



Minnesota District Court (Carver County)
Civil and criminal case files

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R N Kroeber
Sam Whittaker

I N D E X

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✓ Dr. H. D. Diessner	1	3		
✓ David Riebel	5	10	20	20
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✓ Charles Arine	31	35		
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State of Minnesota
County of Carver.

In Justice's Court
before
Honorable A. F. Young,
Justice of the Peace.

-----O-----
The State of Minnesota (
 against)
R. N. Travis, and (
Sam Whittaker, Defendants.)) PRELIMINARY
 HEARING.
-----O-----

At the Court House, in the City of Chaska, in said County of Carver, the above entitled cause came on for a preliminary hearing, before the Honorable A. F. Young, a Justice of the Peace in and for said County of Carver, on the 8th day of July, A. D. 1914; whereupon, the following proceedings were had:

A P P E A R A N C E S :

John J. Fahey, Esquire, county attorney of said Carver County, appeared as counsel for the State;

Albert H. Hall, Esquire, appeared as counsel for the defendant R. N. Travis;

G. A. Will, Esquire, appeared as counsel for the defendant Sam Whittaker.

D R. H. D. D I E S S N E R , a witness called on the part of the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Your name is Henry D. Diessner? A Yes, sir.

Q What is your occupation or profession?

A Physician.

Q And you are practicing where?

A Chaska.

Q How long have you practiced? A Five years.

Q And you are a graduate of what University or College of

Medicine?

A Hahne of Philadelphia.

Q Were you at the Village of Carver on July first, 1914?

A I was.

Q What official position, if any, do you hold, and did you hold at that time?

A Coroner of Carver county.

Q And what took you there; did you go there in your professional calling, or were you called as coroner?

A Both.

Q Both; now, at that time did you look upon the body of any person who had been killed, or were you called for the purpose of making any examination with respect to any accident that had happened?

A Yes, I examined the body of Clive Meyer, and the Neuensing-
er girl.

Q What time of the day were you called there Dr. Diessner?

A Oh, about 8:40, about 8:30, or 40, something like that.

Q Where were you called; were you called to any house or where were you called?

A I was told to come down to Dr. Hartley's office.

Q And when you got there, what did you find?

A The dead body of Clive Meyer.

Q Did you make any examination of the body to find out--what was the condition of the body with reference to injuries being found?

A His right calf, right leg, the muscles were cut, had some injuries about the forehead, and the neck was broken, dis-
located.

Q Now, the calf of the right leg was cut?

A Yes.

Q And there was injuries to the forehead?

A Yes.

Q And his neck was broken?

A Yes, sir.

Q Was that all the injuries there were there?

A Yes.

Q You made a thoro examination of the body, did you?

A Yes.

Q How long a cut was there on the right leg?

A Why, all the muscles were cut thru.

Q Was that a cut lengthwise or crosswise?

A Crosswise, a tearing cut.

Q Now, what injuries, if any, were on the forehead, were they bruises or cuts?

A Why, they were punctured wounds, I should call them.

Q Punctures? A Yes.

Q How many of them?

A Two, or three.

Q And you say that the neck was broken?

A Yes.

Q Now, what cause, would you say, what was the cause of the death of Clive Meyer?

A Why, the violence, breaking the neck.

Q Breaking the neck, that would accelerate his death, and cause his death?

A Yes.

Q And you say you were called there on the first day of July, about some time after eight o'clock on the first day of July of this year?

A About 8:30.

Cross Examination.

By Mr. Hall:

Q Doctor, just where were located the punctured wounds in the forehead?

A His right---on the left side, they were short cuts, not injuring the bone at all, they were just flesh wounds.

Q On the left side of the forehead?

A Yes.

Q In fact, so far as the temple is concerned--?

A On the forehead part, ahead of the temple.

Q Over the left eye?

A Yes.

Q Was there anything to indicate whether a point, or what had caused them, had been a sharp or a dull point?

A Why, a dull.

Q Was the clothing, had the clothing been removed when you got there?

A No, sir.

Q How was his limb, his leg dressed, knee pants or stockings or how?

A His clothing was torn considerably.

Q Well, did you notice what kind of clothing he had been wearing?

A No, his trousers were torn, and the stockings were torn, and so was the underwear.

Q At what point on the calf of the right leg was this cut; how far below the knee?

A Slightly above the middle.

Q Above the middle third?

A Yes.

By Mr. Will: Was that above the knee?

A No, below the knee, about the middle third.

Q That would be across the heaviest meridian?

A That's it, exactly.

Q Of the muscles. About how deep was that cut?

A Why, most of the muscles were cut, the bone wasn't injured.

Q Well, the cut was half an inch deep?

A Oh, deeper than that, three quarters, a full inch.

Q Anything to indicate whether the force had been from the

front of the leg back or from the back of the leg front,
,anything in the appearance of the cut to indicate?

A Why, the force was from t he back.

Q From the back forward? Did I get that correctly, from the
back forward?

A (Witness nods affirmatively.)

Q Did you make a post mortem?

A I did not.

Q You didn't open up the body? A No, sir.

D A V I D R I E B E L , a witness called on the part of the
State, being first dyly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Your name is David Riebel, is it?

A Yes, sir.

Q What is your business?

A Traveling for the Parlin & Orrendorff Plow company of Min-
neapolis.

Q Where is your place of residence, Mr.--?

A Delano, Minnesota.

Q How long have you been in the employ of that plow company?

A About five years.

Q Were you at Carver on the 1st day of July, 1914?

A Yes, sir.

Q You were there representing that plow company, were you?

A Yes, sir.

Q When did you come to Carver?

A I came there on Tuesday.

Q On Tuesday, that was the day before, was it?

A Yes, sir.

Q Did you go down to the ^{park}~~picnic~~ that evening at Carver?

A Yes, sir.

Q

Q You didn't go clear to the park?
A No, sir.
Q You started to go down? A Yes, sir.
Q Do you know where the piers are that support the railroad bridge there?
A Yes, sir.
Q And do you know where the street is with reference to those piers?
A Yes, sir.
Q Does it run between the piers?
A Runs between the piers.
Q The street, traveled street, runs between the piers?
A The walk, you mean?
Q Yes, the traveled track?
A Well, the traveled track is between the piers, yes, sir.
Q Now, who accompanied, who was with you as you started on down to the park?
A I met some children.
Q How many children? A Four.
Q Did you know any of those children?
A Well, they knew me, I didn't at the time.
Q You didn't at the time?
A No, sir, but after they spoke to me I knew them.
Q Did you see this little Meyer boy there?
A Yes, sir.
Q Clive Meyer? A Yes, sir.
Q And was he with you, accompanying you?
A Yes, sir.
Q And there was three other children?
A Yes, sir.
Q Now, did you see any accident occur down there?
A Yes, sir.
Q You may describe to the Court here just what you saw with reference to the accident?

- A Well, as we got down there we turned in to the ^{abutment} ~~XXXXXXXXXX~~, and just as we turned in why there was two cars coming, and these cars ran in close to the ~~XXXXXXXXXX~~ abutment and picked up the children, and I grabbed for the little girl, and I was just on the outside of the abutment, at the time, I hadn't got in there yet, and I grabbed for the little girl; the crash all came at once there, and the boy was under the car, and then, then they stopped, locked, when I first saw the cars they seemed to be locked together.
- Q Well, now, the piers, do they run at angles with the road, or run in the same direction?
- A No, sir, they run off angling so that you can't see very far from the corner of the abutment.
- Q Which pier were you behind as you faced toward the park?
- A On the left.
- Q As you faced toward the park?
- A Yes, the left.
- Q Stepped, you say, from behind the left pier?
- A Yes, sir.
- Q And which end of the pier?
- A The end of the pier toward town.
- Q The end of the pier toward town?
- A Yes, sir, towards town.
- Q Now, there was four children there; now, which two children, --you say two of the children stepped forward?
- A Well, there was the little girl, I don't know what her name is--Meyers--
- Q Neunsinger?
- A The saloon keeper or hotel keeper's child, and this little boy, the other two, I don't know what became of them, because they must have dodged in the other side of the pier, but I lost track of those after this occurred.
- Q Now, which car struck the boy, was that the car outside or inside towards the pier?

A The car towards the pier.

Q Towards the pier, on the left hand side as you face the park?

A Yes, sir.

Q And whereabouts was this boy with reference to the position of the pier, was he at the end towards the park or at the end towards town?

A He was towards town.

Q At the end near town?

A Yes, sir.

Q And at the left or right hand side of the pier as you faced the park?

A He was on the right hand side as you faced the park.

Q And at the end of the pier near town?

A Yes, sir.

Q Did you see the boy struck with the machine?

A Yes, sir.

Q And you say it was the inside machine that is, the machine next to the pier?

A To the pier.

Q Next to the pier? A Yes, sir.

Q There was two machines there?

A Yes, sir.

Q Do you know the make of the machines?

A One was a Buick and the other was number 32946.

Q Which car did you take the number of?

A 32946.

Q The Buick was on what side?

A Right hand side going towards the park.

Q It was on the outside?

A Yes, sir.

Q And the car that you took the number of was on the inside?

A Yes, sir.

Q And that's the car that struck the boy?

A Yes, sir.

Q Did you observe who was driving the car?

A No, sir, I didn't; I didn't take any notice of that at all.

Q But you did see that car strike the boy?

A Yes, sir.

Q Now, what was the next thing that happened?

A Well, the next thing that happened, I stepped out, and they were trying to back the cars up.

Q Now, just a moment, what did you do with reference to the girl?

A To the girl?

Q Yes?

A Well, before this occurred?

Q Well, while it was occurring?

A Well, I made a grab for the girl and I must have raised her, I don't know, it was done so quickly, but I think I must have raised her, and I think the fender hit the girl, and she was thrown out back of me.

Q Did the fender of the car strike you?

A Well, there was dust on my trousers, I know, but it didn't strike me.

Q It didn't strike you?

A No, sir, that is, I didn't feel any jar of the car.

Q Then, after the car struck the boy, what happened then?

A The boy seemed to go right under the car.

Q Under what car?

A Under the inside, this inside car next to the pier, and when the car stopped he was lying under the car.

Q Who took him out from under the car?

A I did.

Q Was he alive when you took him out?

A Yes, sir, just gasping a little, was all.

Q What did you do with the boy?

A Somebody grabbed him out of my arms and carried him up town, then I took care of the girl.

Q Did you observe the speed at which the cars were going?

A No, sir, I did not.

Q You didn't see the cars until they were right up close?

A No, sir.

Q That is, the cars were almost on top of you before you saw them?

A Yes, sir.

Q And you are sure it was the inside car next the pier that struck this boy?

A Yes, sir.

Q And the boy was struck at the end of the pier towards town?

A Yes, sir.

Q On the inside?

A On the inside.

Q On the roadside? A Yes, sir.

Q After the boy was struck, then you say he was rolled under the car?

A Yes, sir.

Q And you pulled him out from under the car?

A Yes, sir.

Q And that boy was Clive Meyer?

A Meyer, yes, sir.

Q That happened on the 1st of July, this year?

A Yes, sir.

Cross Examination.

By Mr. Hall:

Q About what time was it that you started to go up toward this park?

A Well, I should judge it was between 8 and 8:30.

Q You were walking then, were you?

A Yes, sir.

Q Did you go, you were going west, or in a westerly direction were you?

A Well, now---

Q Or do you know the points of the compass?

A No, sir.

Q I just want to straighten that up. Well, the direction you would be going towards, would be going west?

A Toward the east.

Q All right, I just want to get it right, not to mislead. Then you were going practically towards the east, or in an easterly direction?

A Yes, sir.

Q The railroad track crosses this street at not exactly a right angle?

A No, sir, it angles off in this way, and the road runs on in this way.

Q And the piers that support the railroad don't run parallel with the side of the street?

A No, sir.

Q But do run at right angles with the railroad?

A Yes, sir.

Q That makes them run, make a little angle at the point where the street goes under. Then you were walking upon the left hand side of the street as you were going toward the east?

A Yes, sir.

Q At the point where the roadway goes under the tracks, there is also a path, is there not, that goes to the left?

A Yes, sir.

Q And also one that goes to the right?

A Yes, sir, but it isn't used, doesn't seem as tho it was used.

Q Well, but there is--

A Yes, sir, yes, sir.

Q Both right and to the left?

A Yes, sir.

Q So the footpath sort of divides?

A Yes, sir.

Q And ~~goes~~ one goes close to the roadside and the other to the other side?

A Yes, sir.

Q How far west of the pier did you meet the children?

A How far west?

Q Yes, before you got to the pier?

A I should judge about the middle of the block.

Q In the block to the west?

A Yes, going towards the bridge.

Q Were they going in the same direction?

A They were going in the same direction, yes, sir.

Q Then you overtook them?

A Yes, sir.

Q The four children were together?

A Yes, sir, yes, sir.

Q Walking together? A Yes, sir.

Q And from that point on you walked along with the four children?

A Yes, sir.

Q Was there anybody else in the party except the five of you?

A That was all.

Q Had you, as you were walking along could you see up the road autoesx ~~ex~~ coming, or an auto coming?

A No, sir.

Q From the point where you were walking, then, there was no auto in sight?

A No, sir.

Q Then the jutt of the pier hid approaching vehicles?

A Yes, sir.

Q As you approached the pier, and by pier I mean that abutment that supports the track?

A Yes, sir.

Q On the left hand side of the road as you were going there, as you approached that did--were the children ahead of you?

A Yes, sir.

Q And as to the little girl known as the ^{Line} ~~Neuensinger~~ singer girl --

A Neuensinger.

Q What is her first name, do you know?

By a by-stander: Leona.

Q Then where was Leona and Clive with reference to you, were they ahead of you?

A They were ahead of me.

Q About how far, would you say?

A Well, not very far, they were just, when they came to this path leading around, they turned out on this path, and I followed them.

Q Well, what would be your best judgment just before the instant that attracted your attention by the collision, how many feet?

A Well, I could just reach the girl, I grabbed her, but the boy was ahead of the girl, just a trifle.

Q The boy was ahead of the girl?

A Yes, sir.

Q And which was forced toward the center of the road, the boy or the girl?

A They were both close to the pier.

Q Well, which was out farthest?

A One ahead of the other, we were all in a string.

Q Did you go single file?

A That's the way we were walking, pretty near.

Q Would you say that Clive was a little farther toward the center of the road than the little girl who followed him?

No answer.

Q And what first attracted your attention to any approaching vehicle, was it sound or something that you saw?

A I saw it just as I came in there, I saw it, and--

Q Did you see the first vehicle or auto?

A Saw both of them.

Q Did you see the direction of the first vehicle?

A Direction coming?

Q Yes, whether it made a veer to the right or left at that point?

A Why, they both swung in towards us.

Q Then, as you first saw them, the first vehicle was veering to its right, was it not?

A To its right, yes, sir, to the left, coming, but to my right.

Q To its right?

A To my right, well, that would be the left.

Q Well, it was veering toward the pier?

A Yes, sir, towards the pier.

Q Well, if it was coming west, that would be towards its right, then, to the driver's right?

A Yes, that's right.

Q It would be the driver's right and toward the pier, which was at his right?

A Yes, sir, that's right.

Q That's correct, is it not; and how far ahead of the second car was the first car when you first saw them so veering?

A Well, I don't know, I should judge about two foot, that is, it was that way when they stopped, they were locked.

Q Did you notice where the autoes stopped, where their fronts were when they came to a final stop?

A Why, yes, I noticed that one was ahead of the other, the outside one.

Q Ahead of the other?

A Yes, sir, a little ahead of the other.

Q Where was the point at which they came to a stop with reference, that would be the west end of the pier?

A Yes, sir.

Q How far?

A I should judge about 12 feet.

Q Twelve feet beyond?

A From the corner where I stood, the corner of the pier, beyond the pier.

Q Beyond the pier?

A Yes, sir.

Q Then, the front of the outside car, we will call it the Buick car, the front of the Buick car was 12 feet beyond the edge, west edge?

A Oh, no, the rear; the rear of the cars would be about 12, I should judge 12 feet from the corner of the pier where I stood, when they stopped?

Q Then the boy's body lay how many feet south of the pier?

A The boy's body, I should judge, lay about 15 or 18 feet from where I stood, under the center of this car.

Q Well, I am asking you with reference to the pier; the pier is sort of a fixture there.

A Well, from the pier, yes, sir, corner of the pier.

Q How far from the pier, by that I mean the corner that you was going around?

A Yes, sir, that's where I mean, about 12 feet.

Q How far from that corner was the boy's body?

A I should judge about 15 or 18 feet.

Q Then you hadn't got up to the pier then, when he was struck?

A I? Yes, I was right there, I was right to the pier.

Q Then had the cars gone beyond?

A Yes, sir.

Q Had you turned to your left as you saw the cars coming?

A I was right on the left, I hadn't started to go in yet.

Q Then the boy must have been farther in the street than you were, was he not?

A No, sir, I was around the pier, I wasn't between the pier and the road at all, I was just at the corner of the pier, you see.

Q That is, you hadn't come up to the pier yet?

A I was to the pier.

Q The boy had gone around the corner?

A The boy had got just inside the pier, and so had the little girl when I saw the cars coming.

Q Did you notice anything about the direction that the boy took, stepped back, or moved?

A No, sir.

Q You didn't have your eye on him?

A I didn't notice him, I wanted him to come back, he was just going in, but it came so quick, you see.

Q You made a grab for the little girl?

A I grabbed for the little girl.

Q Did the little girl fall to the ground?

A Yes, sir.

Q Were you near her?

A Went right past me, shot right by me.

Q Did you notice where the little girl was on the ground with reference to the--I'll call it the Kissel Kar, that's what it is, the one was a Buick and the other a Kissel Kar; how far from the Kissel Kar was the body of the little girl?

A The little girl, I should judge, was about six or seven feet from the rear of the Kissel Kar between the abutment of the bridge and the car.

Q Was she not in front of the Kissel Kar, when it came to a stop?

A No, sir.

Q Are you sure about it?

A I know, I am sure, she lay at the rear of the car.

Q She lay behind the car?

A Yes, sir.

Q Did you speak to the driver of the Buick car?

A No, sir.

Q Did you see him afterwards?

A Yes, sir.

Q Did he remain there?

A No, sir, he was fixing the fender, straightening out the fender on his car.

Q And after he fixed the fender, did he drive away?

A I didn't stay there.

Q Had anybody else come up before you picked up the boy?

A Anybody come? Yes, sir.

Q Who was that?

A Why, I don't remember his name, he lives right there in town, he came up right after it happened.

Q You don't know his name?

A He is right here; what is your name, here?

By a by-stander: John Funk.

By Mr. Will:

Q Does the road make an angle under this track there?

A Yes, sir.

Q Can you draw a diagram of that?

A Yes, sir.

Q Will you do so?

A I have it now, I guess. (produces a paper)

Q You were walking down here on this side of the road?

A Yes.

Q That would be, then, your left hand side of the road?

A Going down would be the right hand--oh, yes, going down ~~was~~ would be the left hand.

Q The automobiles were coming up this way?

A Yes, sir.

Q And where would you say that the accident took place?

A Right here, right in here.

Q How close to that pier?

A Why, they rubbed right along the pier, here is the track of the auto where it slewed in, see, there.

Q Which automobile?

A Not the Buick.

Q The Kissel Kar? A Kissel Kar.

Q When did you make this drawing?

A This one I drew this morning, but one I had I made the day after it happened.

Q Did you follow this track?

A Yes, sir.

Q You are sure they made a turn right there?

A Yes, sir, yes, sir.

By Mr. Hall:

Q Did you see a track made by the Kissel Kar?

A Made by that car, yes, sir.

Q The ^{forward} ~~rearward~~ of the two cars?

A Yes, sir.

Q Where did that turn from the center of the road towards the pier to the right?

By Mr. Will: Pardon me, you said the forward of the two cars?

Q Did you notice the track of the Buick car?

A No, sir, no, sir, but this track seemed to be in deep.

Q At the point where you and the children were going around the corner of the pier, you were following the beaten path that is there, grass growing on the other side of it, the beaten path, you were in the beaten path?

A Yes, sir.

Q These other marks are where you think the other two children were when they went around the other side?

A Yes, sir, that's where I think they went.

Q Do you know how far that path runs, how far away from the wall does it run?

A No, I don't, no, sir, I didn't take notice of that.

Q Did you make any examination of the front end of the Buick car?

A No, sir.

Q You say one of its front fenders was bent?

A One of the fenders, it was off of the foot board, off at the right.

Q Do you remember whether the front or the rear fender?

A The front.

Q When did you make this diagram?

A This morning.

Q Did you make it for Mr. Will?

A What is that?

Q Had you been interviewed by Mr. Will before you made this?

A No, sir, I was just sitting in the hotel there and thought I would just sketch it out.

Q And as near as you can put it, the places you have indicated are about the places where the girl and boy were?

A Yes, sir, about.

Q That thing you say ten feet, what is that?

A That's is about where the car was ten to 12 feet, you know I should judge, I didn't measure it nor nothing, I just judged that.

Q And the place where you marked boy is where the boy's body lay?

A Yes, sir, that may be a little farther on.

Q And this other point that I now mark X, what is that?

A Those are the two cars, let's see, these are the two cars, side by side.

By Mr. Will:

Q Just a moment, Mr.--, did you ever see me or talk to me?

A I don't know as I have.

Q You never talked to me about this accident, did you?

A No, sir.

Re-Direct Examination.

By Mr. Fahey:

Diagram marked State's Exhibit 1.

Q Now, you say that the girl lay at the rear of the Kissel Kar?

A Yes, sir.

Q And you were there, you observed that, did you, you know that to be a fact?

A Yes, sir.

Q Now, what circumstance impressed that on your mind?

A I picked her up.

Q You picked her up? A Yes, sir.

Q Right behind the Kissel Kar?

A Yes, sir.

Q Well, did you notice this driver of the Kissel Kar making any effort to back the car?

A Yes, sir, yes, sir, he was going to back the car, and I told him not to, that there was children under the car.

Q And that was the time you picked up the little girl?

A No, that was the time I picked the little boy up.

Q Then after you had picked the boy up--?

A I went over and picked up the girl.

Re-Cross Examination.

By Mr. Will:

Q Just a moment, how wide is the roadway there?

A How wide?

Q Yes?

A Well, wide enough for three cars, I should judge.

Q You have that marked 12 feet?

A That's the center of the road, I think, that's about the
from the center of the road to where I stood.

Q You think it is about wide enough for three cars to pass?

A Yes, sir.

Q Where was this Buick car?

A They were both standing side by side.

Q But relative to the center, at the right or left hand side?

A The Buick car stood about here, and the other, Kissel Kar,
about in here, but just how far I don't know.

J O H N F U N K , a witness called on the part of the
State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Your name is John Funk, is it?

A Yes, sir.

Q And you live at Carver?

A Yes, sir.

Q What is your business?

A Retail coal business.

Q Were you in Carver on the 1st of July, 1914?

A I was.

Q Did you start to go down to the park in the evening of that
day?

A I did.

Q Did you see any accident occur at that time?

A Yes, sir.

Q Now, with reference to the accident, where were you?

A I was about a hundred to 125 feet from the pier toward town.

Q Toward town? A Yes, sir.

Q From the west end of the pier?

A Yes, sir.

Q You were about 125 feet?

A Something like that.

Q West of that? A Yes, sir.

Q Did you see these cars referred to by the witness that just preceeded you?

A Yes, sir.

Q How far east of the pier did you observe the cars?

A Well, I can't say exactly, but it was around 150 to 200 feet. But I could see down the road a little further.

Q You could see down the road a considerable distance?

A Yes, sir.

Q That is, you were in a position that you could see by the piers a considerable distance down towards the park?

A Yes, sir.

Q Now, did you notice what kind of cars they were?

A I didn't notice the names of them, no.

Q You didn't notice the name?

A No.

Q Well, now, those cars were coming in the direction of town, were they?

A Yes, sir.

Q Did you observe the rate of speed?

A Well, they were coming fast, I couldn't state how fast.

Q You couldn't tell how fast they were going?

A No, sir.

Q Now, did you see those cars later on, when they got to the pier?

A Yes, sir.

Q Did you notice whether the cars turned to the right or to the left?

A Yes, sir, I did.

Q Which direction did they turn?

A The first car was coming up the road and that car swung to the right, and the hind car was overtaking the first car, and that also turned to the right.

Q How far east of the pier was it where the front car swung to the right?

A Well, I couldn't say how far that was.

Q Well, could you give an estimate, about twenty feet?

A Well, must have been all of twenty feet, of course I wouldn't say exactly how far.

Q But about, you couldn't tell exactly.

By Mr. Hall: When the first car turned or swung there?

A The first car.

By Mr. Hall: From the west or east end of the pier?

A Coming from the park.

Q And when the front car turned to the right, what did the rear car do?

A Turned the same way.

Q Now, the cars came along?

A Yes.

Q And did they collide?

A They did.

Q Whereabouts?

A Well, it was on this side of the pier, that is, towards the park a trifle, not very far.

Q They ran together east of the pier?

A Yes, sir, towards the park.

Q Just about towards the east end of the pier?

A Yes, sir.

Q The two cars, then, the car in front and the rear car, both you say, turned to the right?

A Yes, sir.

Q And about the east end of the pier on the left hand side as you faced the park, the cars collided?

A Yes, sir.

Q Now, what happened then, after the cars collided?

A Well, the next thing I saw they came right up and knocked down this boy.

Q Did you see the boy?

A Yes, sir.

Q The boy was walking in the direction of the park?

A Yes, sir.

Q Did you see this witness who testified?

A Yes, sir.

Q And the little girls there?

A Yes, sir.

Q Which car struck the boy?

A It was the car behind, I have the number, it was 32946. I took the number.

Q And it was the car that struck the boy?

A Yes, sir.

Q You know that?

A Yes, sir.

Q You saw that?

A Yes, sir.

Q Were you there when Mr. Riedle took the boy out from under that car?

A I came there about the same time he was pulling him out.

Q You saw the boy as he was lying under the car?

A I saw him when he pulled him out from under the car.

Q Did you know who was taken from under the car?

A No, I didn't know the child, I knew him well, but I didn't know him when he was pulled out from the machine.

Q But you know it was, do you know who it was, now?

A Oh, yes, I know him now?

A It was Clive Meyer, was it?

A Yes, sir.

Q Now, which car was it, was it the car next to the pier, next to the north pier, or the other car?

A It was the car right up to the pier.

Q Next to the north pier?

A Yes, sir.

Q That was the rear car?

A Yes, sir.

Q A Kissel Kar, the one that you got the number?

A Yes, sir.

Q That was the one that struck the boy?

A Yes, sir.

Cross Examination.

By Mr. Hall:

Q On which side of the road were you walking as you were proceeding, on the east or west side?

A I was walking on the left hand side going towards the park.

Q That is, you were walking east, facing the east, and on the left hand side of the road?

A Yes, sir.

Q Then you were on the same side that the children and Mr.— the older gentleman were?

A Yes, sir.

Q And about, were you more than half a block behind them?

A Well, I was about a hundred to 125 feet, that's a short block in there, I think, I wouldn't be sure.

Q Well, is there a cross street just below that pier?

A Towards town there's a cross street, yes, sir.

Q And were you near that cross street at the time the collision occurred?

A Yes, sir, I was going that way, of course.

Q You had not quite come to that?

A What is that?

Q Had you passed that next cross street that is west of the pier, at the time of the collision?

A I was coming to the cross street, I was in between the block.

Q It was the dusk of the evening, was it not?

A Why, you could see very plainly.

Q Well, it was some little after eight o'clock?

A Yes.

Q And the pier interferes somewhat?

A Yes, sir.

Q With the vision there, does it not?

A Yes, sir.

Q Then, did you see the cars to the left of the pier or as you looked up between the two piers?

A Between the two piers I could see them.

Q Between the two piers, you could see them from where you were?

A Yes, sir.

Q And it wasn't until the cars came into view between the two piers that you saw them?

A I don't understand that.

Q I say, you didn't see them until they came into your view between the two piers?

A No, sir.

Q You had not seen either car on the left of the pier as you were walking?

A No, sir.

Q Of course, looking ahead of you, you couldn't very well judge accurately their distance from you?

A No, no.

Q They were coming towards you?

A Yes, sir.

Q And you noticed the front car veered to its right?

A Yes, sir.

Q And that would be towards this pier toward which the children were going?

A Yes, sir.

Q Could you tell whether the speed of that forward car checked as it veered to the right?

A I couldn't tell that, but I could see that the hind car was overtaking the first car.

Q The hind car came upon it quickly?

A Well, it was gaining on it all the time I saw it.

Q And wasn't the effect of the veering of the first car to pocket the second car between the first car and the pier?

A Well, it may have been, but they struck before they got to the pier, you see.

Q Well, it would have that effect, would it not, coming in between the two piers, would be to pocket the hind car?

A Well, if they were coming in the same direction.

Q Well, the pier was towards the right, the effect would be to pocket it between the first car and the pier?

A Yes, sir.

Q Did you hear the sound of collision or grating of the fenders?

A Why, I couldn't say that.

Q Couldn't say that?

A No, sir.

Q Had you seen the children?

A Yes, sir, I saw them.

Q Where were the children when you saw the cars coming into this position?

A They stood just about the entrance of the pier there.

Q Were they standing or were they walking?

A Why, I couldn't say that.

Q Did you run or did you walk from the point where you first

saw these cars until you came up to where they were stopped?

A I couldn't say that, either, I got there fast, anyway.

Q Had either of the cars moved from the position they were in when they came to a stop when you got up to them?

A Why, not exactly, they were just moving a trifle forward and back, they were trying to get apart, they was moving just a trifle.

Q Where was Mr. Riedle when you arrived on the scene?

A He had hold of the boy when I got up there.

Q Was the boy in his arms when you got up there?

A Why, I couldn't say whether he pulled him out.

Q Did you see the boy out on the ground?

A Yes, sir, I saw the boy, I saw him in another man's arms; he asked me if I knew him.

Q Could you tell who had lifted him?

A Why, I saw Mr. Riedle pull him out while I passed down towards the cars; then this other gentleman had him.

Q Had either of the occupants of the cars gotten out of the cars when you arrived?

A No.

Q They were all in their seats?

A Yes, sir.

Q Did you see the little girl and her position on the ground?

A I did not, I didn't see her at all.

Q Did you make any examination of either of the cars at that time?

A No, sir, but I went back and took the number of this one car.

Q Did you have any conversation with either of the drivers?

A I spoke to the man that drove the Kissel Kar.

Q Did the driver of the Buick car remain there?

A Well, I think he did; I didn't pay much attention to that car that was on the outside.

Q Did you enquire of him his name, or are you the one that made enquiry?

A No, sir.

Q Did you remain there long?

A Not very long, no, sir.

Q Were both cars there when you left?

A Yes, sir.

Q Well, you were looking in the direction of the approaching cars, which was the first car, would be the Buick car?

A The Buick, yes, sir.

Q Did the driver of the Buick car make any signal with his hand as you looked at him and before he veered?

A I couldn't say.

Q He was within your view?

A Yes, sir, but I say I didn't see any.

Q If a sign had been made with the hand you would have seen it?

A I should think I would.

Q You were looking straight at him?

A Yes, sir.

Q Did the forward car make any signal or blow a horn?

A I heard no signal.

Q You heard none?

By Mr. Will:

Q How close to the pier were these cars in the collision?

A Why, I couldn't exactly state that in fact, but I know they hadn't then entered the pier, they collided before they entered the pier.

Q I mean as between the sides of the cars and the pier, you see the posts that stood underneath this, there, this diagram here, do you recognize that, the park off here?

A Yes, sir.

Q How close to the pier--?

A The car couldn't get any closer, the inside car rubbed right against the pier.

Q And that was to the right of the Buick car, the outside car?

A Yes, sir.

Q He attempted to pass him on that side?

A The Kissel Kar or hind car did, yes, sir.

Q Yes, came up from behind on the right hand side?

A Yes, sir.

Q From the front of those cars, Mr. Funk, you couldn't definitely say how fast either of them were going?

A No, sir, I couldn't.

Q It is pretty difficult to judge speed from the front at any rate, had the Buick car passed you; no, that was coming towards you?

A Yes, sir, no, that was coming.

Q Could you see the cars beyond the trestle?

A Yes, sir.

Q Could you see beyond the trestle?

A Yes, sir.

Q Which car did you first see?

A The first car, that is, the Buick car.

Q How long after that did you see the other car, or how far behind it?

A I don't know how far behind, but I saw it ~~THE SAME~~ about the same time, I should imagine.

Q Did you observe the damage to those cars?

A No, sir.

Re-Direct Examination.

By Mr. Fahey:

Q But you did observe some marks on the pier, did you?

A Oh, yes.

Q Did you observe any blood stains on the pier?

A Yes, sir.

Q Which part of the pier?

A Well, towards the town side, about a couple of feet in the pier.

Q About how far from the ground were those blood stains?

A I couldn't say, between 18 inches and two feet, I should judge.

Q About two feet?

A Something like that, I judge.

Q They were right at the corner of the pier?

A Yes, sir.

Q On the inside? A Yes, sir.

Q And on the side towards town?

A Yes, sir.

Q Do you know who took the boy up town?

A I don't know the name; he was some Chaska boy, I know him by sight but I don't know his name.

Re-Cross Examination.

By Mr. Hall:

Q Just a moment, was there any other mark on the stone work?

A Yes, there was, there was a scratch.

Q Where was that?

A Well, it came along, it was up on the town side, too.

Q And whereabouts with reference to where you saw the blood stain?

A Well, right along about in the same place.

C H A R L E S A R I N E , a witness called on the part
of the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Your name is Charles Arine, is it?

A Yes, sir.

Q Where do you live, Mr. Arine?

A Carver.

Q How long have you lived at Carver?

A Forty six years.

Q Were you at Carver on the first of July this year?

A Yes, sir.

Q Did you see any accident there, this accident that happened that we have been talking about?

A Yes, sir.

Q Where were you at the time the accident occurred?

A I was up on the Minneapolis & St. Louis track about forty feet from the edge of the dump, that is, from the railroad crossing.

Q That is, how far with reference to the north pier supporting the bridge there?

A About forty.

Q North of the bridge?

A Yes.

Q Towards the depot?

A Yes.

Q Did you see these cars in question?

A Yes, sir.

Q Did you have a chance from the track to observe a considerable distance down the street?

A Yes, sir, I saw way down to the park, saw when the two cars left the park; one left quite a little while before the other, and was down almost half ways before the second car started.

Q It was down how far?

A Half ways from the railroad crossing.

Q Well, how far ahead of the other car?

A Oh, that would be from 3 to 400 feet, I should judge.

Q Well, now, you observed the front car that was coming to town, and you saw the other car leave?

A Yes, sir.

Q Now, did you observe the speed of the front car?

A Yes, sir.

Q And could you judge about how fast it was going?

A Well, it was going pretty fast, not extraordinarily fast, the first car.

Q About how fast?

A Oh, I couldn't say for sure, but I should think probably 18 to 20 miles an hour, probably a little bit faster, too, I couldn't say for sure.

Q But I don't want to get it exactly, but you would state in your best judgment it would be about 18 or 20 miles an hour?

A Yes, sir.

Q And the rear car, you say, was about three or four hundred feet behind that?

A Yes, sir.

Q Did you see the rear car come up?

A Yes, sir, the rear car was gaining on the first car right along until they got up to maybe 75 or 80 feet from the crossing, then they were almost up to the rear end of the first car, and when they got up to the crossing, the front part of the second car was right even with the hind end of the first car; of course they were gaining on them right along.

Q The rear car, then, was running at a higher rate of speed?

A Oh, ever so much.

Q Could you form an estimate about how fast the rear car was

going?

A Well, I am not really an expert on that, but he ran about as fast as I ever saw a car run, in my judgment.

Q Well, you could tell?

A Well, he ran no less than thirty to 35 miles, I have rode that fast, myself, and, it went--

Q You say it ran as fast as you ever saw a car run?

A Yes, sir.

Q You say it kept continually gaining on the front car?

A Yes, sir.

Q And when about 20 or 30 feet from the east side of the pier, you say the front end of the rear car was right up about even with the rear end of the front car?

A Yes, sir.

Q Did you notice whether the cars turned or swerved to the right?

A Well, I couldn't say, I noticed that the rear car turned to the right, as tho it was going to pass the first car. But whether the first car was turned to the right I wouldn't say for sure, but it appeared to me it was always leaning to the right till they got down to the crossing.

Q The rear car, you say was going to the right?

A Yes, the rear car was trying to pass the first car on the right.

Q This way?

A Yes, I saw that plainly.

Q And now, when the cars had reached the ^{east} end of the pier or the piers there, that rear car was up pretty near even with the first car?

A Well, it reached the hind end of the first car when they were just about approaching the crossing, and when they got thru the crossing they were even up.

Q They were even up?

A Well, the hind car was a trifle back of the first car, probably two or three feet, when they locked together.

Q But they were locked together?

A They were locked together.

Q And the car that left the park last was a little back, back two or three feet?

A A little bit back.

Q When the cars were locked?

A Yes.

Q Did you come down then?

A Yes.

Q Did you see the boy?

A They just picked up the boy when I jumped down the bank there, and carried him away.

Q Who was the boy?

A I couldn't say.

Q You didn't know?

A No, they picked up a boy and a girl, and ran up town with them, they had already picked them up, but I didn't know whose girl or whose boy it was at all.

Q Well, that happened then on Main street in the Village there?

A Yes, sir.

Q That street you call Main street?

A Yes, sir, that runs down to the park.

Q That's the main street of the Village, is it?

A Yes, sir.

Cross Examination.

By Mr. Hall:

Q You were not right over the street, then, on the viaduct of the railroad track?

A No, sir.

Q Were you standing on the railroad track?

A Yes, sir, right on the side of the railroad, I was standing.

Q On the west or east side of the track?

A On the east side of the track.

Q Anybody with you?

A Yes, there was a man, but I don't know who he was, and I haven't seen him since.

Q Were you talking?

A Who?

Q You and him talking together?

A No, we didn't, until we heard the crash of the machines coming together, then he said, let us jump right down and see what is the matter.

Q Well, are you a railroad man?

A No, sir.

Q What were you doing there?

A Oh, I was just going down the track, going down to the river.

Q Then you were walking along, not standing still?

A I stood still at that time.

Q Well, I mean, when you heard the crash?

A No, I was standing then, because there was some commotion there that makes me stand still, there was a lady that was acting kind of queer and made me stand right still.

Q Where was this lady?

A She was right there.

Q On the track?

A Yes, sir, up on the track.

Q And how far away and in what direction was she from where you were standing?

A Well, she was standing a little bit nearer the crossing.

Q That is, then she was between you and this railroad bridge?

A Yes, um, hum.

Q And was she on the east or west side of the tracks?

A She was always on the east side, or probably on the track, I couldn't say.

Q Is that a single or a double track there?

A Oh, right there by the crossing it is a single track, but this way a little it is a double track.

Q And did you see anybody else there besides this woman who was acting strangely was ~~a stranger~~ and this man to whom you were talking?

A Yes, there was some others there, but I didn't know any of them.

Q Then you were dividing your attention between watching this woman acting strangely and observing the automobiles?

A No, I did not, the woman left there before the car came.

Q Well, how long before this accident had the woman been there?

A Oh, not very long, but she went down the bank and went on down onto the street, and was calling something like this, "Why didn't you let me alone, then", it was a colored lady and there was a man walking, "Why didn't you let me alone, then?" and she was crying and carrying on quite a bit.

Q Well, you were where you could see her?

A I stood right still.

Q Well, didn't you pay pretty strict attention to the man and woman?

A Not in particular, there was nothing in particular to hinder me seeing down to the street to the park.

Q You were partly observing this woman, you were noticing it was an unusual circumstance?

A Well, at first; if that woman hadn't been there probably I wouldn't be at that place where I was.

Q And whereabouts had this woman gone just before the time

of this accident?

A Then she was half ways down to the park.

Q How far is that park from this bridge?

A Oh, I don't know, it must be seven or 800 feet, probably more, I guess it is more.

Q Is it more than two blocks?

A Yes, it is more than two blocks, I guess.

Q And at that time could you see clear up to the park?

A Yes, sir.

Q And you claim you saw both cars leave the park?

A Yes, sir.

Q Were there other cars besides these two, either coming or going?

A Not just at that very moment, that I remember, but otherwise I think there was some more cars going.

Q Well, there had been automobiles coming and going along that road, a great many of them, were there not?

A Yes.

Q Had there not been a number of cars starting away from there, coming to Carver, towards town, before this?

A Well, before this I wouldn't say how many it was.

Q Did you notice any of the other cars?

A I presume it was.

Q Did you notice any of them?

A Well, there was cars going now and then, but then I didn't observe but those two cars I did observe because this last car was running faster than usual, and it struck my mind if those cars kept on they get together right under the crossing, that's the honest truth what I thought.

Q And you sort of had a prophetic vision of the cars getting together under the viaduct before they did?

A I did.

Q Who was the man you was talking to?

A I don't know, I didn't know him, I haven't seen him since, either.

Q You don't know who he was?

A No, he was a stranger to me.

Q What sort of a looking man was he?

A Oh, he was a middle-aged man.

Q Colored man or white man?

A No, it was a white man, he was a stranger to me.

Q Do you know whether you made any remark to him?

A How?

Q Were you and he talking about those cars?

A No, all he did say was--

Q Well, I didn't ask that, were you talking about those cars?

A No, sir.

Q You didn't get down to the road until after the boy and girl had been picked up?

A Just when they picked them up.

Q And if you were forty feet north of the bridge, you were not where you could look straight down into the street?

A No, no.

Q And the width of the track and the embankment was between you and the east as they were approaching?

A Yes.

Q You could see better you came up closer to the side or edge of the embankment, or the piers, rather, that was nearest to town, you could see that up closer than you could on the other side?

A No, I could see just as well on the east side as I could on the west side, but I couldn't see right down.

Q As the two came out from under, the two cars came out from under the railroad track, the front car was two or three feet ahead of the rear car?

A After they got on the west side of the--?

Q Yes?

A Well, I don't know as it was two or three, it was something like that, they were locked together, anyway, so that they were jerking them back and forth trying to get them loose.

Q Did you hear anything said by the driver of one car to the other?

A No, sir.

By Mr. Will:

Q You think it is about seven or eight hundred feet down from the viaduct to the park?

A I think so, probably more, I have never measured it, but I think it must be about three or four blocks.

Q And would you say that the first car had covered about half that distance before you saw the other one start?

A Just about, probably not quite half.

Q You saw the first car leave?

A Yes, sir.

Q Did you begin walking after you saw that car leave?

A No, sir, I stood right still there.

Q Stood still all this time?

A Yes, sir.

W I L L I A M M U E L L E R , a witness called on the part of the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Your name is William Mueller, is it?

A Yes, sir.

Q Where do you live, Mr. Mueller?

A At Carver.

Q How long have you lived at Carver?

A About two years and a half.

Q What is your business?

A I am in the furniture and undertaking business.

Q Were you the undertaker that had charge of the funeral?

A Yes, I was.

Q You were called to take charge of the funeral, and you are the undertaker that buried this boy Clive Meyer?

A Yes, sir.

Q When did you bury the boy?

A Buried him July the sixth.

Q Last Monday?

A Yes.

Cross Examination Waived.

M Y R T L E F I S H E R , a witness called on the part of the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Mrs. Fischer, you live in Minneapolis, do you?

A Yes, sir.

Q Were you at Carver, Minnesota, on the first day of July, 1914?

A Yes, sir.

Q You drove up there with a party, did you?

A I did.

By the Court: A little louder, please.

A I did.

Q How many were you, in the party?

A Well, there was five, six with the chauffeur.

Q Who was the chauffeur in that party?

A Mr. Whittaker.

Q This man here? A Yes, sir.

Q Sam Whittaker?

A Yes, sir.

Q Do you remember about what time you got to Carver?

A No, sir, I don't, I imagine somewhere a little after two, or three.

Q About two o'clock in the afternoon?

A Yes, sir.

Q And you took in the picnic there?

A Yes, sir.

Q Did you do any drinking there on that day?

A No, only light, soft drinks.

Q Do you know whether or not Mr. Whittaker was drinking?

A I don't know.

Q Do you know the defendant R. N. Travis, the man that is sitting back of Mr. Hall?

A Yes, sir.

Q You know him?

A Yes, sir.

Q How long have you known him?

A About five months.

Q About five months?

A Yes, sir.

Q Did you see him there at the picnic that day?

A Yes, sir.

Q Did you hear Mr. Travis and Mr. Whittaker have a ~~xxx~~ talk before they left the park that evening?

A Only that he said he would follow him.

Q Who said he would follow?

A Mr. Travis said he would follow Mr. Whittaker to town.

Q Did he mean leaving Carver?

A Leaving Carver.

Q Did you see Mr. Travis later on that day?

A I did.

Q Did you see him at the scene of this accident?

A Yes, sir.

Q You were in the Buick car driven by Mr. Whittaker?

A I was.

Q And that car left the park before the other car driven by Mr. Travis left?

A Yes, sir.

Q And it was in front of the other car?

A Yes, sir.

Q Do you know whether or not, or do you know the name of the car that Mr. Travis drove that day?

A No, sir.

Q He had a large car, didn't he?

A He did.

Q And there was some people in his car with him, was there?

A Yes.

Q Now, when did you observe or see his car approaching behind the car in which you were?

A Just before he struck it.

Q And where did the car strike with reference to this viaduct or pier?

A Why, it seemed to be right close to the pier, I didn't pay much attention, it frightened me so.

Q Was Mr. Whittaker turning his car to the right?

A Yes, sir.

Q And was Mr. Travis on the right or left side of Mr. Whittaker when he struck?

By Mr. Hall: Objected to as leading.

A On the right.

Q And Travis's car struck Whittaker's as Travis was going by on the right?

A On

A On the right.

Q You say that you saw the car, Travis' car, approaching?

A Yes, sir.

Q Did you do anything then?

A I screamed.

Q Well, what made you scream?

A Because I knew they were going to run into us, at least it looked that way.

Q And how long after you screamed did the cars collide?

A Right after.

Q Did you see this little boy there that got killed?

A No, sir.

Q Did you see him after he had been picked up?

A Yes.

Q But you didn't see him before that?

A No, sir.

Q Was Mr. Whittaker, where was he, his car, with reference to this street or road?

A I don't know what you mean.

Q Well, now, you saw the road there, didn't you?

A Yes.

Q Was he on the left side or the right side, or was he traveling on the main part of this road?

A Well, we were just getting ready to turn the corner.

Q Where were you going?

A Towards the depot there.

Q And you were going up the street that is right directly west of the pier there, is that so?

A Yes.

Q Did you see any of the other children there?

A No, sir.

Q Did you see the little girl that was picked up?

A I didn't see them until they ~~was~~ picked ~~up~~ them up and was running down the street with them.

Q You saw them pick up this boy and run down the street; You drove down with Whittaker, did you?

A Yes.

Q Are you married or single?

A Married.

Q You are a married woman?

A Yes, sir.

Q And live, you say, in the City of Minneapolis?

A Yes, sir.

Q How long have you known Sam Whittaker?

A Well, about two years, I guess.

Q And you know this man, Mr. Travis, you say, about five months?

A Yes, sir.

Q And you know he was the person who was driving the car that collided with the Whittaker car?

A Yes, sir.

Cross Examination.

By Mr. Wall:

Q Just a moment, where was you sitting in this Buick car there?

A In the right hand corner on the back seat.

Q That was the next to the cars when they came together?

A Yes, sir.

Q How close was the Kissel Kar, or Mr. Travis' car to the pier?

A I don't know.

Q Did you observe?

A No, I didn't.

Q Afterwards? A No, sir.

Q How much room was there between his car and the pier?

By Mr. Hall: Objected to as incompetent, no proper foundation laid.

The Court sustained the objection.

A Well, I don't know.

By Mr. Fahey: Well, she says she don't know.

Q How close was the rear car, Travis' car, to you when you first observed it?

A Well, it was pretty close, it was pretty near up to us.

Q And how long was it after you screamed when the collision took place?

A It was right after.

Q How fast were you driving, your car going?

By Mr. Hall: Objected to as incompetent, no foundation laid.

Q Did you observe the speed of your car?

A No, I should judge somewhere around 15 or 20.

By Mr. Hall:

Q You were sitting on the front seat of the first car?

A No, sir, on the back seat.

Q Who sat on the front seat?

A Miss Peyton.

Q Then you were in the right rear corner of the car, is that right?

A Yes, sir.

Q Were there two side seats there so that there was room for five people behind?

A Well, there was just the one seat on, it is a five passenger car, but they used the emergency seats.

Q How many people were sitting there?

A In the back seat?

Q Yes? A Three.

Q And you all three sat in the back seat, you didn't occupy either of the emergency seats?

A No.

Q Who were the other two that sat in that rear seat, besides you?

A Mr. and Mrs. Brooks.

Q As you left the park you heard Travis and Whittaker talking, did you not?

A Only a very few words.

Q Had you heard any talk before that?

A No, sir.

Q When did you get into the Whittaker car?

A Right at the grounds, right out by the road.

Q How long before you started?

A Well, we started right away.

Q Were you standing there by the car when Whittaker asked you all to get in?

A We was standing there, but I don't know what you mean.

Q Well, did Whittaker ask you and the others that were with you to get into the car?

A Why, he just said we were going home, and we got in.

Q At the time he said that did you see Mr. Travis near by?

A Yes, sir.

Q Did you know that Travis had been waiting there some time for Whittaker to go on ahead?

A I didn't know.

Q Did you see whether Travis and his party were already in their car?

A I didn't notice.

Q But you heard Travis say, I will follow you?

A Yes, sir.

Q Did you hear him say, I don't know the road in, and I have been waiting for you so, I have got to follow you, because I don't know the road?

A I didn't hear him say that; I heard him say, I'll follow you.

Q And you didn't hear any conversation just before they started?

A No, sir.

Q Have you given all the words that Travis used when he spoke to Whittaker?

A I don't know as he said it in that way or not.

Q Can you remember the words that he used?

A No.

Q Were both engines in both cars started before you all got in or after you all got in?

A Why, I don't know that either, I didn't notice.

Q Did you notice how far ahead of Travis' car was the Buick car?

A Why, when we started I would judge somewhere around fifty feet.

Q And they left the park very near together?

A Yes.

Q And Travis followed along after you as you went?

A Yes.

Q And didn't you notice Travis suddenly slow up his car?

A I didn't notice that, no.

Q And wasn't it realizing he was slowing up his car very fast that made you look back to see where Travis was?

A I didn't notice, but I know something drew my attention, I looked back.

Q Do you know what it was that drew your attention back?

A I don't.

Q Was it not something that happened up in front, something that happened to your own car that made you look back, and wasn't it because of that you screamed?

A I screamed because I saw him coming.

Q Wasn't it because you realized Whittaker had suddenly stopped his car down to slow speed and was turning to the right?

A Yes, he was turning.

Q And hadn't he brought it to a very quick stop?

A It didn't seem so quick.

Q And wasn't it because you realized Whittaker's car was stopping quickly that made you turn around to see where Travis was; isn't that correct?

A I don't think so.

Q Well, you heard, you screamed just before the collision, didn't you?

A Yes, sir.

Q Didn't all the rest of them get up in the car?

A Get up?

Q Yes? A No.

Q Didn't the others in the car with you stand up?

A No.

Q Weren't you standing up when Travis's car struck?

A No, sir.

Q Did you hear Travis remark to Whittaker?

A No.

Q What did you stop for?

A I didn't.

Q Did you look ahead as you were going under the railroad?

No answer.

Q ~~XXXXX~~ And you say that Whittaker was going to turn to go to the depot?

A He was going that way.

Q Don't you know the straight road holds straight down that street?

A I don't know nothing about it.

Q Has Whittaker told you since that that he was going to turn on that street?

By Mr. Will: She shakes her head no.

A No.

Q You are quite a friend of Whittaker's, aren't you?

A Not personally, no.

Q Well, you went out there at his invitation?

A No, we hired him to go out.

Q How do you know what the speed was?

A Why, I don't know, I just judge.

Q Well, then, who gave you the suggestion you was going 20 miles an hour?

A Well, we weren't going very fast and I should judge it would be around about that.

Q Have you talked over the evidence before you came here, talked it over with Mr. Will?

A No, before coming here?

Q Yes? A No.

Q Well, have you talked to anybody else about your testimony?

A No, sir.

Q No person at all?

A No, sir.

Q Then you were called to the stand here without any person knowing what you were going to testify about?

A Well, when I came here this morning.

Q Well, I say, this morning?

A Yes.

Q Whom did you talk to?

A That man, there.

Q Mr. Fahey?

A Yes.

Q Had you talked to Mr. Will?

A I don't know Mr. Will.

Q Did you see the boy or girl picked up, either of them?

A I didn't see them picked up, when I seen them there was men had them in their arms running down the street.

T I L L I E P A Y T O N , a witness called on the part of
the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q See, your name is Tillie Payton, is it?

A Yes, sir.

Q And you live in the City of Minneapolis, do you?

A Yes, sir.

Q Are you acquainted with Sam Whittaker?

A Yes, sir.

Q Do you know Travis, the defendant in this case?

A Yes, sir.

Q How long have you known Travis?

A Oh, about two years.

By the Court: Just speak a little louder so that the Reporter
can hear you.

A About two years.

Q How long have you known Sam Whittaker?

A Oh, about a year.

Q Were you in Carver on the first day of July, 1914?

A Yes.

Q Who took you to Carver?

A We went out with Whittaker's machine.

Q There was a party of you there, were there?

A Yes, sir.

Q Do you remember what time you got to the Village of Carver?

A Oh, about two, quarter past, or half past, something like
that.

Q What?

A About half past two.

Q Half past two in the afternoon?

A Yes.

Q Now, do you remember what time you left Carver in the even-
ing?

A Well, it was about a quarter past eight.

Q A quarter past eight?

A Something like that.

Q Where did you start home, from where, the park, from the park?

A We started from the park.

Q Where were you sitting in the car?

A I was sitting on the right hand side, in front.

Q In the front seat?

A Yes.

Q The car is a left hand drive, is it?

A Yes.

Q In what car were you sitting?

A In Whittaker's.

Q That was in the Buick car?

A Yes.

Q And Whittaker was driving the car, was he?

A He was.

Q You say you were sitting in the front seat, on the right hand side?

A I was.

Q Do you know how fast the car was going at the time?

A Oh, I don't know how fast it was going.

Q Did you observe the speedometer?

A I imagine it was going--

By Mr. Hall: Well, he asked you, did you see, did you observe, look at it?

A I looked at it now and then, but I hadn't noticed it right then.

Q But, I mean as you left the park, you looked at the speedometer, did you see how fast the car was going?

A No, I didn't.

Q Well, about how fast?

A Well, I don't know, but I imagine it was going 15 or 18,

something like that.

Q 15 or 18 miles an hour?

A Yes.

Q Did you see the car that Travis was driving?

A I saw it out on the grounds, but I hadn't noticed it.

Q Did you hear Travis and Whittaker talking?

A I just heard Mr. Travis say he got lost coming out there, and he would like to follow us in.

Q Now, after you left the park there and started for town, where was it that you next saw the car driven by Travis?

A When it ran into us.

Q What?

A When it bumped into us.

Q About where was that?

A It was right at the pier there.

Q Right at the pier?

A Yes.

Q Which side of the car driven by Whittaker did the car driven by Travis bump into?

A The right hand side.

Q So that the car driven by Travis was going on the right hand side of the car driven by Whittaker; is that so?

A Yes, sir.

Q It was on the right hand side of him?

A Yes.

Q Travis then turned to the right, did he?

A Yes.

Q Did you see the boy that was hurt there?

A I didn't see him until after they picked him up and carried him up town.

By the Court: Just a moment, now, speak so that the Reporter can hear.

Q You didn't see him until they picked him up?

A Till they picked him up.

Q Where was he picked up?

A I don't know, under the car, because they came out on the right side of the Travis car.

Q The boy was picked up, you say, on the right side of Travis' car?

A Yes.

Q And you saw them bring the boy around in front of the car?

A Yes.

Q You didn't see the boy before, or see any children before?

A No, I didn't see any children before.

Q Sam Whittaker you have known for how long?

A About a year.

Q And how long have you known Mr. Travis?

A About two.

Q Had you been drinking that day?

A No.

Q What?

A Nothing strong.

Q Well, had you been drinking beer or whiskey or any intoxicating liquor?

A No whiskey.

Q You drank some beer?

A Drank some beer.

Q You were not intoxicated?

A No.

Q Do you know whether Travis had been drinking?

A No, I never saw him that day until when first pulled out there.

Q Did you notice Whittaker?

A No, because I was dancing most of the time.

Q Are you married or single?

A Single.

Q Whittaker is a married man?

A I think so.

Cross Examination.

By Mr. Will:

Q You didn't go down there with Whittaker?

A Yes, I went with Whittaker.

Q Were you with him that afternoon?

A Well, off and on, dancing and like that, and eating.

Q Which car started from the park first?

A Whittaker's.

Q Did you see the other car start?

A No, because they was behind us.

Q How often had you observed the speedometer?

A Oh, I don't know, I didn't pay much attention to that, I don't know, every now and then I just looked at it.

Q Where was the speedometer on the car with reference to where you were sitting?

A It was right on front of me.

By Mr. Hall:

Q The estimate of the speed that you make of 18 to 20 miles an hour is simply a guess?

A Just a guess.

Q Did you notice the figures on the dial of the speedometer?

A No.

Q At any time from the time you left the park and before this collision?

A No.

Q You hadn't noticed that and were paying no attention to it?

A No.

Q Had you ridden very much in this car?

A I have ridden several ~~times~~ different times in the car.

Q And you were riding back in the front seat with Whittaker; had you ridden out in that same seat when you came to the picnic?

A Yes.

Q And when, with reference to the time of starting from the park did you hear Travis say, "I got lost coming out, so I will follow you in?"

A That was just before we started back.

Q Did you hear any more talk on that same subject between Whittaker and Travis?

A I didn't, because we were getting in the car and drove off.

Q This remark of Travis' was ~~directed~~ addressed directly to Whittaker, was it not?

A Yes.

Q And was Whittaker in his car at the time, or was it before Whittaker got into the car?

A I don't know; well, we were just fixing to get into the car; some of us were in the car, and some of us weren't.

Q Did you hear Travis say he had been waiting quite a while because he wanted somebody to go ahead and show the way?

A I don't know; I wouldn't say whether he said that or not; that was all I heard him say, what I said there.

Q And it was shortly after this remark that Whittaker started up his car?

A Yes.

Q Did you look back at any time, after you left the park, to observe how near Whittaker, or how near Travis was following?

A I, never.

Q You kept looking ahead?

A I kept looking ahead.

Q Did you hear Myrtle Peyton scream?

A I heard her scream.

Q Did you notice the speed of your car stop, slacken?

A Well, it kind of bumped us, but--

Q Then did you ~~xxxxxx~~ see Whittaker set his brake just before

you were bumped from behind?

A No, when we bumped then Whittaker turned on the brake, I guess; I don't know much about that.

Q You don't remember much about that, then the first thing that attracted your attention as being out of the usual, you don't remember what it was, now?

A Why, I know the first thing that attracted my attention was when their car bumped into us, and then that stopped us.

Q Did you feel your own car slack up at the time?

A When it bumped into us, I did.

Q Did you notice the direction of your car jerked to the right suddenly?

A No.

Q Did you notice that or not?

A No, I never.

Q Sir?

A I never noticed that.

Q Didn't notice that; did you know anything of the road to Minneapolis?

A I didn't know much about it.

Q Had you been out to that same place before that?

A I had.

Q And do you know how the straight road into Minneapolis leads, does it go straight under that viaduct down towards Carver?

A Yes.

Q Isn't that the way you usually go?

A We always turn right there at the pier.

Q What is that?

A Every time I have been out there we always turned right at the pier and went over by the depot.

Q Do you know whether he was turning to go to the right there

at that point or where he did turn to the right?

A He was fixing to turn.

Q Were you paying attention to him?

A Why, sure.

Q How is that? A Sure.

Q Did you notice he was fixing to turn?

A He was fixing to turn.

Q When had you been out there before?

A I was out there last summer.

Q Before the first of July?

A About a year ago.

Q You say a year ago; whom with?

A Mr.--no, it was with another chauffeur.

Q Was it Whittaker?

A No, it wasn't Whittaker.

Q Were you with Whittaker at that time?

A No, he was out there, but it wasn't his machine I was ~~with~~ out with, then.

Q How is that?

A He was out there, but it wasn't with his machine I was out there then.

Q Who was the one you were with at that time?

A It was the White chauffeur.

Q What is his name?

A I don't remember.

Q One of the Buick drivers?

A No, I don't think so.

Q Have you any recollection who it was?

A No.

Q Had you ever been out there before that time?

A No, I hadn't.

Q Then you had just come from that picnic ground once before?

A Once before.

Q And you say that the driver turned to the right there?
A Yes, sir.
Q And went up by the pier?
A Yes, sir, last summer.
Q Are you sure of that?
A Yes, sir.
Q Had you spoken anything to Whittaker about turning there?
A No, I hadn't spoken anything about it.
Q Did Whittaker make any sign or signal of turning?
A I don't know.
Q Did you see Whittaker throw out his hand, or make any signal that he was going to turn?
A I don't know.
Q Or sound his horn?
A He sounded his horn.
Q When?
A When he was going to turn.
Q Did you hear any sound of the horn?
A Certainly I did, but I don't know whether he made any sign with his hand or not.
Q Was it under the railroad tracks you say you heard him make his sound with the horn?
A It was just before going to turn, when he slowed down.
Q When you got under this bridge?
A No, not under it, just before the turn.
Q What do you mean, before you got under the railroad or while under it?
A No, on the other side.
Q Towards which side, away from the park?
A Away from the park.
Q Then you had come out from under the railroad when you noticed he was going to make the turn?
A Why, sure.

Q Then the place where he was bumped was after you had got out from under the railroad track?

A Yes.

Q You wasn't bumped, then, on the park side?

A No.

Q But on the town side.

G. A. G A T Z , a witness called on the part of the State, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Fahey:

Q Mr. Gatz, you are sheriff of Carver county, are you?

A Yes, sir.

Q And you are the person that arrested Mr. Travis, here?

A Yes, sir.

Q Did Mr. Travis ~~XXXX~~ and you have any talk about this accident that occurred up there at Carver?

A Yes.

Q Did he make any statement to you as to whether or not he was driving any car that was in that accident?

A Yes, he did.

Q What did he say about driving the car?

A I enquired of him, when I stopped him, whether he was the same man that drove the c ar that--I had compared the automobile number, you understand, and I enquired of him whether he was the same man driving the car at the time of the accident at Carver, and he said he was.

Q That is, you had, before you arrested him, you had got the number of the car that was in the accident?

A Yes, sir.

Q And he said he was the man that drove that car at the time of the accident?

A Yes.

Q Did he say where the car was situated with reference to the pier when the accident happened?

A Well, later he did, yes.

Q Well, where did he say it was?

A It was between the pier and the other car.

Q You observed the car, have you, that he had with him?

A Yes, sir.

Q You took charge of it at that time?

A Yes.

Q Did you notice any damages or any breaks or any injuries to the car?

A I did.

Q On what side were the injuries?

A Well, on both sides.

Q On both the right and left sides?

A Yes.

Q Were any of the fenders broken?

A Yes, both of the fenders, on the left side of the car, were damaged, and, well, they were both damaged on the right side, but not so bad. The right hand side of the fender over the front wheel, the front end of the fender was bent down and there was a break in there from each side of the fender and about four or five inches from the end of the fenders where the breaks on the sides were, and bent down to some extent down towards the wheel.

Q Did you notice the foot board, whether there was any break there, or injury?

A There wasn't much of an injury to the foot board, any more than the edge of the foot board.

Q That is, on the right side?

A On the right side of Travis's machine there was scratches on the foot board of his machine, and at the end of that foot board, the rear end, at the rear wheel, the fender

leaving over the rear wheel, that was bent toward the wheel and torn off the foot board to the extent of about, oh, three and a half inches, I should judge. It was torn off from the corner of the foot board and bent toward the wheel.

Q Did you observe the inside of the north pier there?

A I did.

Q Did that show any evidence of anything being bumped up against it?

A Yes, it did.

Q What did it show there, Mr. Gatz?

A Well, it showed that the wheel had hit, the tire had hit the pier, apparently, and that the foot board, edge of the foot board is covered with a layer of brass, that rubbed up against the pier there, slid right between two stones and just where the mortar is between the two stone where this foot board had slid along past the pier, the brass was apparently on the pier there, some portion of it just such as would rub off, not any pieces, but just such as would rub off by running along against it.

Q You made an examination shortly after the accident, and the next morning?

A Yes, sir, the next morning.

Q Early the next morning?

A Yes, sir.

Q Now, the place of the accident was in the street in the Village of Carver?

A Yes, sir.

Q And Carver is located in Carver county, Minnesota?

A Yes, sir.

Cross Examination.

By Mr. Hall:

Q Mr. Gatz, you took photographs of both sides of the car, did you not?

A Yes, sir.

Q Some days after, while the car was practically in the same condition?

A Yes, sir.

Q Did they come out good?

A I haven't seen them, Mr. Hall.

Q Mr. Travis was entirely frank and open about conversing with you, and admitted he was the man that was running the car?

A Yes.

Q Was running one of the cars?

A Yes, he was.

Q And Mr. Whittaker, had you seen him on the day of the accident?

A No, sir, I had not.

Q And have you taken any picture of the car, the Buick car, that Whittaker ran?

A No, sir.

Q Have you seen that car since then?

A Yes, sir.

Q Where did you see it?

A In the Pence Automobile house, in Minneapolis.

Q Was it in the condition that it was in at the time of the accident, or what was the condition of it?

A Well, the fenders and the foot board were taken off of the car when I saw it, but when I was there the fenders that had been taken off were placed back onto the car temporarily, as they were before they were removed.

Q Had some work or repairs been done on the car before you got there?

A They were in the act of repairing it.

Q Did you take photographs of that car?

A Did I take photographs? No, sir.

By Mr. Will:

Q Which fender of the Buick car was injured?

A Both of the fenders, that is, the rear, both fenders on the right hand side of the Buick car, also the foot board of the Buick car.

Q Those injuries were on the right side of the Buick car?

A Yes, sir.

THE STATE RESTS.

At this time Court takes a recess until 1:30 this afternoon, at which time it reconvenes.

S A M W H I T T A K E R , one of the defendants, called as a witness in his own behalf, testified as follows:

Direct Examination.

By Mr. Will:

Q Mr. Whittaker, you are the Sam Whittaker mentioned in this complaint here?

A I am.

Q And how do you spell your name?

A W-h-i-t-t-a-k-e-r.

Q What is your business?

A I am a chauffeur for the Pence Automobile company.

Q How long have you been with them?

A Seven or eight years.

Q And where do you live?

A 3409 Snelling Avenue, South.

By Mr. Fahey: What is your address?

A 3409 Snelling Avenue South, Minneapolis.

Q Do you own your own home?

A Yes, sir.

Q And what does your family consist of?

A Only a wife.

Q On the day of the accident, you recollect that, the first of July?

A Yes, sir.

Q After you left the picnic grounds, which way did you go?

A I came straight down till I hit the bridge, and then turned to the right to go down by the depot.

Q That is, on your way home?

A Yes, sir, I came that way, too.

Q Did you have a conversation with the other defendant, here, Mr. Travis, relative to the route that you were to take?

A Only that he says, when I got ready to go, I'll follow you to town, as you know the road better than I do.

Q And what time did you leave the park?

A Oh, somewhere around 8:15 or 8:20, something like that.

Q And how fast were you going?

A Why, my speed indicator registered between 12 and 15 miles an hour.

Q Did you see any parties when you came to the crossing?

A Only I saw some people standing on the corner, I slowed down and blowed the horn to let them know I was going to turn the corner, not the people behind, but only the people in front.

Q You didn't raise your hand?

A No, sir.

Q When did you first notice the car behind you?

A When it hit me, they was so closely following.

Q Had you started to turn to the right?

A Yes, sir.

Q How close were you to the side piers or supports of the bridge or trestle?

A Well, my front wheel was just in the center of the track of of the road, of the main thorofare.

Q Had you got thru the trestle?

A Yes, sir.

Q When you turned to the right was you on your way home?

A Yes, sir.

Q On this day were you driving for the Pence people?

A Well, my car was rented, yes, sir.

Q That is all.

By Mr. Fahey: That is all.

By Mr. Hall: Just a moment.

Cross Examination.

By Mr. Hall:

Q Had you been out there before?

A Yes, sir.

Q How many times?

A Oh, about this was my fourth time, that is, in the four years.

Q Had you been at the grounds, picnic grounds?

A Yes, sir.

Q All the afternoon?

A Yes, sir.

Q Had you been down town?

A Once.

Q Had you been down town a good many times?

A No, sir.

Q Doesn't the direct road from the picnic grounds to Minneapolis run straight from the picnic grounds to the Village of Carver?

A I didn't just get that.

Q Doesn't the straight road to Minneapolis from the picnic grounds run straight thru, the road you were travelling?

A Not necessarily.

Q Well, isn't that the direct route?

A I don't know.

Q Haven't you ever been over that before?

A No, sir, I didn't never take that route.

Q Don't you know that is the direct route?

A No, sir, I don't know whether there is a different route.

Q You knew that Travis claimed he did not know the route and wanted to follow you, did you not?

A Yes, sir.

Q You knew that he had been waiting for some time for you to start so as to follow you?

A I don't know how long he had been waiting, but he came to me and said I should start, he would follow.

Q You knew he had been waiting?

A Yes, sir.

Q So as to follow to get the right road home?

A Yes, sir.

Q Had you loaded up your car and the people got into his car were your engines going before ~~that~~ they got in, or were the engines started after they got in?

A In my car?

Q Yes?

A Started after the people got in.

Q Did you notice where Travis's car stood when you started?

A I did.

Q You drove by him, did you not?

A I did.

Q And he then let you have the right of way so that he could follow?

A Exactly.

Q Did you notice whether he started up his engine and came on directly after you?

A No, sir, I did not.

Q Did you look around?

A No, sir.

Q Didn't you know he was following you?

A I thought he was going to, that was all, I didn't know whether he was.

Q Didn't he tell you he would follow close so that he wouldn't lose you?

A No.

Q Well, didn't you know he was following close behind you because he wanted to get the road by following you?

A No, sir, I had my rear light lit and there was only two cars in the park that had a light lit; I lit my light on purpose so that he could distinguish my light, because he didn't start out when I did.

Q You say you didn't look around; how do you know when he started?

A Because I passed him standing still.

Q Wasn't his engine then running?

A No, sir.

Q Do you remember at what rate of speed you were going as you got to this viaduct?

A Well, I had slowed my car down to turn that corner, I just didn't look at the speed indicator, no, sir.

Q Did you check the speed of your car just as you got in the viaduct?

A No, sir.

Q Or just before or after you got thru it?

A I slowed down just before I got into the viaduct.

Q Had you given any signal to the one following you that you was going to turn there?

A No, sir.

Q You know it is customary when one car is following another to throw out the hand?

A When you are going to stop, only.

Q Don't you know it is when you are getting ready to turn?

A If I am turning to the left, but if I am turning to the right, I don't, not unless there is a traffic officer and I am going to notify him which way I am going, but not turning to the right, to turn square to the right.

Q Didn't you bring your car practically to a stop under that viaduct?

A No, sir.

Q With the car headed to the right?

A No, sir.

Q Did you see any ~~children~~ of the children that were there?

A No, sir.

Q When you were coming thru there and were about to turn to the right, didn't you see a man and some children right at that point?

A No, sir, I seen some people on the corner, but I didn't see any children, in fact, I don't know where they were.

Q Where did you see the people?

A On the street corner coming into the bridge, I didn't notice whether they were grown people or children, I just seen some people standing there, that was all.

Q You ~~knew~~^{mean} the street that runs in the direction west of that viaduct, that crosses parallel with the railroad?

A I mean the street that follows the railroad track down the main thoroughfare.

Q Were those people that you saw across from you or on the corner next to the pier?

A They were on both sides of the corner, that's why I blowed the horn.

Q Did you ring your bell or anything to indicate that you was going to cross there?

A I blowed my horn.

Q Did you head your car for that crossing?

A I did.

Q Was your car headed in that direction?

A It was in motion.

Q Then you was turned to the right to go over that crossing when the car from behind struck you?

A Yes, sir.

Q Where did it strike you?

A Well, struck me on the right hand side, the right front wheel was ahead, I suppose his rear fender smacked my rear fender, and locked in between my fender and the running board, locking my car completely.

Q Do you know how quickly after your car was struck by the Kissel Kar that both cars came to a stop?

A Do I know how quickly?

Q How far did you move?

A I didn't move any at all, I was in motion when hit, and stopped, didn't move another inch.

Q Then how swiftly were you moving at the time you were struck?

A Very slowly, very slowly, I don't know just exactly the gait, but very slowly.

Q And your impression is that you came to a dead stop almost immediately after the collision?

A No, sir.

Q How soon after?

A I said I never came to a stop at all until we were hit.

Q Then you were hit at the instant you stopped?

A The blow stopped me.

Q The blow stopped you?

A Yes, sir.

Q Did Travis make any remark to you as both cars came to a stop in the collision?

A After I had made a remark to him.

Q Didn't he remark to you, "What are you stopping here for?"

A No, sir.

Q Did you observe whether you were under the railroad tracks or west of them at the time you came to a stop and had the collision you described?

A I say the collision stopped the car.

Q Well, at the time you stopped, what was your position?

A I was on this side of the viaduct, nearest to town.

Q Well, how far out the lane, about?

A Well, whatever the distance is from the mouth of the street.

Q You was where?

A I was opposite the middle of the mouth of the street that enters the main thoroughfare.

Q Had you made any turn to the left after you had first turned to the right?

A No, sir, I didn't turn again, at all.

Q Just answer my question. Did you get out of your car?

A I did, after he backed out, yes, sir.

Q How quickly?

A Not until he backed out.

Q Well, how long a time from the time of the collision until the time he backed away?

A Well, after he told me to pull up and I found I couldn't then I says, I can't move, and he says to me, wait a minute, then he backed his car up behind mine in the middle of the street. Then I got out of my car.

Q Had anybody else got out of your car before you did?

A No, sir.

Q Did you notice whether anyone got out of Travis's car?

A Not as I know of, I didn't pay any attention.

Q You know Charles Hamilton?

A I do.

Q Didn't you see him on the ground in front of Travis's car?

A No, sir, I did not.

Q Did you see him pick up anyone or anything?

A No, sir, I did not.

Q Did you see at any time a little boy or girl on the ground?

A No, sir.

Q Do you remember anyone coming up and enquiring your name?

A Yes, sir.

Q Do you know who that was?

A No, sir.

Q You declined to give it, did you not?

A I did.

Q It was Mr. Hamilton, was it not, who said you should give your car number and name?

A Address.

Q But Hamilton said you ought to do that, didn't he?

A Yes, sir.

Q How long did you remain there after the collision?

A I don't just know how long we was there.

Q Well, about?

A Well, after the collision, I don't know, I was out there helping Mr. Travis pull the fender off his wheel, but I don't know how much time that took, after I asked him whether there was anything more I could do for him, he said no, and I left him there.

Q What did you do after you left?

A I came right on to town the way I had started to go.

Q Up to the depot?

A Yes, sir.

Q Do you know that is away out of the direct route?

By Mr. Will: Just a moment, objected to as immaterial, and not cross examination.

The Court sustained the objection.

Q Where is the car that you were driving at that time, now?

A Why, at the Pence Automobile company's.

Q Is it in the condition it was immediately after the collision?

A No, sir.

Q In the same condition now?

A No, sir.

Q It has been repaired?

A Yes, sir.

Q Were you present when the repairs were made on that?

A I helped make them.

Q The following morning?

A The following noon.

Q Any picture of that car taken?

A Not as I know of.

Q I mean any picture taken of its condition before you fixed it?

A I said, not as I know of.

Re-Direct Examination.

By Mr. Will:

Q Mr. Whittaker, you said that you said something to Mr. Travis at the time of the accident; what was that?

A I said to him, "For heaven's sake, what are you doing up here, right up here on the right hand side of me?" "I am sorry," he says, "but I thought you gave the signal," he says, "straight ahead."

Re-Cross Examination.

By Mr. Hall:

Q Did you make any answer or reply to the remark which you say Travis made?

A When he ran into me?

Q No, when he made this remark that you have just now repeated?

A Back, after he said what he did?

Q Yes?

A Not a word.

Q You said nothing else?

A No, sir.

Q Was that while you still sat in the car, and he was sitting in his car?

A Yes, sir, yes, sir.

THE DEFENDANT WHITTAKER RESTS.

DEFENDANTS REST.

By Mr. Will: As far as the defendant Whittaker goes, if the Court please, I would like to move at this time that the charge be dismissed, I don't think there is any evidence here that would justify holding him to the grand jury. The evidence conclusively shows even by the State's witnesses that this man was proceeding along the road at a lawful rate of speed, and was entirely within the law. If there be any negligence here at all it certainly was not on his part, and I feel that he has been in jail here, several days, that to hold him over for several days, it must result in a no bill being returned. He has been working for the Pence Auto company for seven or eight years in this line of work, owns his own home in Minneapolis, and there is no reason, I believe, but what, if matters should so shape themselves that it would be necessary for him to be here, that he can be had, but I don't think the evidence here is sufficient to hold him; his car did not strike anyone, and he was no more to blame for that accident than we are.

By Mr. Fahey: If the Court please, so far as the State is concerned, I don't believe we have made any case against Mr. Whittaker, but we ask that the Court have him give a

recognizance for his appearance here at the next term of Court. But we do ask the Court to find that the defendant Travis--that he stand committed to the custody of the sheriff until such time as he can give bond.

By Mr. Hall: I ask that whatever ruling be made as to my client, that the same ruling be made as to the other defendant.

By the Court: It is determined by the Court that there is probable cause to believe that the defendant Travis is guilty of the crime charged in the complaint, and that he be committed to the common jail of Carver county, Minnesota, to await the action of the grand jury, or until formally discharged according to law. It is further determined that the defendant Sam Whittaker enter into a recognizance in the sum of \$500 to make his appearance ~~XXXX~~ at the first day of the term of the next general term of the District Court, or in default of which he be committed to the common jail of Carver county, Minnesota, until the further order of the Court.

State of Minnesota,
County of *Carver*

} ss.

IN DISTRICT COURT OF SAID COUNTY,

8th

Judicial District,

October

Term, 1915.

IN THE MATTER OF

THE STATE OF MINNESOTA

against

ACCUSED OF THE CRIME OF

Manslaughter in Second Degree

R. W. Travis

Defendant

We, The Jury impaneled and sworn to try the guilt or innocence of the above named defendant
find the said defendant *R. W. Travis* guilty as charged in the
indictment

F. O. Erickson

Foreman.

Dated at *Shaska* this *22nd* day of *October* A. D. 1915

DISTRICT COURT,

8th

Judicial District

October

Term, 1915

State of Minnesota,

County of

Carver

ss.

VERDICT OF GUILTY

IN THE MATTER OF

The State of Minnesota

AGAINST

R. W. Travis

Defendant

Filed in open Court the

22nd

day of

October

1915

R. Schudstrom

Clerk.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 20, 1915

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Frank Plackner

attended as a witness in re The State of Minnesota vs. _____

R. N. Travis

Defendant

2

Days

and that he traveled

4

miles in coming to and going from said Court.

W. Odell

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn.,

Oct 2nd 1915

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Walter Klasse

attended as a witness in re The State of Minnesota vs.

R. J. Travis

Defendant

2

Days

and that he traveled

6

miles in coming to and going from said Court.

W. J. Klasse

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct 25th 1913

To O. L. Lundstrom, Clerk District Court.

This is to certify that Alvin Olsen
attended as a witness in re The State of Minnesota vs. R. H. Travis
Defendant 1 Days
and that he traveled 8 miles in coming to and going from said Court.

[Signature]
County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

Dr. W. D. Disonner

attended as a witness in re The State of Minnesota vs.

Otto Eckel Sr.

Defendant.....

1 Days

and that he traveled 2 miles in coming to and going from said Court.

W. D. Disonner

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

Thomas Moley

attended as a witness in re The State of Minnesota vs.....

R. N. Travis

Defendant.....

1

Days

and that he traveled 170 miles in coming to and going from said Court.

C. S. Dece

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that Dr. H. D. Disoner

attended as a witness in re The State of Minnesota vs. _____

R. R. Travis

Defendant 2 Days

and that he traveled 2 miles in coming to and going from said Court.

W. A. Odell

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Charles Arine

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant.

4

Days

and that he traveled 4 miles in coming to and going from said Court.

W. A. Odell

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915

To O. L. Lundstrom, Clerk District Court.

This is to certify that

John C. Frank

attended as a witness in re The State of Minnesota vs.

R. H. Travis

Defendant

4

Days

and that he traveled 4 miles in coming to and going from said Court.

W. B. Deane

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 21, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Albert Kayeski

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant

1 Days

and that he traveled 7 miles in coming to and going from said Court.

W. A. Due

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

J. J. Fahey

attended as a witness in re The State of Minnesota vs.....

R. N. Travis

Defendant.....

3

Days

and that he traveled 40 miles in coming to and going from said Court.

C. J. Allen

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 27, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

N. D. Meyer

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant.....

3

Days

and that he traveled 64 miles in coming to and going from said Court.

W. F. Edick

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

Charles Fischer

attended as a witness in re The State of Minnesota vs.....

R. N. Travis

Defendant.....

5

Days

and that he traveled 54 miles in coming to and going from said Court.

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Sam Whittaker

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant.

4

Days

and that he traveled

54

miles in coming to and going from said Court.

W. E. Edlee

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

Jillie Peyton

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant

4

Days

and that he traveled

54

miles in coming to and going from said Court.

W. J. Dece

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 22, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that.....

Myrtle Fischer

attended as a witness in re The State of Minnesota vs.....

R. N. Travis

Defendant.....

15

Days

and that he traveled 54 miles in coming to and going from said Court.

W. E. Dece

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 23, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

A. L. Skoog

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant

1

Days

and that he traveled

12

miles in coming to and going from said Court.

W. Odell

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 19, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

David B. Riebel

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant.

Days

and that he traveled _____ miles in coming to and going from said Court.

W. H. Hall

County Attorney.

State of Minnesota, }
COUNTY OF CARVER. ss.

DISTRICT COURT, No. 700
Eighth Judicial District.

To

H. D. Meyer

Greeting:

In the Name of the State of Minnesota,

You are hereby commanded, that laying aside all and singular your business and
excuses, you be and appear before the Grand Jury of the District Court for the
Eighth Judicial District and County of Carver at their room at the Court House in
Chaska, in said County, forthwith *Oct. 12th 1914 at 10 A.M.* 1914

then and there to answer such questions as shall be put to you by said Jury.

Hereof fail not, on pain of the penalty that will fall thereon.

Witness, the HON.

P. H. Morrison

Judge of the District Court aforesaid, at Chaska,

this

6th

day of

October

1914

O. J. Gustafson

Clerk of the District Court.

STATE OF MINNESOTA, } ss.
CARVER COUNTY.

District Court, Eighth Judicial District.

I hereby certify and return that I served the within Subpoena on the within
named *H. L. Miley* by reading said Subpoena
to him in his presence, and by delivering to him a true copy thereof, in County and
State aforesaid, on this *9th* day of *Dec*

1914

G. A. G. G.

Sheriff of Carver County.

Service,

Fees. Mileage,

Total,

By

Deputy Sheriff.

No.

700

STATE OF MINNESOTA, }
COUNTY OF CARVER. }

District Court, Eighth Judicial District.

GRAND JURY SUBPOENA.

Issued

October 6th 1914

O. Schindström
Clerk District Court.

Returned and Filed,

Oct. 14th 1914

O. Schindström
Clerk.

County Attorney.

District Court, Carver County, Minnesota

Chaska, Minn., Oct. 21, 1915.

To O. L. Lundstrom, Clerk District Court.

This is to certify that

John S. Nelson

attended as a witness in re The State of Minnesota vs.

R. N. Travis

Defendant

1

Days

and that he traveled 4 miles or coming to and going from said Court.

W. B. Edue

County Attorney.

State of Minnesota, }
COUNTY OF CARVER. } ss.

DISTRICT COURT,

No. 701

Eighth Judicial District.

To Dr. H. D. Dinner

Greeting:

In the Name of the State of Minnesota,

You are hereby commanded, that laying aside all and singular your business and excuses, you be and appear before the Grand Jury of the District Court for the Eighth Judicial District and County of Carver at their room at the Court House in Chaska, in said County, forthwith Oct. 12th at 10 a.m. 1914

then and there to answer such questions as shall be put to you by said Jury.

Hereof fail not, on pain of the penalty that will fall thereon.

Witness, the HON.

P. H. Morrison

Judge of the District Court aforesaid, at Chaska,

this

6th

day of

October

1914

L. L. Lundstram

Clerk of the District Court.

STATE OF MINNESOTA, }
CARVER COUNTY. } ss.

District Court, Eighth Judicial District.

I hereby certify and return that I served the within Subpoena on the within
named A. H. Weissen by reading said Subpoena
to him in his presence, and by delivering to him a true copy thereof, in County and
State aforesaid, on this 9th day of Oct 1914

{ Service,
Fees, { Mileage,
Total, }

A. J. Galt
Sheriff of Carver County.

Deputy Sheriff.

By

No. 701

STATE OF MINNESOTA, }
COUNTY OF CARVER. }

District Court, Eighth Judicial District.

GRAND JURY SUBPOENA.

Issued October 6th 1914

O. S. Sundstrom
Clerk District Court.

Returned and Filed.

Oct. 14th 1914

O. S. Sundstrom
Clerk.

County Attorney.