the rear of my car was on the concrete.

Q. I am reading to you, Mr. Snyder, what you said at that time. 30

MR. DAVIS—Wait a minute. I don't think you have a right to tell him that and then ask him what he said.

THE COURT—I will allow it.

Q. I will repeat for your convenience, Mr. Snyder. I put the question to you on August 11th, and that was only a short time after the accident, "Did the collision occur on the concrete or off the concrete?" and your answer at that time was, "On the concrete."

A. Well, so it was.

Q. Today you testified that your car was not on the concrete. A. I did not. I did not, Brother.

10 Q. Well, we will let it stand. Do you remember being asked the question—referring to the doctor's treatments, you were asked this question: "As to your back what did he do?" and your answer was, "He strapped me around; done something to my back." A. That's right. I said that.

Q. You did say that? A. Yes, sir. What I said I will admit to.

Q. Do you remember being asked these questions: "During the summer of 1933 did you operate your farm? A. In 1932 I did, and I started in 1933, too. Q. Did you finish it? A. I have now. I commenced here of late." A. That's right. I commenced here of late walking over the farm.

Q. I show you, Mr. Snyder, what appears to be exhibit D-2 and ask you whether you recognize that picture? A. The house on the right?

Q. Yes. A. Yes.

Q. Whose house is that? Who lives there? A. 30 I heard their names, but I can't really tell. I don't know what their names are.

Q. Is it Holmes? A. I guess it is.

Q. A colored gentleman? A. Yes, sir.

Q. And he testified here yesterday, didn't he? A. Yes, sir.

Q. And this road which you see here is the road on which you were proceeding? A. Yes, sir.

Q. And this stop sign—do you see that? A. Yes, I see that.

Q. That is right before you enter the Harding Highway? A. Yes, sir.

Q. You were going on this road? A. Yes, sir, on the Pedricktown-Perkintown Road.

Q. I show you, Mr. Snyder, what appears to be exhibit D-1 and I ask you whether you recognize that picture? A. I don't see no house there. 10

Q. Do you see this? A. Oh, yes, in there.

Q. Isn't that the Harding Highway at that intersection? A. Here?

Q. Yes. A. I imagine it is.

Q. Now, how far, if you know, is that stop sign from the shoulder of the Harding Highway, from the north shoulder of the Harding Highway? A. The south side or the north side?

Q. The north shoulder? A. I couldn't tell you. 20
I never measured it.

Q. It isn't very far from there, is it? A. No.

Q. I think you testified that you stopped at the stop sign? A. Yes, sir.

Q. Can you tell us how many feet it is from that stop sign to the side of the road, Harding Highway side? A. No. I told you I couldn't.

Q. Could you give us an estimate of it?

MR. DAVIS—It was testified yesterday. 30

A. I don't know anything about it.

MR. GREENBLATT—Somebody testified yester-

day, I think, that it was thirty-four feet. Am I right?

MR. DAVIS—I don't remember the figures, but it would be easy to find out, because this young man testified he measured it from the concrete to the sign.

10 MR. GREENBLATT—I think he said thirty-four feet. I may be wrong.

Q. You stopped at the stop sign? A. Yes.

Q. And you looked to your left? The left was a clear view there, wasn't it? A. Yes.

Q. Nothing to obstruct your view to the left? A. No, sir.

Q. That is an open field and no house there on your left? A. To the right.

20 MR. DAVIS—It was thirty-four feet.

Q. Now, Mr. Snyder, when you stopped near that stop sign, you were facing south? A. Yes, sir.

Q. I suppose this is south. For the purpose of the case we will say that I am facing south now and the stop sign was right in front of you to your right? Is that right? A. To my right?

Q. Well, the stop sign was on the right side. A. It was on my left going down on the north side. Certainly it is on the left.

30 Q. Now, Mr. Snyder, this is the picture and there is the stop sign. Please become familiar with it. A. Well, that is on the left.

Q. What is on the left? A. The stop sign, as you come down to Salem.

Q. That is your right, isn't it? This stop sign is your right-hand side, isn't it? A. Yes.

Q. That is right? A. That is, yes.

Q. So the stop sign over here was on your right-hand side? A. Is that the one on the south side or north side?

Q. North side. A. The stop sign is on this side when you are going down.

Q. Going towards Salem? A. Yes, sir.

10

MR. DAVIS—Manifestly he is wrong so far as the one that is on the north side of the road. There was one on the south side, against which his car struck.

MR. GREENBLATT—That is on his way coming home. On his way from Salem it would be on the left.

THE WITNESS—Yes, sir.

20

MR. DAVIS—It is on the right-hand side as he approached the Harding Highway.

MR. GREENBLATT—That is correct.

Q. To your left looking towards Atlantic City there was an open field? A. Yes, sir.

Q. And you had an open view? A. Yes, sir.

Q. And you say that when you stopped at that stop sign you saw a car coming from your left? A. I hadn't any more than stopped before the car got there.

30

Q. So, because it got there when you stopped, you let it pass? A. Yes, sir.

Q. Your view to your right, that is, towards Pennsgrove, was obstructed, wasn't it? A. Yes, sir.

Q. By the fence and the shrubbery and the trees?
A. Oh, no.

MR. DAVIS—There was no shrubbery there in April.

A. No shrubbery in April.

10 Q. But it was obstructed, wasn't it? A. No, sir.

Q. Nothing to obstruct your view there? A. No, sir.

Q. There are evergreens, apparently, there, aren't there? A. They are dead at that time of the year.

Q. Evergreens dead? All right. You looked to your right? A. Yes, sir.

Q. That was while you were standing still? A. Yes, sir.

20 Q. And you saw a car, I think you have testified, four hundred yards to your right? A. Yes, sir.

Q. And then you started to cross? A. Yes, sir.

Q. Please bear in mind, Mr. Snyder, that you had thirty-four feet from the place where you were standing to the north side of Harding Highway, to the concrete.

MR. DAVIS—Just one minute. I object to that statement.

30 MR. GREENBLATT—That is in the testimony.

MR. DAVIS—No, it is not in the testimony at all. It is in the testimony that it is thirty-four feet from the sign to the center of the road.

MR. GREENBLATT—To the side.

MR. DAVIS—To the near edge of the concrete.

MR. GREENBLATT—That is right.

MR. DAVIS—But you are saying that he stood there all the time when he looked.

MR. GREENBLATT—That is what he testified to. 10

MR. DAVIS—No, he did not.

MR. GREENBLATT—He says that he stopped at the stop sign.

Q. Mr. Snyder, when you stopped, you stopped at that stop sign, didn't you? A. Yes, sir.

Q. That answer was what? A. Yes, sir.

Q. And that is when you looked to the left and let that car pass going toward Pennsgrove— A. Yes, sir. 20

Q. —and you were standing still at that time? A. Yes, sir.

Q. And then you looked at the right and you saw that car four hundred yards to your right? A. Yes, sir.

Q. And then you proceeded to cross, didn't you? A. I did.

Q. And you started in second? A. Yes, sir. 30

Q. And I think you testified that you went pretty good? A. Yes.

Q. Good rate? A. Yes, sir.

Q. You didn't drive slowly? You wanted to get across? A. Well, I thought I give myself plenty of time.

Q. You wanted to get across, and you went at a good rate so as not to collide with this car that was coming on? That was your purpose, wasn't it? A. Didn't want her to hit me.

Q. And that is why you started across in a hurry? Is that right? A. Yes, that is right.

10 Q. You looked right in front of you? A. I did.

Q. Did you look anywhere else? A. No, sir.

Q. You looked right in front of you from the moment that you started until the moment of the crash? A. Well, I saw the car the minute she hit me.

Q. That is right, but before that you didn't see it? A. No.

20 Q. The only time you saw that car was when you first looked and saw it four hundred yards, and the next time you saw it is when momentarily she struck you? A. Yes.

By MR. DAVIS:

Q. And you started, as I understand, when the car was four hundred yards away? A. Yes, sir.

EDITH SNYDER, Sworn.

DIRECT EXAMINATION

By MR. DAVIS:

Q. Miss Snyder, you are the daughter of Samuel P. Snyder, are you not? A. Yes.

Q. And a sister of this young lady who sits here? 10
A. Yes.

Q. Do you live at home? A. I do.

Q. Were you accustomed to driving this Essex car that figured in this wreck? A. All the time.

Q. You had it, as I understand, about two years before this accident occurred? A. Yes, sir.

Q. You say you were accustomed to drive it all the time? A. All the time.

Q. Did you ever start it in second? A. I have. 20

Q. What speed could you obtain in that car at the time of this accident when the car was in second?

MR. GREENBLATT—I object to that. What one driver might obtain another one might not.

THE COURT—I think each driver could maintain the same speed in second or third gear.

MR. GREENBLATT—That is if they give it all the gas possible. 30

THE COURT—That is right.

MR. GREENBLATT—There are different conditions.

THE COURT—I will allow the question.

(An exception was noted for the defendants.)

(The question was repeated.)

A. Not over ten or twelve.

Q. You mean ten or twelve miles? A. Yes, sir.

Q. You have tried that, have you? A. I have.

10

PLAINTIFFS REST

20

30

DEFENDANT'S TESTIMONY

WILLIAM F. ZWIRNER, Sworn.

DIRECT EXAMINATION

10

By MR. GREENBLATT:

Q. What is your name? A. William F. Zwirner.

Q. By whom are you employed? A. Collings Carriage Company in Camden.

Q. What is their business? A. Repairing damaged automobiles and renovation work.

Q. In doing that do they do the mechanical as well as the body work? A. Yes, everything.

Q. On April 19, 1933, or thereabouts, were you employed with that company? A. Yes, sir.

Q. In what capacity? A. As an estimator and salesman.

Q. Estimating what? A. Estimating the damage to automobiles.

Q. And estimating what you would repair cars for? A. Yes, sir.

Q. That didn't apply only to damaged cars, in collisions, but any car that was brought in by any owner? A. Yes, sir.

Q. Is that right? A. Exactly.

Q. And your place of business is where? A. Thorne and Copewood Streets in Camden.

Q. How long have you been doing this? A. Nearly eight years.

Q. Did you at my request examine the car belonging to the plaintiff, Ethel Snyder? A. Yes, sir.

Q. What kind of a car was that? A. Essex coach.

Q. Where did you see it?

MR. DAVIS—The witness is apparently testifying from a paper that he has in his hand. I ask him
10 to lay it aside.

A. This is a copy of your estimate.

MR. DAVIS—Will you lay it aside?

(The witness complied with counsel's request.)

Q. That paper you have there is a copy of your
20 estimate that you made? A. Yes.

Q. Of that car? A. Yes, sir.

Q. Where did you first see this car? A. At Miss Snyder's home in Pedricktown.

Q. What did you estimate to do on that car? A. To restore it to its condition before the accident.

Q. What did you estimate, Mr. Zwirner? You can use your—

MR. DAVIS—No.

30 A. Can I refer to my copy of the estimate?

MR. DAVIS—No.

THE COURT—If he has to do it to refresh his memory—

MR. DAVIS—He has not said yet that he needs to have his memory refreshed.

THE COURT—Do you or don't you?

A. I do, because I will have to refer to the copy. It has been over a year. It has been over a year and a half, almost.

Q. What did you estimate to do to that car? A. I made a careful examination of it and I think I 10 spent some—

Q. Speak louder. A. I think I spent about an hour examining it and I estimated it would cost about \$282.45 to restore it to its condition before the accident.

Q. And in making that estimate did you estimate on new parts to replace the defective or broken parts? A. Yes, absolutely.

Q. Did you estimate on painting? A. Yes, I figured on painting the car complete. 20

Q. A new coat of paint for the whole car? A. Yes, that's right.

Q. So that for that money you could have turned out a car in good shape? A. Yes, sir.

MR. DAVIS—That is objected to as leading and suggestive and I move the answer be stricken.

THE COURT—Not a car in good shape. A car in the condition this car was. 30

Q. Would this car after you had put the parts and labor and done as you have estimated on there be in as good shape as the car was before the accident?

A. Yes.

Q. In fact, wouldn't it be somewhat better?

MR. DAVIS—That is objected to as leading and suggestive.

THE COURT—I will allow it.

(An exception was noted for the plaintiffs.)

A. On account of the fact of a new paint job, it
10 would be newer in appearance.

Q. Would it make any difference to the car if it had new parts to it? A. No.

Q. Would it be harmful or increased in value?

A. It wouldn't increase the value.

Q. What? A. It wouldn't increase the value.

Q. It wouldn't harm it any to have new parts, though, would it? A. It wouldn't harm it, no.

Q. As a man having eight years' experience in
20 that line, you advised the repairing of that car?

MR. DAVIS—That is objected to. Of course he would. In the first place, it is irrelevant, immaterial and incompetent as to whether he would advise the repair, and in the second place, they always want a job.

THE COURT—The objection is sustained.

Q. In your opinion, what would be the value of
30 that car after you repaired it? I will withdraw that question. Would that car have a greater market value than the cost of reconditioning it after it was done? A. No.

Q. In other words, the car wouldn't be worth as

much on the market as it would cost to repair it? A. No.

Q. And you say that for \$282.45 you would put that car in as good shape as it was before? A. Yes, sir.

Q. And still, after spending that money, it wouldn't be worth the amount expended? That is true of a lot of cars, isn't it? A. Yes, sir.

Q. Old cars. Are you familiar with what is known as the red book? A. Yes, I have to refer to it quite often. 10

Q. Does that contain the estimated value of used cars of all types?

MR. DAVIS—I object to that. Every car stands on its own wheels.

THE COURT—That is true.

MR. DAVIS—Regardless of what the red book or the blue book or the green book shows, each car is dependent on its own value. 20

THE COURT—You and I might not want to sell on either of those books, and perhaps we would not want to buy on those books, but nevertheless I think it may be an element that might be considered, and I think that I shall allow it to be introduced in the absence of authority to the contrary.

30

(An exception was noted for the plaintiffs.)

(The question was repeated.)

A. Yes, sir, it is generally accepted.

Q. Will you refer to the 1933 red book and let us have the value that is placed upon an Essex coach of a 1929 model?

MR. DAVIS—I object to it.

THE COURT—The objection is overruled.

(An exception was noted for the plaintiffs.)

10 A. The estimated value of the car, according to the National Used Car Market Report at that time, 1929, was \$54.00.

CROSS EXAMINATION

By MR. DAVIS:

20 Q. How many miles does that assume that the car has run? A. It is immaterial.

Q. So that if the car had never been used at all, it is still worth \$54.00, according to that book? A. Yes, sir.

Q. Now, you say that your statement is that for \$282.45 you would make this car as good as it was? A. Yes, sir.

Q. That is absolutely right, is it? A. It is what we are in business for.

30 Q. Is that what you say? A. Yes, sir.

Q. Don't you say at the bottom of this paper: "P.S. It is impossible to determine the exact condition of the rear housing and the drive shaft, which can only be determined by closer mechanical inspec-

tion; if it is necessary to make repairs to these parts, there will be an additional charge made according to the labor consumed and the parts necessary"? A. That is perfectly all right.

Q. You said so, didn't you? A. I said what?

Q. You said in your letter just what I read, didn't you? A. It is not in the letter.

Q. Isn't it? A. No. Yes, I say this.

Q. You say it isn't in the letter A. That is true, yes. 10

Q. It isn't in the letter? Is it in the letter or isn't it? A. What you said is in the letter, yes.

Q. And this is the letter that you wrote, isn't it?

A. Yes, sir.

(The letter was marked P-2 for identification.)

Q. So that your estimate isn't confined to \$282.45, is it? A. It is possible that it might be a little bit more. 20

Q. And that little bit you didn't know how much it was, did you? A. Impossible to determine at the time. You can't do it without tearing down the car.

Q. And you never did determine it? A. Certainly not. We never repaired the car.

Q. So that it might have cost more than \$282.45? A. Quite likely, yes.

Q. You say you did this at Mr. Greenblatt's—you made this investigation, examination, at Mr. Greenblatt's request? A. Yes, sir. 30

Q. Have you got his letter? A. No, sir, not with me.

Q. What? A. No.

Q. Who is this Mr. Burns that you write about in this letter?

MR. GREENBLATT—That is objected to.

(The following occurred at side bar.)

THE COURT—You don't want to drag this insurance company in here, do you?

MR. DAVIS—I want to test this man's credibility.

10

MR. GREENBLATT—If you ask him if he is an insurance adjuster, I will ask for a new trial.

THE COURT—There is not very much difference between your value and his value, anyhow.

MR. DAVIS—I appreciate that, but I want to know what this man's credibility is.

20

THE COURT—If you bring the insurance company in this case, I think that I shall grant a mistrial. Mr. Greenblatt says that is where it is going to lead.

MR. DAVIS—Suppose it does. That does not put the case out.

THE COURT—If the insurance company is dragged into it, I will grant a mistrial.

30

(An exception was noted for the plaintiffs.)

IN COURT

MARGARET E. BICKING, Sworn.

DIRECT EXAMINATION

By MR. GREENBLATT:

Q. Margaret, where do you live? A. I live at 1006 West Eighth Street, Wilmington, Delaware. 10

Q. What is your profession? A. I am a secondary school teacher in the City of Wilmington.

Q. You teach in the public schools of the City of Wilmington? A. Yes, sir.

Q. How long have you been a school teacher? A. This is the beginning of my second year.

Q. Do you remember the 19th of April, 1933? A. Yes, sir. 20

Q. On that day were you operating a car? A. Yes, sir.

Q. Who owned that car? A. My father.

Q. What is your father's name? A. William L. Bicking.

Q. And that car that you operated on that day belonged to your father? A. Yes, sir.

Q. Who was with you on that day? A. Miss Mary Brackin.

Q. Where did she live? A. She lives on Levering Avenue in Wilmington, Delaware. 30

Q. What is her profession? A. Miss Brackin is a resigned school teacher.

Q. She formerly taught school? A. Yes, sir.

Q. In Wilmington? A. Yes, sir.

Q. Where were you going on that day? A. We were on our way to Ocean City, New Jersey.

Q. On what highway did you proceed after you—I suppose you came across the Penns Grove ferry, didn't you? A. We came across from New Castle to Pennsville.

Q. And then you came on to the Harding Highway? A. Yes, sir.

Q. You had an accident that day, didn't you? A. Yes, sir.

Q. Did you go from New Castle back to Penns Grove? A. Yes, sir.

Q. Then on the Harding Highway? A. Yes, sir.

Q. For what purpose were you going to Ocean City? A. We were going to Ocean City to see a friend.

Q. Anything on behalf of your father or for your own purposes? A. For my own purpose.

Q. And this car that you were driving was a private pleasure car, was it?

MR. DAVIS—I object to it as leading.

(The question was withdrawn.)

Q. What kind of car were you driving? Was it a truck or was it a pleasure car? A. It was a pleasure car.

Q. What type or model of car was it? A. It was a Nash sedan.

Q. A Nash sedan? A. Yes, sir.

Q. Where was Miss Brackin seated in that car? A. Miss Brackin was on the front seat on my right.

Q. Alongside of you? A. Yes, sir.

Q. About what time in the morning was it? A. When the accident occurred?

Q. Yes. A. About ten minutes of nine in the morning.

Q. Did you have any particular time that you had to be in Ocean City? A. No, sir.

Q. What day of the week was it? A. I don't remember.

Q. Were you familiar with the Harding Highway? Had you been on it before? A. Yes, I had. 10

Q. Did you know that there were crossings from time to time across that highway? A. Yes, I did.

Q. Did you know whether or not the highway on which you were was a through street? A. Yes.

Q. Now, as you approached the crossing where this accident occurred would you tell the Court and jury at what rate of speed you were travelling? A. I was travelling between thirty and thirty-five miles an hour.

Q. How old was that car at that time? A. It 20 was approximately two years old.

Q. You had operated that car a number of times before, I suppose? A. Yes, sir.

Q. I show you what purports to be exhibit D-1 and ask you if you recognize that picture? A. Yes, sir.

Q. Is that Harding Highway? A. It is.

Q. And is that the Highway upon which you were proceeding? A. Yes.

Q. Going towards Atlantic City? A. Yes, sir. 30

Q. On which side of the highway were you proceeding? A. On the right side of the highway.

Q. When did you first see the Snyder car come across in front of you? A. When I was almost at the intersection.

Q. Is there anything there to obstruct your view at that crossing? A. There are evergreen trees and also the house, and then in front of the house there is a little building of some sort.

Q. I show you again exhibit D-1. Is that the little building that you have reference to in front? A. Yes, sir.

Q. That is along the highway near the telephone post? A. Yes, sir.

10 Q. And the evergreen trees? Anything else on that picture? I am referring now to D-2. A. Anything else besides what I have said, you mean?

Q. Yes, that might obstruct your view or did obstruct it. A. Well, the fence might have.

Q. When you saw him coming across, was he coming slowly? A. No, sir.

Q. The answer was what? A. No, sir.

Q. Coming quickly, then, was he? A. He was coming at a very high rate of speed.

20 Q. And what did you do? A. I immediately jammed my break as hard as I could and turned the wheel to the right.

Q. And the collision occurred how long afterwards? A. Immediately.

Q. Immediately? A. Yes, sir.

Q. Where did you stop? A. Right at the—I stopped right at the point of collision.

Q. As a result of the collision what happened to your car? A. My car turned to the right.

30 Q. Turning to the right, was that the result of the collision alone or was there anything else that caused your car to turn to the right? A. Well, I turned the wheel to the right.

Q. You turned it to the right? A. Yes, sir.

Q. And then the collision occurred? A. Yes, sir.

Q. And after the collision, which way did your car face? A. My car was facing in a southwesterly direction.

Q. It didn't face directly back, did it? A. No, sir.

Q. It faced at an angle? A. Yes, sir.

Q. Between the south and the west? A. Yes, sir. 10

Q. What happened to Mr. Snyder's car? Where did that go? A. When I first saw Mr. Snyder's car, it was on the east side of the gravel road near the corner in the—

Q. That is on the left side of the Pedricktown Road? A. Yes.

Q. Beyond the crossing? A. Yes, sir.

Q. Now, did this collision occur on the concrete? A. Yes, sir.

Q. And I think you said almost immediately as you saw him? A. Yes, sir. 20

Q. What did you do after the accident? A. Well, immediately after the accident I was rather stunned and sat in the car for a short while, and then I got out onto the road.

Q. Did you see Mr. Snyder? A. Yes, sir.

Q. Where was it that you saw him? A. I saw Mr. Snyder getting out of the door of his car.

Q. Did he walk? A. Yes, sir.

Q. Did he walk toward you? A. I walked toward him, yes. 30

Q. What, if anything, did he say to you? A. He made a remark which I can't remember.

Q. What type of a remark was it, if you know?

A. It was a remark which a gentleman would not have said.

MR. DAVIS—What was that?

A. It was a remark which a gentleman would not have said.

Q. What did you do? A. I said nothing.

Q. Did you stand there with him or did you then
10 go away? A. No, I then went away with Miss
Brackin.

Q. Where did you go? A. There was a man
who came along in a Ford coupe and he asked us if
we—

Q. Did you go with this man? A. Yes, we went
with the man.

Q. Where did you go? A. We went to a garage.

Q. At the garage what did you do? A. I di-
20 rected the garage man to call the State trooper.

Q. And that was done? A. Yes, sir.

Q. Do you remember the trooper's name? A.
No, I don't.

Q. Did the trooper afterwards come around to
see you at the scene? A. He came back to the
house which is next to the garage.

Q. He came to the garage? A. Yes, sir.

Q. Before leaving did you see Mr. Snyder go
away? A. No, sir.

Q. He stayed there? A. I don't know where Mr.
30 Snyder was.

CROSS EXAMINATION

By MR. DAVIS:

Q. Now, when were you last at this scene of this accident? This morning? A. No, sir.

Q. Did you come that way yesterday? A. No, sir.

Q. You didn't come past this crossing at all? A. 10
No, sir.

Q. When was the last time that you were there?
A. It was early in the summer. Early this summer.

Q. You say that there is a little house there? A.
Yes, sir.

Q. Where is this little house? A. It is in front
of the house, outside of the fence.

Q. Of what house? A. Of the house which is on
the left side of the Harding Highway. 20

Q. Going in what direction? A. Going towards
Atlantic City.

Q. You think it appears in this photograph, don't
you? A. Yes, sir.

Q. Now, show me in which photograph this ap-
pears.

(Witness indicated a photograph.)

Q. You refer to the photograph which is marked 30
D-1? A. Yes, sir.

Q. Will you just put a mark opposite to or on the
little house that you refer to?

(The witness complied.)

Q. You have made that with a cross, haven't you?

A. Yes, sir.

Q. Now, will you take these photographs—that doesn't appear there. If we put it on there with ink, I think it will show better.

(The witness complied.)

10 Q. You have marked the little house in question with an X, haven't you? A. Yes, sir.

Q. As you were coming towards the east on the day on which this accident occurred, on which side of your road was this little house? A. It was on the left side of the road.

Q. Is there a house across the street? A. On what side of the street?

Q. On your right-hand side of the road as you were coming. A. There was a house to my right.

20 Q. Then there was a house to the left? A. Yes, sir.

Q. But you say the little house you refer to was to your left? A. Yes, sir.

Q. How close to the street was it, or, rather, to what we call here the Perkintown Road? A. I don't know.

Q. Well, how close? A. It is quite close.

Q. How close? A. I can't exactly determine how close.

30 Q. You are a school teacher. Don't you know distances in feet and yards? A. I don't think I can exactly determine how close it is. It is very close to the crossing.

Q. What do you mean by very close? School teachers certainly know inches, feet and yards, don't they?

MR. GREENBLATT — If the Court please, a school teacher is not expected to be able to measure distances any better than anybody else with experience.

THE COURT—Suppose we use this room as an illustration. Would that assist you any?

THE WITNESS—It might.

Q. Tell us how far. A. It wasn't any further than from where I am to the railing. 10

Q. Well, what do you say? Won't you say six feet, twelve feet? Is that far enough? A. Yes, sir.

Q. You say it is within twelve feet of the Perkin-town Road, do you? A. Yes, sir.

Q. What part of the Perkintown Road? There is a fence that goes along Holmes' line, which runs alongside of the Perkintown Road, isn't there? A. Yes, sir. 20

Q. Now, suppose we say from this fence, the corner of this fence, how far is that house? A. I would say it is about the same distance.

Q. About twelve feet? A. Yes, sir.

Q. And how wide is Holmes' house? A. I don't know, sir.

Q. Now I show you D-3 offered in this case, which it is stipulated is looking in the opposite direction to which Mr. Snyder was travelling. 30

MR. DAVIS—Is that right?

MR. GREENBLATT—It looks like it.

MR. DAVIS—Is that what you say?

MR. GREENBLATT—I am not familiar over there.

MR. DAVIS—You have the picture and you brought it in here.

MR. GREENBLATT—Yes, that is the opposite direction.

10 MR. DAVIS—Then this is looking north, isn't it?

MR. GREENBLATT—Yes.

Q. Do you see that house in this picture, D-3? A. No, sir.

Q. What? A. No, I don't see it in this picture.

Q. That is looking right at the front of that house on the Harding Highway, isn't it? A. Yes, sir.

20 Q. And you don't see it there, do you? A. I don't see it in this picture.

Q. You see the whole front of Holmes' house along Harding Highway, don't you? A. Yes, sir.

Q. But it isn't there? A. I don't see it in this picture.

Q. When were these pictures taken? A. I don't know.

MR. DAVIS—When were they taken, Mr. Greenblatt?

30 MR. GREENBLATT—Soon after the accident, as far as I know.

Q. Don't you know when these pictures were

taken? A. No, sir, I don't know when they were taken.

Q. Who took them? A. I don't know that.

MR. DAVIS—Who took them?

MR. GREENBLATT — A photographer from around here, at my request. I don't even know his name now.

MR. DAVIS—Can't you find out from your records? 10

MR. GREENBLATT—I don't think I can tell from these records.

MR. DAVIS—Maybe his bill would show.

MR. GREENBLATT—I do not have his bill here. I had him here yesterday and you agreed to put these pictures in by consent. You said these are pictures of this crossing. 20

MR. DAVIS—I say so, yes.

THE COURT—They are offered in evidence, so we will have to take them as they are.

Q. It is perfectly plain that that house doesn't appear in that picture, does it, D-3? A. No, sir.

Q. Were you looking right at the front of this house? A. Yes, sir. 30

Q. But it isn't there? A. I don't see it in this picture.

Q. You saw one there on the morning of this accident, though, didn't you? A. Yes, sir.

Q. Now, Miss Bicking, aren't you mistaken? Isn't it a fact that this house which you see here in this picture is on the south side of the Harding Highway across the street, across the Perkintown Road from the Raine house? A. I don't think I am mistaken yet.

Q. You don't yet think you are mistaken? A. No, sir.

Q. You swore to it this morning, didn't you, that
10 it was on the side of the house next to Holmes? Didn't you? A. Yes, sir.

Q. You have got a picture there that shows the front of Holmes' house, haven't you? A. Yes, sir.

Q. That is the front next to the Harding Highway. This tree that appears there is to the side of the Holmes' house, isn't it? A. Yes, sir.

Q. Not in front of it, is it? A. No, sir.

Q. And the tree that appears in the top of the
20 picture over the Holmes' house it is manifest is on the opposite side of the Harding Highway from Holmes' house, isn't it? A. Yes, sir.

Q. Now, you don't think that is a picture of Holmes' house, do you? Here are trees out here in front of this house, aren't there? A. Yes, sir.

Q. But there are no trees out here in front of Holmes' house? A. No, sir.

Q. It can't be Holmes' house, can it? A. It can't be Holmes' house?

Q. This house that appears in picture D-1. That
30 doesn't show Holmes' house, does it? A. They are not the same houses unless it is that the pictures were taken at different angles.

Q. Well, can you say whether it is Holmes' house

or not? What do you say? A. They are not the same houses.

Q. Not the same house? A. No, sir.

Q. Well, if they are not the same houses, it is perfectly manifest that that house that you marked an X isn't on the side of the road of the Holmes' house, isn't it? A. It isn't in front of this house.

Q. Well, it is admitted, Miss Bicking, by your counsel that this is the Perkintown Road looking north, so, if so, this is a south view, the view along the Harding Highway of the Holmes' house. I am asking you now again, isn't it perfectly manifest that the house that you marked with an X is not on the same side of the Harding Highway as the Holmes' house? A. This picture doesn't show it. 10

Q. Would you mind looking with this glass at this sign on the corner there and tell me what is on the first line, the top line? A. On the left here? This little sign?

Q. On the right, I call it. A. "Penns Grove, Wilmington." 20

Q. "Penns Grove, Wilmington," and the arrow is pointed what—to your right or your left? A. To your left.

Q. So that is the Harding Highway that leads in the left direction as you look at the picture to Penns Grove and Wilmington, isn't it? A. Yes, sir.

Q. That is plain? A. Yes, sir.

Q. Don't you see here in this picture, D-3—take the glass in your own hand—the fence along this yard of Mr. Holmes'? A. Yes, sir. 30

Q. You notice that, do you? A. Yes, sir.

Q. All right. Now let us take this picture, D-1, and I ask you to look over at the extreme right-hand

corner along by the mail boxes and see if you don't see the same fence on the right-hand side of the road? A. I see a fence, but it doesn't—

Q. Look at it and see if it isn't the same fence, same sort of fence that you see here? A. Where is this tree? I see a fence, but I don't see a tree.

Q. No. Of course, the tree is away back from the Harding Highway. That is the reason you don't see that. A. It isn't back from the fence. It is right
10 near the fence.

Q. This is on the other road, the Perkintown Road. This tree is on the Perkintown Road. It isn't on the Harding Highway. That is the reason it doesn't appear in that picture. A. Well, we can see both roads in this picture. Why is it that the tree isn't here?

Q. Because it is too far back here to the right. A. It isn't that far away from the house. Here is the
20 house.

Q. Just look there. Don't you see that fence? A. I see the fence, but I can't see the house and I can't see the tree, and this house is very close to the corner.

Q. How close? Because you are looking at the picture? Is that the reason? A. It appears to be very close to the corner in that picture.

Q. But you as a school teacher know you don't get the dimensions in a picture, do you? It is said in testimony here and your counsel agreed with it that this sign here—see it? A. Yes.

30 Q. —is thirty-four feet from the edge of the concrete.

MR. GREENBLATT—Counsel agrees that that is in the testimony, but counsel does not know that

that is a fact. That testimony came from the other side.

MR. DAVIS—It is undisputed so far.

Q. It is in the testimony that this sign here which you see, the stop sign, in D-2, is thirty-four feet from the concrete, and yet you have the house away here. Does that help you any? A. Mr. Davis, I don't see how this sign could be thirty-four feet. It doesn't appear in the picture. 10

Q. Of course it doesn't, but that is the measurement.

MR. GREENBLATT—This witness does not have to assume that as a fact.

MR. DAVIS—I don't care whether she does or not, that is the testimony so far. 20

MR. GREENBLATT—For the purpose of examining her she cannot say it is thirty-four.

Q. Look at this picture here again. You have travelled this road a good many times, as I understand? A. I travelled it more before the accident than I have since.

Q. Don't you remember that travelling on this Harding Highway before you came to this intersection half a mile or so or approximately that distance before you came to the intersection, that you passed through a woods? A. I don't remember particularly. 30

Q. You don't recognize this woods, then, that appears in this picture, D-1, back here as the woods

through which you travelled before you arrived at the scene of this accident? A. Not particularly I don't recognize it.

Q. What do you mean, "Particularly"? Do you remember it or don't you remember it? A. Well, I don't remember that particular woods. Of course, there are a lot of trees along the roadside all the way down that road. I don't remember that particular woods.

10 Q. Now, when you came by here since this accident did you not pay particular attention to the circumstances that surrounded there? A. Not particularly.

Q. But you say that that house interfered with your vision? A. Yes, sir.

Q. That little house? A. Yes, sir.

Q. You were looking right at that little house, were you? A. I wasn't looking at the little house alone.

20 Q. No, but you were looking so that that interfered with your vision? A. It was one of the things which interfered.

Q. And you were looking to that side of the road on which the little house was? A. Yes, sir.

Q. There isn't any doubt about that, is there? A. According to what I have said, there is no doubt.

Q. Pardon me. Let us not confine ourselves to that. I am asking you now, testifying now, you were looking to that side of the road on which the little house was? I am asking you is that a fact or isn't it?
30 A. Yes, sir.

Q. All right. Now, you say the little house obstructed your vision of Mr. Snyder? A. Yes, sir.

Q. And that is the reason you didn't see him be-

fore you actually did see him? A. Not the only reason.

Q. I didn't ask you that.

(The question was repeated.)

MR. GREENBLATT—That is a proper answer.

THE COURT—If it is true, it is proper.

Q. Did that tend or help to keep you from seeing Mr. Snyder before you actually did? A. Yes, sir. 10

Q. Now, what else prevented you from seeing Mr. Snyder? A. I didn't have much chance of seeing Mr. Snyder because it all happened in such an instant. I wasn't given any warning at all.

Q. Is the concrete portion of this highway about eighteen feet wide? Would you agree to that? A. I don't know that I can estimate the width of the road, either. I can say that it is wide enough for per- 20
haps two and a half cars.

Q. It is designed for the accommodation of traffic both ways, isn't it? A. Yes, sir.

Q. Would you say that there was a gravelled portion of the highway between the concrete and Holmes' house? A. Yes, sir.

Q. And would you say that that is about nine and a half feet wide? A. I wouldn't say. I can't estimate that.

Q. Didn't you look? A. Not particularly. 30

Q. And would you say that between the gravel portion of the highway and Holmes' fence there is another six and a half feet covered by grass? A. I can't determine that, Mr. Davis.

Q. Well, do you know whether there is a grass portion between Holmes' fence and the gravel portion? A. I can't say.

Q. You were travelling, I understand you to say, on the right-hand side of the road? A. Yes, sir.

Q. There is a mark along the center line of this road, isn't there? A. Yes, sir.

Q. Mr. Snyder came from your left, didn't he? A. Yes, sir.

10 Q. So that you had at least one-half of the concrete highway between you and the direction from which Mr. Snyder came, you had whatever there is in the way of a gravel shoulder, and you had also whatever there is in a grass strip between you and Holmes' house, didn't you? A. I can't say that.

Q. Why can't you say it? A. Because I don't know. I didn't pay particular attention to whether the grass was there or not. I didn't have a chance to pay any attention to it.

20 Q. If there is any, you had that distance, didn't you? A. No, sir, I can't say that I did.

Q. Well, what distance did you have? A. I didn't have any distance, hardly.

Q. Didn't you have the half of the highway looking to your left, half of the concrete highway? You had that, at least, didn't you? A. At what point am I supposed to be having this distance?

Q. When you approached this intersection. Mr. Snyder, as I understand, came from your left? A.
30 Yes, sir.

Q. As you travelled along that highway and looking to your left, if you were looking to your left, you had a view at least of the concrete—one-half of the concrete highway, didn't you? A. Yes, sir.

Q. And you had at least, in addition to that, whatever gravel shoulder there is there, didn't you?

A. Yes, sir.

Q. There is the view in D-3 up the Perkintown Road looking north, showing the Holmes' house. If that is so, you came from the left of this picture, didn't you? A. Yes, sir.

Q. And isn't it a fact, Miss Bicking, that the car of Mr. Snyder was thrown over here to the right-hand side of this picture? A. When I saw the car 10 it was at the right-hand side of the picture.

Q. After the accident? A. Yes, sir.

Q. Now, will you be so good as to take my pen and mark on this picture where your two cars collided? This is the Perkintown Road, out of which Mr. Snyder was coming facing you, and this is the direction from which you came. A. It will be hard for me to do it, because it doesn't show really enough of the road for me to mark.

Q. You see the white strip there indicating the 20 Harding Highway. Show this direction, not with regard to that way. Make a cross mark there. That is right in the middle, practically, of the Perkintown Road, isn't it? A. Yes, sir.

Q. You say that this occurred on the concrete, don't you? A. Yes, sir.

Q. Was it on your side of the concrete, on your half of the road? A. Yes, sir.

Q. And how far had Mr. Snyder's car got across your part of the concrete? Were not his front wheels 30 on the gravel portion of the Perkintown Road? A. No, sir.

Q. Do you mean that he was wholly on the concrete? A. At what time?

Q. At the time of the collision. A. Yes, sir.

Q. Then all four wheels, you say, were on the concrete of the Harding Highway? Is that right? A. As I can remember it, that is right.

Q. And on that portion of the Harding Highway which is on the right-hand side of the road as you go to Atlantic City or to Ocean City? A. Yes, sir.

Q. That is the side on which you were travelling, isn't it? A. Yes, sir.

10 Q. Well, will you tell me how this car got away over here in this corner? A. I don't know, sir.

Q. You struck his car on his right side, didn't you? A. I don't know who struck. We just collided.

Q. Just leave out the question of liability. It was the right-hand side of his car with which you came into collision? A. Yes, sir.

20 Q. I am showing you one of these pictures that was marked P-1 for identification. That shows the right-hand side of his car, doesn't it? A. Yes, sir.

Q. That shows the damage done to the right-hand side of his car, doesn't it? A. Yes, sir.

Q. And this other little one shows also the damage done to the right-hand side of his car, doesn't it? A. Yes, sir.

Q. Now, you said that you turned to the right, did you not? A. Yes, sir.

30 Q. How far were you away from him when you began to turn to the right? A. As soon as I saw the car coming to my left I put my foot on the brake and turned to the right.

Q. How far were you away from his car? A. I can't determine that, Mr. Davis.

Q. But you were there? You were there? A. It

all happened so quickly that I didn't even have a chance to tell how far I was.

Q. You don't know where you were when you began to put your foot on the brake, then? A. I was almost at the intersection.

Q. How far away from the intersection? A. I would say the distance of two cars.

Q. Two cars? A. Yes, sir.

Q. And you mean the intersection where the two roads come together, don't you? A. Yes, sir. 10

Q. Did you say that Mr. Snyder got out of the door of his car? A. I said that.

Q. Do you really mean it? A. It appeared to me as though Mr. Snyder was coming out of the door of his car.

Q. I show you again one of these pictures marked P-1 for identification and ask you do you see the hole in the top there? A. Yes, there is a hole in the top of this car.

Q. Isn't it, as a matter of fact—isn't that exactly 20 where they pulled Mr. Snyder out of this car? A. I didn't see Mr. Snyder being pulled out of the car.

Q. Didn't you see these young men that testified here yesterday, Mr. Vogel, for one of them, say they cut the top of this car out and pulled Mr. Snyder out of it? A. No, sir.

Q. You didn't see that? A. No, sir.

Q. Are you quite sure that you saw Mr. Snyder getting out of the door of his car? A. I am very 30 sure that Mr. Snyder was getting out what appeared to me to be the door of the car, unassisted.

Q. And when he got out was he still unassisted? A. For a while.

Q. How long was he out of the car before he made

this ugly remark to you? A. Well, it was from the time he was on the ground until he approached me.

Q. Look at him. Do you say that Sam Snyder uttered an ugly word to you? A. Yes, sir.

Q. This man that stands here in front of you? A. Yes, sir.

Q. Do you mind telling us what ugly word he uttered to you? A. I can't remember the remark. It was a remark that a gentleman would not have said.

10 Q. And you think Sam Snyder is not a gentleman?

MR. GREENBLATT—That is objected to.

THE COURT—I sustain the objection.

(An exception was noted for the plaintiffs.)

Q. That is what you intended to express, wasn't
20 it?

MR. GREENBLATT—That is objected to.

THE COURT—Objection sustained.

(An exception was noted for the plaintiffs.)

Q. Now, you say this car was about two years old that you were driving? A. Yes, sir.

Q. You had driven it a great deal, had you not?

30 A. I had driven it approximately two years.

Q. Two years? A. Yes, sir.

Q. Anyone else drive it besides you? A. Yes, sir.

Q. Was it a family car? A. Yes, sir.

Q. What was the condition of the brakes on this morning that the accident occurred? A. Very good condition.

Q. Did it have four-wheel brakes? A. I am not sure of that. I don't know whether it is four wheels or not.

Q. Don't you know whether the car had four-wheel brakes or not? A. I am not sure.

Q. How long had you been driving a car? A. For five years.

10

Q. Did you ever drive a car with two-wheel brakes? A. I am not familiar enough with the different types of cars to know whether I have or not.

Q. You say you were going thirty miles an hour? A. I said I was going between thirty and thirty-five miles an hour.

Q. Now, tell us—point out in the room or out of the room how far you were away from Mr. Snyder when you first saw him coming out of that street. You said that you were two car lengths away from the intersection, as I understand you to say? A. Yes, sir.

20

Q. Now, point out in the room or out of the room across the street or wherever you see fit, how far you were away when you first saw him.

THE COURT—Away from what, the intersection?

MR. DAVIS—Away from Mr. Snyder, Mr. Snyder's car.

30

MR. GREENBLATT—Mr. Snyder's car was in motion. It is pretty hard to tell.

MR. DAVIS—That was going at right angles to her.

THE COURT—Do you mean how far in a direct line?

MR. DAVIS—Yes, your Honor.

Q. How far were you away from Mr. Snyder's car when you first saw it? A. I can't determine that.

10 Q. Well, maybe you can't in feet, but is there any object in the room or out of the room from where you are that would enable you to say how far you were away?

MR. GREENBLATT—If the Court please, Mr. Snyder's car—it is very difficult for any witness to say that, because Mr. Snyder's car was in motion.

20 MR. DAVIS—I think the difficulty is the witness' and not counsel's. I submit the question is legally correct and the difficulty is not a matter of which this gentleman can complain.

THE COURT—The witness can testify as to the difficulty, if there was any. Answer the question if you can. If you cannot, state that you cannot and your reasons for not being able to answer.

30 A. Well, I don't think I can determine that distance.

Q. Well, can you approximate it? I am not asking you to say in feet. I don't think perhaps that may be possible, but approximately say. A. I think the conditions out on the road are entirely different from

conditions in a room of this sort, to be able to determine.

Q. Look out there anywhere, if you want to look out. Come to the window, if it will help you. Can you tell? A. I will say that it wasn't much further than from where I am to the post there.

Q. To this post here? A. Yes, sir.

MR. DAVIS—How far is that?

10

MR. GREENBLATT—I am not making any estimate, because I don't know.

MR. DAVIS—You won't even assist in putting it on the record?

MR. GREENBLATT—You have the witness.

Q. How far do you say it is, Miss Bicking? A. Well, it was twelve feet from the railing to where I am, wasn't it? 20

Q. That is the way I figured it, yes. A. About sixteen or seventeen feet, I should say.

Q. Well, if I give you the benefit of the doubt, would you say it was twenty?

MR. GREENBLATT—She has identified an object in the room.

THE COURT—It is only for the record. Perhaps it can be stipulated for the record. 30

MR. DAVIS—That is what I tried to get counsel to do.

THE COURT—I think possibly it could be esti-

mated at twenty or twenty-two feet, twenty-five feet. Not over twenty-five feet.

MR. GREENBLATT—All right.

MR. DAVIS—All right.

Q. So you think when you first saw Mr. Snyder you were about twenty to twenty-five feet away from his car? A. Yes, sir.

10 Q. And you were then looking in the direction of this little house along the side of the road on which you made a mark here in the picture, so that that interfered with your vision? A. I was looking to my left.

Q. Well, you say the house is on the side that you were looking, don't you? A. Yes, sir.

Q. So that there can't be any question, then, that I am correct when I say that you said that you were
20 looking in the direction of the little house which interfered with your vision. A. Yes, sir.

Q. And you think that interfered with seeing Mr. Snyder before you did, do you not? A. Yes, sir.

Q. And you say there were some evergreens over there by the house— A. Yes, sir.

Q. —that likewise interfered with your vision, do you not? A. Yes, sir.

Q. That is the truth, isn't it? Isn't it the truth that the evergreen on the side of the road where the house
30 is interfered with your vision? A. Yes, sir.

Q. And you refer to the evergreen which appears in the left side and on the left-hand side of the road, that appears here in exhibit D-1? A. Yes, sir.

Q. Would you mind pointing out to me this evergreen that you refer to? A. There is an evergreen.

Q. That is an evergreen tree? A. Yes, sir.

Q. Well, that is way up above the top of an automobile, isn't it? That is higher than that little house, isn't it? A. There are some branches that come down here.

Q. Pardon me. You haven't answered my question.

MR. GREENBLATT—She has answered it.

MR. DAVIS—I move the answer be stricken. It is not an answer to my question. 10

THE COURT—Perhaps you can answer the question more directly. If you can, will you do so?

(The question was repeated.)

MR. GREENBLATT—That answer is perfectly proper, because the tree is composed of branches as well as the top. The top of the tree would certainly be above the automobile. 20

THE COURT—The young lady can answer the question.

THE WITNESS—Will you please repeat the question?

(The question was again repeated.)

30

A. No, sir.

Q. Isn't the evergreen, even the limbs that appear on that first big tree to the right, aren't the limbs that appear in that picture higher than the little

house on which you made the X? A. Not all of the limbs.

Q. You think there are some of them a little lower, do you? A. Yes, sir.

Q. And you say that is the tree and those are the evergreens that interfered with your vision of Mr. Snyder? Is that a fact? A. Yes, sir.

Q. What other evergreens—suppose you put a mark, another X, on the limbs there of that evergreen that interfered with your vision. Here is my
10 pen. Won't you do that for me? A. I don't think I can do that, because I didn't have a chance to even pay particular attention to how many limbs of the evergreen were obstructing my view.

Q. Put a mark on the tree that interfered with your vision. You have testified that evergreens there interfered with your view. I want you to mark it, please. A. I will put a mark on this tree.

Q. That is one of the trees that interfered—make
20 a cross there. You have, haven't you? Thank you. That is one of the trees that interfered with your vision? A. Yes, sir.

Q. Now, will you take this pen and be good enough to make a mark on any other evergreen there that interfered with your vision? A. I don't know whether there are other evergreens besides that one in that particular picture or not.

Q. Well, those are the evergreens, you say, that
30 interfered with you. There isn't any doubt about that, is there? A. No, sir.

Q. Did you put your brake down hard when you saw Mr. Snyder? A. Yes, sir.

Q. Did you put it down as hard as you could? A. Yes, sir.

Q. There was nothing more that you could do to stop your car, was there? A. No, sir, no more than what I did.

Q. Than what you did? That is right. Within what distance can you stop your car, going at thirty or thirty-five miles an hour, when you try your best to stop, with the condition of the brakes in the condition in which they were at the time of this accident?

A. Well, at the time of the accident the car stopped abruptly at the point of collision.

10

MR. DAVIS—I move that be stricken out. That is not responsive to my question.

THE COURT—Strike it out.

Q. I am asking you within what distance can you stop your car, the car that you were driving that morning, with the brakes in the condition in which they were on that morning? A. In the distance that I did stop the car.

20

Q. Well, what distance was that? A. About the distance of two cars.

Q. How far was that? A. I would say about twenty feet.

Q. But you in the meantime had struck something, had you not? You did not stop before you struck Mr. Snyder, did you? A. No, sir.

Q. But you say that you could stop your car, going at the speed that you were going and with the brakes of your car in the condition in which they were, within twenty feet? Is that right? A. Yes, sir.

30

Q. Well, it is stipulated that this post is between

twenty and twenty-five feet away from you. Why didn't you stop your car before you struck Mr. Snyder? A. I stopped the car as soon as I could.

Q. But you say you could do it in twenty feet. Well, if you could do it in twenty feet and from you to the post is twenty-five feet, and you say that that was the distance that you saw Mr. Snyder away, why didn't you stop your car before you struck him? A. I did stop it, start to stop it.

10 Q. But why didn't you stop it, if you could stop it in twenty feet? A. I did the best to stop the car that I could.

A recess was taken until 1.30 P. M.

Afternoon session, 1.30 P. M.

20 MARGARET E. BICKING, resumed.

CROSS EXAMINATION CONTINUED

By MR. DAVIS:

Q. Now, Miss Bicking, have you changed your mind about the location of this little house? A. I haven't thought anything about it since I was here last.

30 By MR. GREENBLATT:

Q. In coming from Penns Grove to the point of the accident did you pass any cars, to your recollection? A. No, sir.

MARY H. BRACKIN, Sworn.

DIRECT EXAMINATION

By MR. GREENBLATT:

Q. Miss Brackin, you live in Wilmington? A. Yes, sir.

Q. What is your profession? A. I was a teacher. 10
I retired on account of ill health.

Q. You were formerly a school teacher? A. Formerly a school teacher.

Q. And retired because of ill health? A. Yes.

Q. On April 19, 1933, were you in New Jersey? A. Yes.

Q. From where did you start? A. We started—
you mean at home?

Q. Yes. A. From my home. 20

Q. In Wilmington? A. In Wilmington.

Q. Who was with you? A. Miss Bicking.

Q. In an automobile? A. Yes.

Q. Who operated the car? A. Miss Bicking.

Q. And you crossed the ferry at New Castle? A. Yes, sir.

Q. And then proceeded to what town? A. Penns Grove.

Q. From there where you going? A. Ocean City, New Jersey. 30

Q. On what highway were you? A. What you call the Harding Highway.

Q. On what seat were you sitting? A. I was alongside of Miss Bicking on the front seat.

Q. Was this a sedan car? A. Yes, sir.

Q. Was there a collision between your car and another car on that day? A. Yes, sir.

Q. Was that at a crossing of the Harding Highway? A. Yes, sir.

Q. You don't know the name of that road, do you? A. Not until I heard it several times lately.

Q. It has been said it was the Perkintown or Pedricktown Road.

10 MR. DAVIS—Both of them are right.

Q. Known as the Perkintown or Pedricktown Road. Did you and Miss Bicking have anyone else with you in that car? A. No, sir.

Q. Did you pass or do you recollect passing any car between Penns Grove and the scene of the accident? A. No, sir.

Q. Did you have any specified time that you had to arrive in Ocean City? A. None whatever.

20 Q. Do you know at what rate of speed, if any, Miss Bicking was operating the car? A. Between thirty and thirty-five miles an hour.

Q. Was that the speed that you generally rode that morning?

MR. DAVIS—That is objected to.

THE COURT—The objection is sustained.

30 Q. This Harding Highway that you were on, what sort of a highway was it on the day of the accident?

A. Do you mean—

Q. Was it an improved concrete highway? A. Yes.

Q. Were you familiar with that road? A. I had been over it once or twice before.

Q. So that you were not familiar with it? A. No.

Q. Do you operate a car? A. No, sir.

Q. Do you remember seeing the other car coming across? A. No, sir.

Q. When was the first time you saw it? A. When it was riding up on our car.

Q. In front of your car? 10

MR. DAVIS—No. I object to that. It is leading and suggestive.

THE COURT—She says when it was right up on.

A. No. Riding up on our car.

Q. Riding? A. It rode right up on the side of our car.

Q. Where was it on the highway when you first noticed it? A. On the concrete, you mean? 20

Q. Anywhere along there at that intersection. At what point was it when you first noticed it? A. Right at our car.

Q. Right at your car? A. Right at our car.

Q. And was it going slowly or swiftly? A. It appeared to be going swiftly.

Q. What, if anything, did Miss Bicking do? A. She threw on the brakes very hard. So hard that I went up in the car and hit the mirror in the car. 30

Q. What portion of your body struck the mirror in your car? A. My forehead, which was badly cut.

Q. Don't tell us what happened to you personally, but your forehead struck the mirror of the car in which you sat? A. Yes, sir.

Q. And that, you say, was the result of the brakes being applied?

MR. DAVIS—Pardon me.

MR. GREENBLATT—She said that.

THE COURT—Yes, she said it.

10 Q. What else did Miss Bicking do? A. Turned the car to the right.

Q. From your side—was it to your left or was it to your right that this other car was coming from? A. From the left.

Q. At what point on the highway did your car stop? A. Almost immediately.

Q. Now, did the collision occur on the concrete or any other portion of the highway? A. On the concrete.

20 Q. Where did your car go to, if you know? A. Well, it went over the road somewhere, but I can't tell you just which road—just which side of the highway it went over.

Q. You were hurt? A. Yes.

Q. As you were proceeding on the highway and at that point were there any houses at that corner? A. I remember some houses.

Q. Was there any house at that intersection to your left? A. As nearly as I can tell—as near as I
30 remember, yes.

Q. Did you make any examination of the highways afterwards? A. No, sir.

Q. Can you say that there was a house to your left as you were approaching that corner? A. As nearly as I can tell, there was a house there.

Q. And is that from where the other car was coming? A. Yes, sir.

Q. You are not familiar with the location at all? A. Not at all.

CROSS EXAMINATION

By MR. DAVIS:

10

Q. What was your destination, Miss Brackin? A. Ocean City, New Jersey.

Q. What was the purpose of your visit to Ocean City? A. We were going down to see some friends.

Q. Whose friends? A. Our friends. Miss Bicking's and mine.

Q. Both of you? A. Yes, sir.

Q. Well, I understood Miss Bicking was a school teacher? A. She was, but it was the Spring vacation. 20

Q. Was it the Easter vacation? A. Yes.

Q. This was on Wednesday? A. Wednesday.

Q. How came you to go along? Who invited you? A. Miss Bicking.

Q. Where did you get in the car? A. At my home.

Q. Not at Miss Bicking's home? A. No, sir.

Q. She drove the car to your house? A. Yes, sir.

Q. And then from your house where did you go and what did you do? A. We went to the ferry, crossed on the ferry, came across from— 30

Q. You went to New Castle? A. Yes, sir.

Q. When you went across the ferry at New Castle

—did you do anything while you were in Wilmington? A. No, sir.

Q. Didn't stop any place? A. No, sir.

Q. Do any errands? A. No, sir.

Q. You went directly to the ferry, to New Castle?

A. Yes, sir.

Q. And from New Castle you went to Pennsville, didn't you? A. No. Yes.

Q. When did the ferry go from New Castle to
10 Penns Grove? A. They run every twenty minutes.

Q. To Penns Grove? A. Didn't go to Penns Grove. We went to New Castle and came to Pennsville.

Q. Then from Pennsville you went to Penns Grove, didn't you? A. We came to Penns Grove.

Q. And at Penns Grove you struck the Harding Highway? A. Yes, sir.

Q. How long have you known Miss Bicking? A.
Ever since she was a little girl.

20 Q. How old is she? A. Twenty-three or twenty-four.

Q. When did you return? A. You mean come back after the accident?

Q. Yes. A. As soon as my brother-in-law and sister could come over from Wilmington and get us.

Q. You didn't go on to Ocean City? A. Oh, no. I had to come home and go to the doctor's.

Q. Did you have any intention—what time did you intend to return when you left? A. Sometime
30 in the afternoon.

Q. Of the same day? A. Of the same day.

Q. In other words, you were going to Ocean City and return? A. Yes, sir.

Q. How far is it from Penns Grove to Ocean City?
A. About sixty-seven miles, I think.

DEFENDANTS REST

PLAINTIFF'S TESTIMONY IN REBUTTAL 10

MR. DAVIS—I would like to offer in evidence these pictures that were marked P-1 for identification.

(The pictures formerly marked P-1 for identification were marked exhibit P-1.)

20

WILLIAM SWAVERLY, recalled.

DIRECT EXAMINATION

By MR. DAVIS:

Q. Mr. Swaverly, how far is the intersection of the Harding Highway and the Perkintown Road from your home? A. About two miles.

Q. Do you know that location? A. Yes, sir. 30

Q. Do you know who lives in the northwest corner of the intersection of those highways? A. A colored man by the name of Holmes.

Q. You know him personally, do you? A. Well, I am not well acquainted with him.

Q. You know him when you see him? A. When I see him, yes, sir.

Q. How long have you known that property? A. Well, just about as long as I can remember, I guess.

Q. And you are how old? A. Thirty-nine.

Q. Who lives directly across the Harding Highway from Holmes? A. South?

Q. Yes. A. Mr. Raine.

Q. Did you go to the scene of this accident today
10 with me— A. Yes, sir.

Q. —at the noon hour? A. Yes, sir.

Q. I call your attention to D-1 and call your attention to this little house that is marked with an X. On what side of the Harding Highway is it? A. South.

Q. Is that the side on which Holmes' house is or is it on the opposite side? A. It is on the opposite side.

Q. On what side of the Perkintown Road is it, the
20 east or west? A. East.

Q. Is that on the same side of the highway that Holmes' house is? A. No, sir.

Q. A person coming from Penns Grove going to Ocean City, would he have to cross over the Perkintown Highway before he came to this little house? A. Yes, sir.

Q. How far is this little house from the concrete on the Harding Highway? A. Thirteen feet.

Q. How far is it from the center of the Perkintown Road?
30 A. That is about fifty-two and a half feet from the edge of the Perkintown Road to the house.

Q. Did you see a pole there that was bent over

alongside of the hothouses of Mr. Raine? A. Yes, sir.

Q. Did you measure the distance from the edge of the concrete to that pole? A. Fifty-one feet.

Q. I call your attention to this apparently ever-green tree, a pine of some sort, which is marked with an X, and ask you in the direction of a person traveling from Penns Grove to the intersection of this highway on what side of the highway is it, on your right, or left? A. On the right. 10

Q. You see the X mark there, do you? A. Yes, sir.

Q. In whose yard is that, in Holmes' or Raine's? A. That is in Mr. Raine's yard.

Q. I call your attention—that is shown in D-1, isn't it? A. Yes, sir.

Q. Now, I ask you in front of Holmes' house what is there in the way of trees?

MR. GREENBLATT—I object to it because this examination was made today. There might be something different there from April 19, 1933. 20

MR. DAVIS—I am going to prove there is no change in it except the flowers that grow in the Spring.

THE COURT—If you prove that, I will allow it.

(The question was repeated.) 30

Q. That is, between his house and the Harding Highway. A. Why, there are no large trees. There is one real small tree that might be about a year or

two old, a maple tree, and there are some flowers. That is about all.

Q. Are there any evergreens in that yard? A. There is one or two small evergreen bushes, probably about three feet high, right in front of the house, right near the house.

Q. How far down the highway westwardly can one see as he travels toward the intersection of that road, see a car on the Perkintown Road stationed
10 just back of the stop sign? A. Well, he can see six or seven hundred yards, I would say.

Q. Did you try it? A. Yes, sir.

Q. In going from Perkintown to Penns Grove along the Perkintown Road, Samuel Snyder was travelling, or a person would travel in a southerly direction up to the point of the Harding Highway, would he not? A. Yes, sir.

Q. And in going from Penns Grove to Ocean City
20 one travels eastwardly? A. Yes, sir.

Q. Now, as one would travel eastwardly along that highway, where is this little house, to his right or to his left? A. To his right.

Q. And on the near side or the far side of the Perkintown Road? A. It is on the side toward Atlantic City.

Q. In other words, you have to cross the Perkintown Road before you reach it? A. Yes, sir.

CROSS EXAMINATION

By MR. GREENBLATT:

Q. This picture which you have there, marked D-2, shows the Holmes' house, doesn't it? A. Yes, sir.

Q. That shows the stop street sign? A. Yes, sir. 10

Q. That sign there is right near that telephone post, isn't it? A. Yes, sir.

Q. In fact, it is nearer to the street than the pole itself? A. Perhaps it is.

Q. That is between the concrete and the pole, isn't it, that stop sign? A. It looks that way. I imagine it might be just a little nearer.

Q. Look at it and make sure. Is that stop sign to the south of the telephone post? A. I believe it is.

Q. And that is nearer to the highway than the 20 telephone post? A. Yes.

Q. Now, these flowers that you saw there are climbing flowers, aren't they, vines? A. Yes, sir, I think they are.

Q. And they are more than three feet high, aren't they? A. Yes, sir.

Q. They are all the way up to the top of the porch in front of that house? A. Yes, they reach quite high.

Q. Now then, these trees over here and the 30 branches hanging down, don't they go all the way down almost to the top of the fence or below the fence? A. They are across on the other side of the road.

Q. This tree there, that is an evergreen tree, isn't it? A. Yes.

Q. Is this on this side of the road? That is, on the Holmes' side? A. That tree is on the Holmes' side, yes.

Q. What is this over here? Is that on this side? A. That is the small maple tree that I had reference to, being probably two years old.

Q. And in front of that Holmes house there are 10 shrubs, aren't there? A. Flowers, yes.

Q. And they are about three feet high, you say? A. Yes.

Q. They are as high as the fence, anyway, aren't they, a little higher in some places? A. About that, yes.

Q. A little higher, aren't they? A. Yes, they may be.

Q. And when you say you can look up six or seven 20—did you say—hundred yards? A. I said six or seven hundred yards.

Q. That is two thousand feet, you know? A. Yes.

Q. From what point is it that you can look up two thousand feet? A. If a car was standing at the stop sign.

Q. That part of the car, then, would be on the shoulder of the Harding Highway, wouldn't it? A. No, sir. It would be before you come out on the highway.

30 Q. This stop sign there, how close is that to the Harding Highway shoulder? A. To the edge of the concrete it is about thirty-three feet.

Q. When you get out there you say you can look

up that highway straight ahead two thousand feet?

A. Yes, sir.

Q. And you have a clear view then? A. Yes, sir.

Q. So that Mr. Snyder had a clear view of two thousand feet to his right? A. Yes, sir.

REDIRECT EXAMINATION

10

By MR. DAVIS:

Q. Mr. Swaverly, did you measure the distance of the Holmes' house from the edge of the concrete? A. Yes, sir.

Q. How far is the Holmes'—

MR. GREENBLATT—I object to that. There has been no testimony on our part as to distances. This 20 is rebuttal.

MR. DAVIS—It is rebuttal, but this young lady said these trees and shrubbery interfered with her view.

MR. GREENBLATT—And this witness is testifying in rebuttal. There has been no testimony on our part as to distances whatever.

THE COURT—Of course, the testimony as to ob- 30
structions that would obscure the view would raise the question of distance. I will allow it.

(An exception was noted for the defendants.)

Q. How far is the Holmes' house set back from the edge of the concrete of the Harding Highway?

A. Eighty-one feet.

Q. Are there any trees in front of that except this little maple you have talked about? A. No, sir, no large trees at all.

Q. Is there a walnut tree there? A. Yes, sir, there is a walnut tree right in line with the front of the house.

10

NORVIE HOLMES, recalled.

DIRECT EXAMINATION

By MR. DAVIS:

20 Q. Mr. Holmes, you lived, as I understand, at this place that you now live on the 19th of April, 1933?

A. Yes, sir.

Q. You testified that on that day you were burning or preparing to burn some flowers that you had taken out of your front yard? A. Yes, sir.

Q. Were there any flowers remaining standing in your front yard on the 19th of April, 1933, or had you taken them all down? A. All was taken down.

30 Q. Are there any trees in your front yard? A. No trees except the walnut tree on the Pennsville Road, Perkintown Road.

Q. That walnut tree is right opposite the front of your house. I mean on the side of your house right

in line with the front, is it not? A. Pretty much on the front line of it.

Q. Has there been any change of the trees in your front yard since April 19, 1933, except the natural growth between that time and now? A. No, sir.

Q. You have taken none down? A. No, sir.

Q. You have put none in? A. No, sir.

Q. Is there any evergreen tree in front of your house? A. Well, there is some evergreens there about two and a half feet, I guess. 10

Q. They are not trees yet, are they? A. Not yet.

Q. I show you D-1 and call your attention to the little house marked with an X set out in the neighborhood of the intersection of Harding Highway and the Perkintown Road, and ask you if you are familiar with that house? A. Across the road?

Q. Yes, wherever it is. Are you familiar with the house? A. This little house, you mean?

Q. Yes. A. Yes, sir.

Q. Where is that located? A. That is over on the right-hand side of the Harding Highway, I should say on the southwest corner. 20

Q. Southeast, is it not? A. Yes, southeast corner.

Q. Is it on the same side of the Perkintown Road that you live on? A. No, sir.

Q. Is it on the same side of the Harding Highway that you live on? A. This little house?

Q. Yes. A. No, sir.

Q. One coming from Penns Grove going to Ocean City, would they have to cross the Perkintown Road before arriving at this little house? A. Yes, sir. 30

Q. Was that the situation that existed on April 19, 1933? A. It has been that way for some time.

Q. Was this little house ever anywhere else except where it now stands? A. Not as I know of. It has been there ever since it was put there. I guess it has been around three or four years.

Q. It was put there then, was it? A. Yes, sir.

Q. And never moved? A. No, sir.

10

CROSS EXAMINATION

By MR. GREENBLATT:

Q. Are there any other trees besides the maple tree in front of the house? A. Nothing but the walnut tree.

Q. Isn't there a large evergreen tree in front of your house? A. Large? We have no large ones.

Q. This tree there that you see? A. That one?

20 Q. That one. A. That is a walnut tree, isn't it?

Q. I don't know what you call it. Is that the tree you say is a walnut tree? A. That is a walnut tree. That is on the corner of the sun parlor.

Q. That is near your sun parlor? A. The corner of the house, sun parlor.

Q. These vines there alongside of your house—these are vines, aren't they? A. We have no vines.

30 Q. What is that? Is that a tree right alongside of your porch or sun parlor? A. Evergreens is all we have got there.

Q. What is that? That shows there, doesn't it, some foliage of some kind to the top of your porch? A. That is the gateway there on the Perkintown Road.

Q. That is foliage all the way up to the top of

your porch, isn't it? A. On the side of that road, yes.

Q. And that is right alongside of your house, isn't it? A. Well, that is on the front side of that road, that side there.

Q. And that was there at the time of this accident, wasn't it? A. Not no flowers there at that time.

Q. That isn't flowers, is it? That is foliage. A. That is a flower over the side—you see, I have got a flower rack. That is a vine running over there. 10

Q. That vine remains, doesn't it, in the winter as well as the summer, and merely sprouts leaves? A. No leaves on it.

Q. But the vines are there, aren't they? A. The vines are there.

Q. Winter as well as summer? A. The vines are there.

Q. They are fairly thick, aren't they? A. No. It is thickened up more this season than ever since we have been there. 20

Q. It is the thickest this season? That is all.

REDIRECT EXAMINATION

By MR. DAVIS:

Q. Mr. Holmes, did you see your house, the distance of your house today measured from the front of your house to the edge of the concrete? A. I did not. 30

Q. Didn't you see Mr. Swaverly and these gentlemen today at noontime measure along the— A. I thought you were speaking of—yes, I seen that.

Q. Do you remember how far it was? A. You

stepped it off yourself, didn't you? A. I heard you say it.

Q. Eighty-one feet? A. Eighty-one feet, I think.

Q. This gate of yours that he is talking about that has the vine, what is it, a rosebush or what? A. It is a running vine that I built a rack for it to run on.

Q. Does this vine that you are talking about and this gate lead to the front of your house or toward the rear of your house from the Harding Highway?

10 A. That is on the other road, this vine is.

Q. I say is it closer to the Harding Highway than the front of your house or further from the Harding Highway to the front of your house? A. It is closer.

Q. How could that be? Which is nearer the Harding Highway, the front of your house or the door? A. I don't quite get you.

Q. All right. This vine is, you say, over a gate that leads into your house? A. That's right.

20 Q. And leads to it from the Perkintown Road? A. Yes, sir.

Q. I am trying to find out which is nearer the Harding Highway, your gate or the front of your house? A. The front of my house is closer.

Q. Certainly. A. Sure.

Q. How far back from the front of your house, about, is the gate that leads into your yard on the Perkintown Road? A. Well, I judge it would be about ten or twelve feet.

30 Q. So if it is eighty-one feet to the front of your house, it would be at least ninety-one feet before you got to your door, wouldn't it? A. Yes, sir.

Q. So that this gate would be at least ninety-one feet north of the Harding Highway? A. Yes, sir.

TESTIMONY CLOSED

(The following motion was made in Chambers:)

MOTION TO DIRECT VERDICT FOR
DEFENDANTS

MR. GREENBLATT—I desire at this time to move for a direction as to the defendant, William Bicking.

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MR. DAVIS—I think he is entitled to a direction as to him. I have not proved he had anything to do with the operation of the car.

MR. GREENBLATT—I want to make a motion for a directed verdict on the main case against Margaret Bicking on the ground that the testimony has not shown any negligence on her part whatsoever. There has been no testimony as to speed except probably a mile back or half a mile back, which, of course, has no bearing on what might have been the speed at the point of the accident. Secondly, the testimony clearly shows that the plaintiff operated his car across the highway in a negligent manner, thereby contributing clearly to the collision. It might be said that that might be a question for the jury, but Snyder testified that he looked and saw a car to the right four hundred yards, and he started to cross and crossed in a hurry and he did not look again except at the moment of the collision. That is clearly legal contributory negligence, and it appears to me that if a verdict should be rendered in favor of the plaintiff that might be proper grounds to set it aside.

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THE COURT—I think there is ample here to go to the jury. The motion will be denied.

(Mr. Davis and Mr. Greenblatt summed up the cases of their respective clients to the jury.)

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COURT'S CHARGE TO JURY

SHAY, J. Members of the jury: You have evidenced great patience in the trial of this cause and the attention that you have paid to counsel in this matter.

As you know by this time, the plaintiff has brought a suit against two defendants here, William L. Bicking and Margaret E. Bicking. As far as William L. Bicking is concerned, your verdict will be one of no cause of action, because there is no proof in this case as to him, and therefore you will eliminate that from your consideration and bring in a verdict of no cause of action. 10

As to the other defendant, the plaintiffs in this case charge her with the negligent operation of an automobile, and as a result of that, this suit is brought for money damages to compensate them for injuries they received, personal injuries and property injuries, as the result of this accident. 20

That brings you, as I see it, to the consideration, first, of whether or not the defendant was negligent. That is a fact for you as jurors to pass upon. Persons using the highways, particularly with automobiles, are supposed to use them with due regard to the rights of others using the highways; and a person is required under the law of this State to operate a motor vehicle as an ordinarily reasonable, prudent person would under the same circumstances. Each person is required to do that. 30

In this particular case certain facts are admitted and certain facts are denied. It is admitted that the

defendant was operating a motor vehicle on the highway. It is likewise admitted that one of the plaintiffs was operating a motor vehicle on the highway, Samuel Snyder. It is admitted that an accident occurred. Now, as to the surrounding circumstances of that accident there is considerable dispute, and there lies your responsibility. You shall consider all the evidence pertaining to the manner in which these cars were operated, the place where the accident occurred, photographs that have been offered in evidence. Consider all of that, so that you may be able to determine whether this defendant was negligent in the operation of her motor vehicle, and if so, whether that was the proximate cause of the accident. If you should find that she was negligent, then you should consider whether or not, from all the testimony, all the evidence, the plaintiff himself was guilty of contributory negligence such as contributed in any way to this accident. If he did in any degree contribute to this accident through his negligence, that is, through his failure to operate his car as an ordinarily prudent person would under the same circumstances, or that he did something that an ordinarily prudent person would not do under the same circumstances, which in any way contributed to the accident, then he cannot recover. If you should find that the defendant was negligent and that the plaintiff in the operation of his car was free from contributory negligence—that is, the plaintiff, Samuel Snyder—then you should find a verdict in his favor. Otherwise, you should find a verdict of no cause of action.

As I said before, you are the judges of the facts. The law you take from the Court. There are certain

rules laid down by the Legislature with respect to the operation of motor vehicles that I think might be pertinent to have called to your attention. They are to be considered by you, together with all the other testimony, in determining just what the facts are in this particular case. There are, of course, numerous rules laid down, but I think two of them might be well considered, together with all the other facts, by the jurors in this case.

The first one I shall read to you: "Vehicles ap- 10
proaching an intersection. The driver of a vehicle
approaching an intersection shall yield the right of
way to a vehicle which has entered the intersection.
When two vehicles enter an intersection at the same
time, the driver of the vehicle on the left shall yield
the right of way to the driver on the right."

There is another Section which I shall likewise
read to you, which provides as follows: "It shall be
unlawful for the driver of any vehicle or streetcar to
enter upon or cross any through street so designated 20
and marked"—that is, by a stop sign—"unless he
shall first bring his vehicle or streetcar to a complete
stop at a point within five feet of the nearest cross-
walk or stop line marked upon the pavement at the
nearest side of such through street, unless otherwise
directed to proceed by a traffic or police officer or
traffic control sign, or as provided in Section 6 of
this Article."

That necessitates, I think, my reading number 6.
Section 6 provides: "One or more vehicle or vehicles, 30
streetcar or streetcars, following directly in line with
another such vehicle or streetcar and coming to a
complete stop, caused by the first vehicle or streetcar
nearest the intersection complying with the provision

of Section 5 of this Act, may proceed into the cross or through street without again coming to a complete stop, and it shall be unlawful for the driver of a vehicle or streetcar approaching the intersection on the through street not to yield to such vehicle so proceeding into or across the through street." I only read that Section 6 because Section 5 refers to it and I thought it might cause some confusion in your minds.

- 10 If you determine that Mr. Snyder and his daughter are entitled to compensation, you will have to consider all the testimony as to the damages, naturally. The car was damaged to a certain extent. That is not disputed. There does not seem to be a great deal of difference with respect to the testimony as to the value of the car before the accident from either side in this case. There is a few dollars difference. That is as I recall the facts. Of course, when
- 20 I refer to them, I do not refer to them for the purpose of influencing you, nor do I want you to remember them as I refer to them; it is only for the purpose of trying to assist you. If I should misquote the testimony, you will remember the facts as they are, as they come from the lips of the witnesses, and not from counsel or from the Court. \$300.00 or \$350.00 was the value, I think, that the plaintiffs placed upon this car before the accident, and they say it was worth \$25.00 as junk after the accident. The defendant, through a man who repairs cars, I believe,
- 30 quoted a figure of \$282.45 as the cost of repairing the car, and also said it was probable or possible that other repairs might be necessary after that was done, depending upon whethor or not certain parts of the

car were injured as a result of this accident. So there is not much difference, ladies and gentlemen, as I recall the facts regarding the value of this car.

The car was in the name of the daughter of Mr. Snyder, so if she is entitled to anything, she is entitled to be compensated for the value of that car.

Now as to Mr. Snyder's claim. He has offered testimony as to his injuries, his doctor's bill and his pain and suffering and his present condition, and you are to carefully consider that testimony and determine, 10 if he is entitled to anything, just how much. He is entitled to be compensated for any pain and suffering he may have suffered prior to this time and any that he probably will suffer in the future, as a result of this accident. He is entitled to be compensated, of course, for any expenses, such as doctor's bills, to which he has been put. He would be entitled to be compensated for any moneys that he was obliged to 20 expend for the services of some other man or men to take his place in the operation of his farm. As I recall the testimony, last year he states that it was necessary to have an extra man at a dollar a day, plus board, from about the 20th of April, or sometime in the month of April, until the latter part of October, and that it was necessary this year, likewise, to employ that person, and there was testimony that at sometime or times, it was necessary to engage an extra man at a dollar and a quarter a day. Of course, as I said, if he is entitled to anything, he is entitled 30 to be compensated for that.

The burden is upon the plaintiff in this case, as in all these cases, to prove his case by the greater weight of the believable testimony, not necessarily by the

larger number of witnesses, but by the quality of the testimony rather than the quantity of the testimony.

I hope that you members of the jury will not allow any prejudice that might exist in your minds to influence you in arriving at a verdict as far as this defendant is concerned, because of the fact that she is a non-resident. You would not want and I would not like to be treated that way in another State, and we do not want to treat citizens of another State in any
10 other way than we want to treat our own citizens; so please do not allow any prejudice of that nature to get into this case.

This is not a place for sentiment or sympathy. The law is in one way cold, and in another way it has to be cold; otherwise it would not be just; so that we only consider the law and the facts, and you take your law from the Court and the facts you take from the witnesses, the testimony, the evidence. You take
20 the law from the Court, weigh and compare the evidence and conscientiously and carefully determine the facts that I have enumerated to you, and then render your verdict.

I tried to convey to you the idea that if Mr. Snyder was negligent in the operation of this car, neither of the plaintiffs could recover. If I have not conveyed that idea to you, I want to do so at this time. If he was negligent in the operation of this car, neither he nor his daughter can recover, because she was the
30 owner of the car.

You may retire.

PLAINTIFF'S EXCEPTION

MR. DAVIS—If your Honor please, I should like to have an exception to your application or statement of the rule of contributory negligence, pointing out to the Court that your Honor did not define to the jury that it must also be the proximate cause.

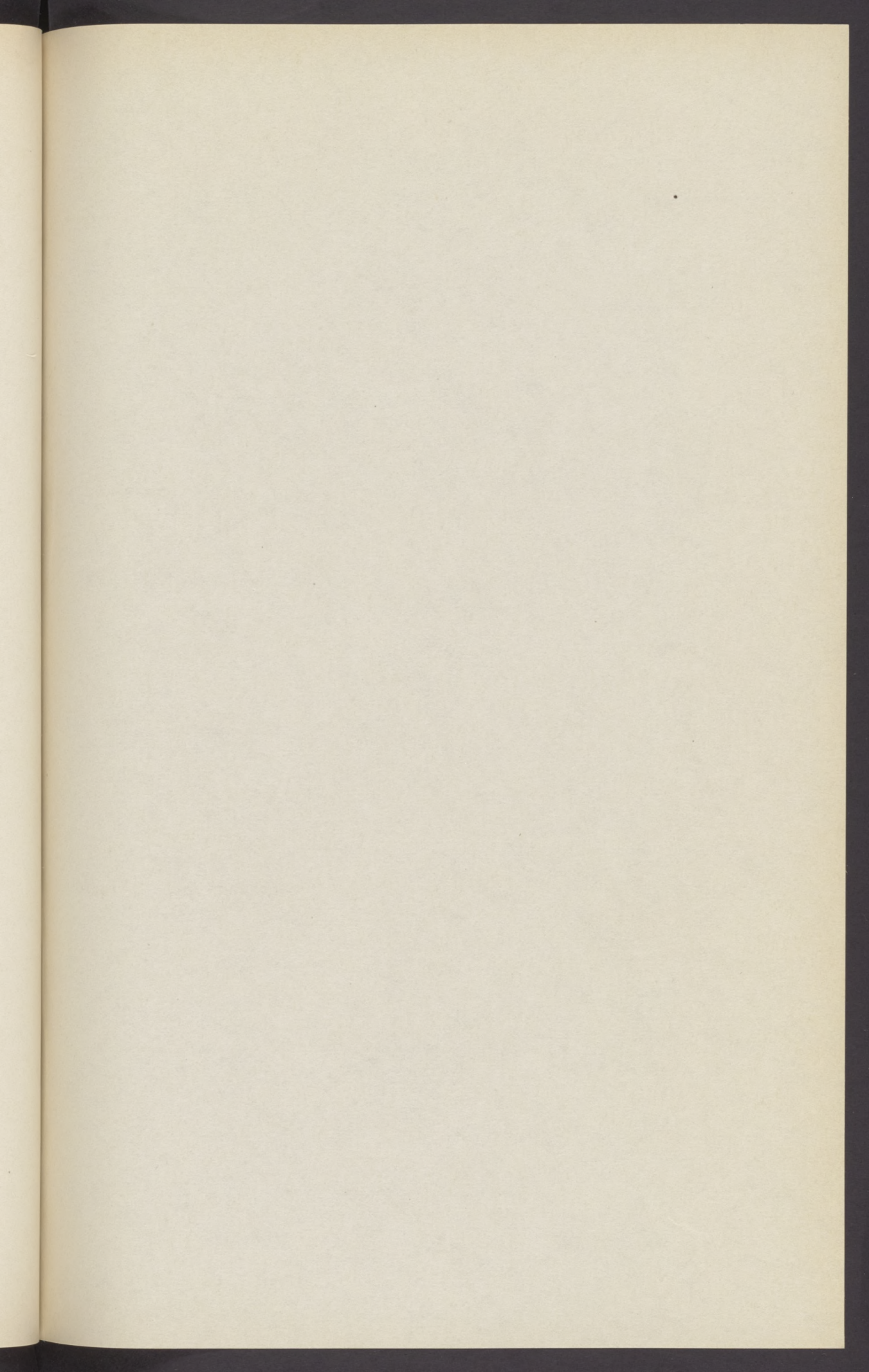
(Which exception is hereby allowed.)

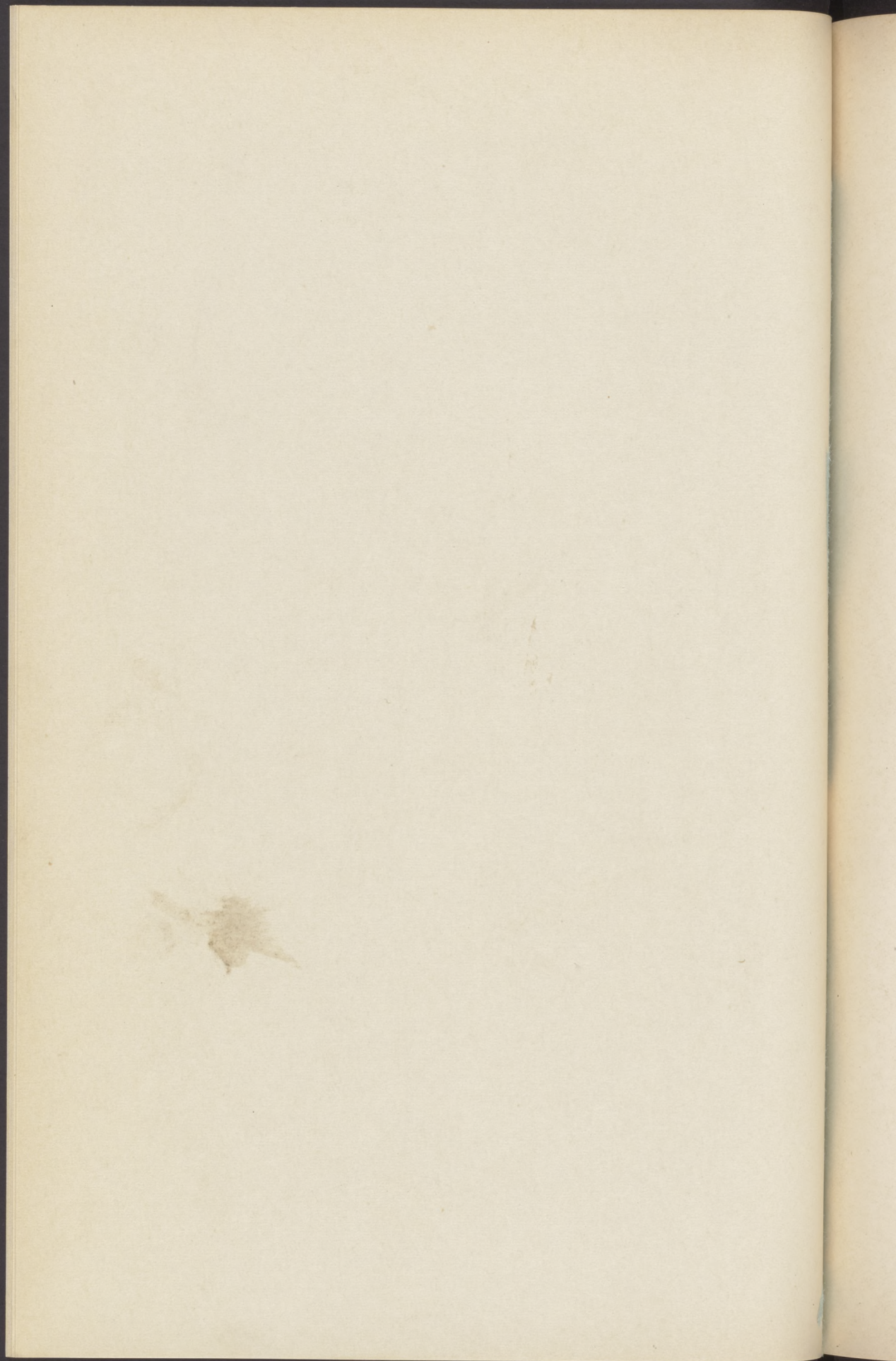
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NEW JERSEY COURT OF ERRORS
AND APPEALS.

ETHEL SNYDER and SAMUEL P. SNYDER,
Plaintiffs-Appellants,

v.

WILLIAM L. BICKING and MARGARET E. BICKING,
Defendants-Respondents.

ACTION AT LAW.

ON APPEAL.

BRIEF OF PLAINTIFFS-APPELLANTS.

This case was the ordinary case of a right-angled collision between two automobiles. The plaintiff, Samuel P. Snyder, was traveling on the road, leading from Pedricktown to Pennsgrove, and the defendant was traveling eastwardly on the highway leading from Pennsgrove to Salem. The collision occurred at the intersection of these two roads.

Before the plaintiff entered upon the road, on which the defendant was traveling, he stopped (S. C., p. 84, l. 23) right by a stop sign. The car was coming from his left hand (S. C., p. 84, l. 30), and then he looked to his right and left (S. C., p. 85, l. 3)

and he saw the defendants' car coming "down there by the garage" (S. C., p. 85, l. 9), and that was about 400 yards away from the crossing (S. C., p. 84, l. 11). At that time he thought the defendants' car was making ordinary speed. He thought he had plenty of time to cross (S. C., p. 86, l. 3), and then he proceeded across in second gear (S. C., p. 86, l. 13). When the plaintiff was almost across the road on which the defendant was traveling he was struck by the defendants' car, as a result of which the plaintiff, Samuel P. Snyder, was severely injured and the car owned by the plaintiff, Ethel Snyder, was demolished.

The only question now before this Court is whether the learned trial Judge in charging the jury correctly stated the law of contributory negligence, contributory negligence having been set up by the defendant, both in his pleading and at the trial.

The charge referring to contributory negligence is found on S. C., p. 168, ll. 19 to 26, inclusive, and was also referred to on page 172, the last three lines of the charge.

I took an exception to the charge of the law respecting contributory negligence, which is found on page 173, S. C.

THE LEARNED TRIAL JUDGE ERRONEOUSLY CHARGED THE JURY WITH RESPECT TO THE QUESTION OF CONTRIBUTORY NEGLIGENCE.

The effect of the charge of the learned trial Court, in fact, his very language is that if the plaintiff

“did in any degree contribute to this accident through his negligence, that is, through his failure to operate his car as an ordinarily prudent person would under the same circumstances, or that he did something that an ordinarily prudent person would not do under the same circumstances, which in any way contributed to the accident, then he cannot recover.”

Then the learned Court on S. C., p. 172, l. 24, stated:

“If Mr. Snyder was negligent in the operation of this car, neither of the plaintiffs could recover.”

Of course, this is true if the Court had correctly charged the law of contributory negligence in the first instance. The original charge, however, in this respect, was, it is respectfully submitted, erroneous.

The most recent statement of the law of contributory negligence that I can find is *Taylor v. Rabino-witz*, 175 Atlantic Rep. 202 (not in official reports), decided on November 9, 1934, in which the Court, per curiam said:

Brief of Plaintiffs-Appellants

“This charge to the jury falls short of the legal requirement under our cases, is erroneous, and contains in our judgment, harmful error. In tort actions, based upon the defendant’s negligence, it is not sufficient to instruct the jury that they must find that the defendant’s negligence ‘contributed’ to the injury. The essentials are that the defendant’s negligence if found to exist, must be determined by the jury to have been the proximate cause of the injury.”

In *Smith v. Irwin*, 51 N. J. L. 507, the Court said:

“To conclude the plaintiff from maintaining his action, his conduct must have been negligent, and his negligence must have contributed to the injury in such a way that, if he had not been negligent, he would have received no injury from the negligence of the defendant.”

Citing

N. J. Express Co. v. Nicholas, 4 Vroom 434.

That case, Mr. Justice DePue, speaking for the Court, said:

“To conclude a plaintiff from maintaining an action to recover damages for injuries occasioned by the negligence of a defendant, on the ground that the injury was contributed to by his own conduct, it must appear that the plaintiff’s conduct was negligent, and that his negligence contributed to the injury in such a manner, that if he had not been negligent, he would have received no injury from the negligence of the defendant.”

See also

Runyon v. C. R. R. Co., 1 Dutcher, 556;

Telfer v. Northern R. R. Co., 1 Vroom 188.

Brief of Plaintiffs-Appellants

In *Penna. R. R. Co. v. Righter*, 42 N. J. L. 180, the Court said:

“It is a part of the rule of contributory negligence that the plaintiff’s negligent act must proximately contribute to his injury; but if it so contribute, the comparative degree of the plaintiff’s and defendant’s negligence will not be considered.”

In *James v. D. L. & W.*, 92 N. J. L. 149, the Court said:

“If that which she did was not negligence contributing to her injury in such a way that had she not been so negligent she would have received no injury no matter how negligent the defendants, or any of them, were, it is hard to conceive of a case of that sort.”

And in the syllabus prepared by the Court, it is said:

“‘Contributory negligence’ is present in a given case when the injured person by his own negligence has contributed to the injury in such a way that, but for his negligence, he would have received no injury from the negligence of the other party.”

Now, it is plain that the charge of the Court below is not in accordance with the statement as laid down by our Courts. This Court has said that his negligence must have contributed to the injury in such a way that if he had not been negligent, he would have received no injury from the negligence of the defendant, and the learned Court below charged—“If he did in any degree contribute to this

Brief of Plaintiffs-Appellants

accident through his negligence," the plaintiff could not recover.

The question of proximate cause or causation, responsibility for the happening of the accident is entirely taken away from the jury by the charge of the Court below and they are told that if the plaintiff contributed *in any degree*, through his negligence, the plaintiff could not recover, so that if the plaintiff's conduct, although negligent, was in no wise responsible for the happening of the accident, was in no wise the proximate cause, under the charge of the Court, the plaintiff was prevented from recovery. That is not the way that we understand the law to have been stated by this Court in prior cases.

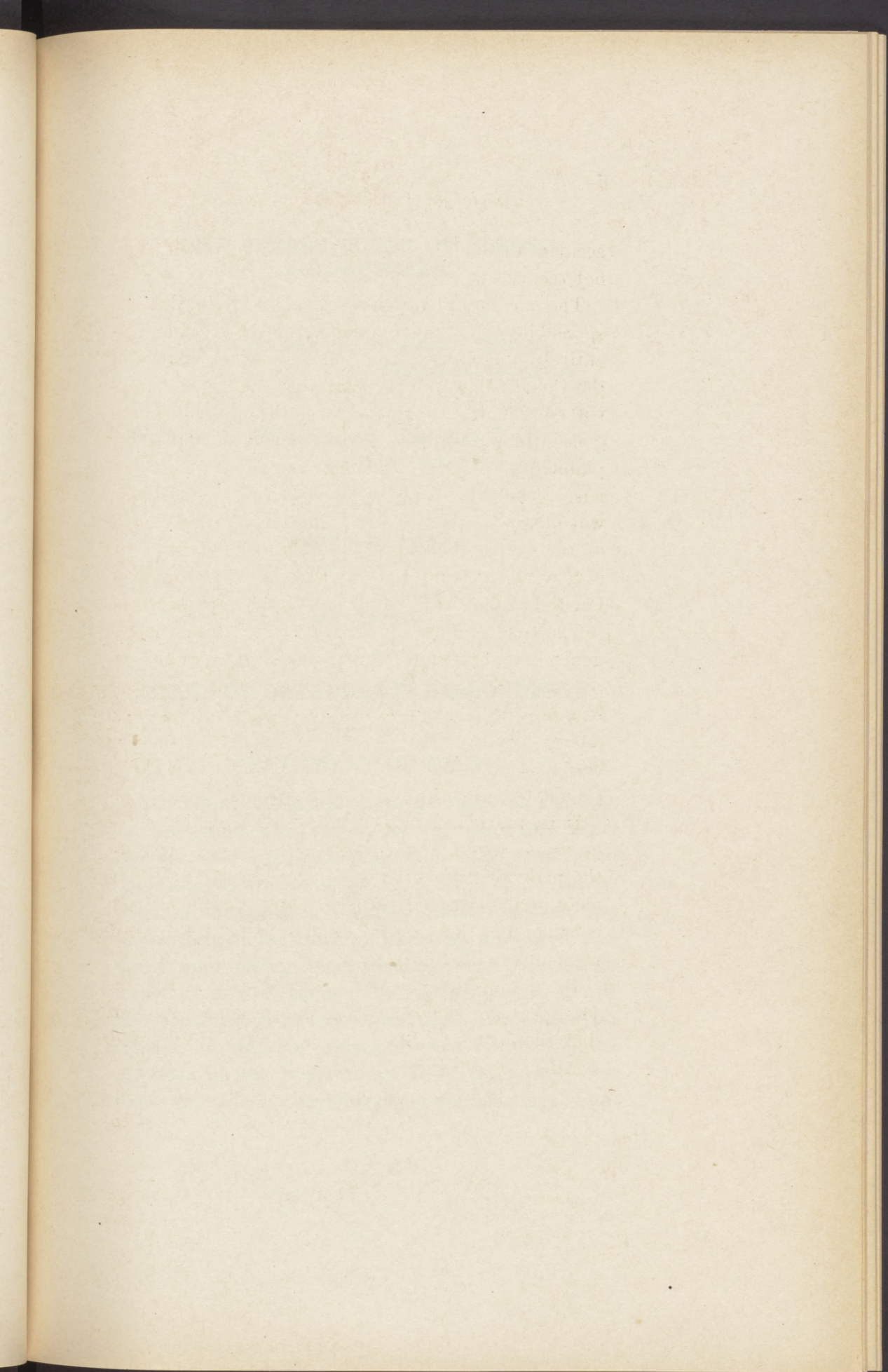
The case is one that turned entirely upon negligence and contributory negligence. The Court imposed, by his charge, upon the plaintiff a burden of exonerating itself from any negligence whatsoever, and we believe that the charge of the Court was erroneous and that the judgment of the lower Court should be reversed and a new trial awarded.

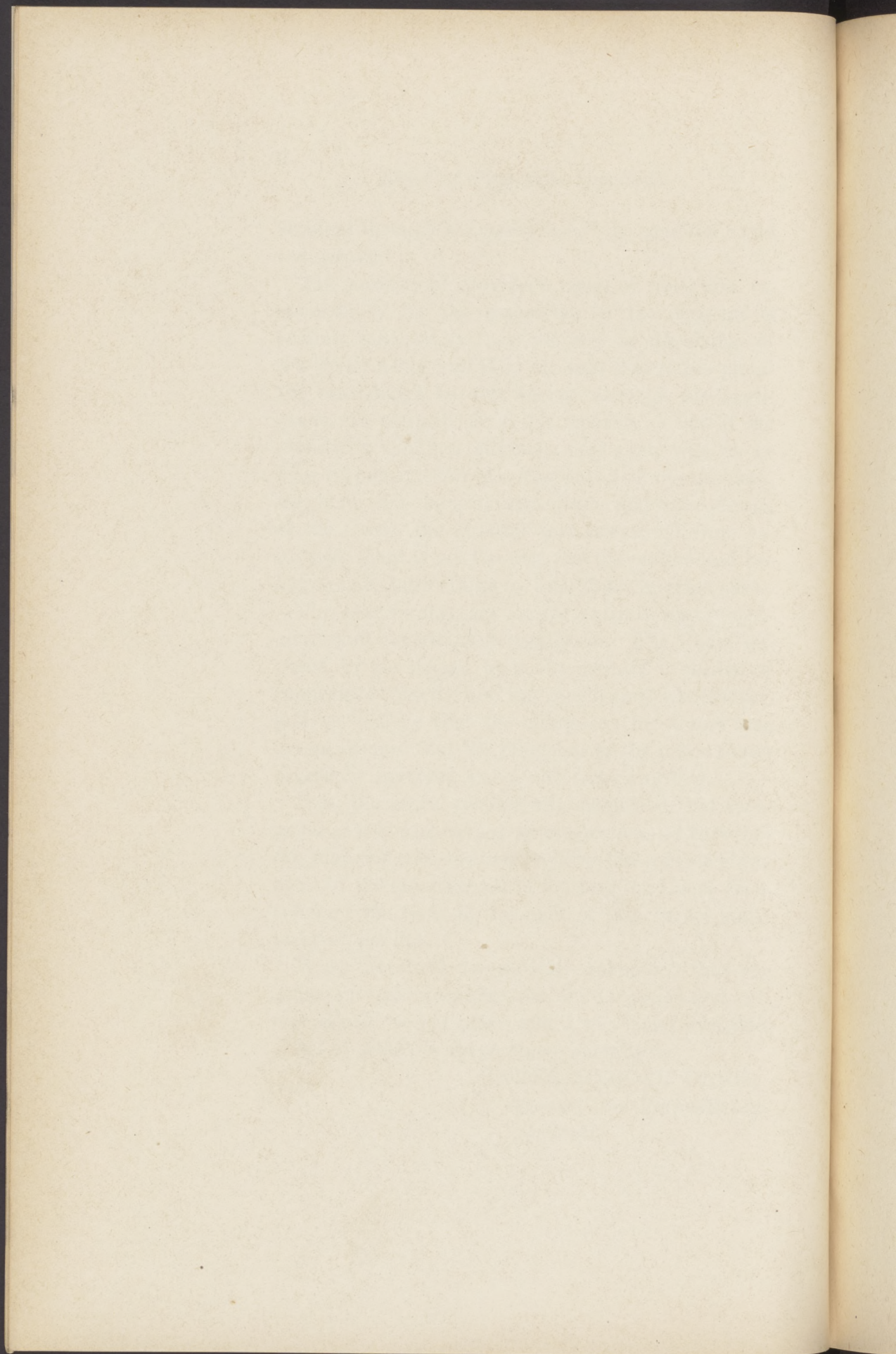
It is, therefore, respectfully submitted that inasmuch as this case rested upon questions of fact that the plaintiff was entitled to have the correct statement of the law charged to the jury, and have them consider the facts in the light of the correct statement of the law.

It is, therefore, respectfully submitted that the judgment was erroneous, and the judgment and verdict should be set aside and a new trial awarded.

All of which is respectfully submitted.

JAMES MERCER DAVIS,
Attorney for Plaintiffs-Appellants.





NEW JERSEY COURT OF ERRORS
AND APPEALS.

ETHEL SNYDER and SAMUEL P. SNYDER,
Plaintiffs-Appellants,

v.

WILLIAM L. BICKING and MARGARET E. BICKING,
Defendants-Respondents.

ACTION AT LAW.

ON APPEAL.

BRIEF OF DEFENDANTS-RESPONDENTS.

STATEMENT OF FACTS.

The plaintiff, Samuel P. Snyder, was the operator of an automobile owned by the plaintiff, Ethel Snyder. He was proceeding on an oiled road called the Pedricktown Road. (S. C., p. 25, l. 15.) The defendant, Margaret E. Bicking, a school teacher, was proceeding on the Harding Highway, a concrete surfaced road leading from Pennsgrove to Woodstown in the County of Salem. The Pedricktown Road and the Harding Highway cross each other at right angles. A stop sign was located at the time of the collision on the Pedricktown Road thirty-four feet from the side of the concrete of the Harding High-

Brief of Defendants-Respondents

way. (S. C., p. 26, l. 8.) The collision occurred on the concrete portion of the Harding Highway (S. C., p. 34, l. 25) and after the collision skid marks were observed on the right side of that highway. None were observed on the other highway on which the plaintiff proceeded, indicating that he made no attempt to avoid the collision. (S. C., p. 35, ll. 1 to 10.) Plaintiff, before entering the highway, testified that he stopped at the stop sign thirty-four feet from the side of the concrete highway, permitted a car from the left to pass on over the Harding Highway, saw the defendant's car coming from the right and proceeded to cross in front of defendant's car at a speed, as testified by him, to be "pretty good." (S. C., p. 105, ll. 16 to 32.) In addition (S. C., p. 106, ll. 1 to 21). Plaintiff attempted to cross at a "good rate" of speed because, as he said, he "didn't want her to hit me." He did not look to the right or to the left after starting from the point thirty-four feet back of the Harding Highway until the moment of collision. (S. C., p. 106, ll. 10 to 20.) Defendant's testimony was to the effect that her speed was between thirty and thirty-five miles per hour (S. C., p. 119, l. 19); that the Snyder car came across the front of her when almost at the intersection (S. C., p. 119, l. 35); that he was coming at a very high rate of speed, corroborating the plaintiff, Samuel Snyder, in that respect. (S. C., p. 120, l. 19.) Harding Highway at that point was a through street. (S. C., p. 119, l. 14.) At the conclusion of the testimony, the Court directed a verdict of no cause for action in favor of the defendant, William

Brief of Defendants-Respondents

L. Bicking, and the jury returned a verdict of no cause for action in favor of the defendant, Margaret E. Bicking.

POINT I.

Plaintiff's exception to the charge of the Court on the law of contributory negligence is based on the theory that the Court had to say to the jury that before the plaintiff was precluded from recovering, his contributory negligence must also have been the proximate cause of the collision or the damages sustained by him. This is an incorrect theory. The question of proximate or efficient cause is considered only on the question of the defendant's negligence and not the plaintiff's contributory negligence, for unless the defendant is guilty of negligence in a given case and his negligence is the proximate cause of the collision, there can be no recovery against him. It is never sufficient in a tort action against a defendant to merely show or prove that the defendant was guilty of contributory negligence. To establish this reasoning, I cite the first case to which counsel for the appellants refers. *Taylor v. Rabinowitz* (175 Atlantic Reporter, p. 202), but not in official reports; decided on November 9th, 1934.

The true rule on the question of contributory negligence is given by Mr. Justice DePue speaking for this Court in *New Jersey Express Co. v. Nicholas* (33 N. J. L. p. 434):

Brief of Defendants-Respondents

“To conclude him from maintaining his action, his conduct must have been negligent and his negligence must have contributed to the injury in such a way that if he had not been negligent, he would have received no injury from the negligence of the defendant. * * * But if the plaintiff’s negligence is established, the comparative degrees of the negligence of the parties is immaterial, for the reason that it would be impossible to say that without such fault on his part the occurrence would have happened. The injury must be attributable to the defendant’s negligence, and to that alone; *if occasioned, in any degree by the plaintiff’s own negligence, he is without redress.*”

It will be noted that Justice DePue used “in any degree,” the very words to which appellants object in the charge of the trial Court.

It is true that the Court in the case at bar did not in those words say to the jury,

“and his negligence must have contributed to the injury in such a way that if he had not been negligent he would have received no injury from the negligence of the defendant.”

Yet the Court did say to the jury (p. 167, l. 25),
“Persons using the highways, particularly with automobiles, are supposed to use them with due regard to the rights of others using the highways; and a person is required under the law of this State to operate a motor vehicle as an ordinarily reasonable, prudent person would under the same circumstances. *Each person is required to do that.*”

Brief of Defendants-Respondents

In speaking of contributory negligence on the second page, l. 19, the Court did not merely say to the jury, "If the plaintiff was guilty of contributory negligence in any degree he cannot recover." The Court went further and told them what that negligence must consist of by saying (p. 168, l. 19):

"If he did, in any degree, contribute to this accident *through his negligence*, that is, through his failure to operate his car as an ordinarily prudent person would under the same circumstances, or that he did something that an ordinarily prudent person would not do *under the same circumstances*, which in any way contributed to the accident, then he cannot recover. If you should find that the defendant was negligent and that the plaintiff in the operation of his car was free from contributory negligence, that is, the plaintiff, Samuel Snyder, then you should find a verdict in his favor."

In effect, the Court said that if Samuel Snyder did not fail in his duty "to use the highway with due regard to the rights of others," and if he did not fail in his duty "to operate his automobile as an ordinarily reasonable, prudent person would *under the same circumstances*," then Samuel Snyder should have a verdict.

Respondents argue that the charge of the Court on the law of contributory negligence was sufficient in view of the fact that the Court first laid down the duty that each motorist owes to the other, and secondly, that even though he used the words "in any degree" or "in any way" those words were

modified and elaborated on when the Court repeated these words

“that is, through his failure to operate his car as an ordinarily prudent person would under the same circumstances, or that he did something that an ordinarily prudent person would not do under the same circumstances, etc.”

Mr. Justice Kalisch, speaking for this Court, in *Thaibodeau v. Hamley* (95 N. J. L. p. 181), and passing on the question of contributory negligence, said,

“The first point made in appellants’ brief and argued is based upon the fifth ground of appeal which embodies an exception taken by appellants’ counsel to an instruction by the Court to the jury as follows:

‘The mere fact that the plaintiff put his arm out of the window is not negligence in itself, but it is for you to determine whether, under all the circumstances of the case, the fact that the plaintiff had his arm out of the window amounted to negligence, in your opinion, and to such negligence as contributed to his injury.’

This was an accurate statement of the legal rule applicable to the case.”

In reviewing the law of negligence and contributory negligence and the history thereof, Mr. Justice DePue in *Menger v. Laur* (55 N. J. L. at the bottom of p. 210), quotes from the opinion of Lord Campbell as follows,

“In a Court of common law the plaintiff has no remedy if his negligence *in any degree* contributed to the accident.”

Brief of Defendants-Respondents

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It is therefore respectfully submitted that the judgment should be affirmed.

All of which is respectfully submitted.

M. JOSEPH GREENBLATT,
*Attorney for Defendants-
Respondents.*

