

COURT OF GENERAL SESSION OF THE PEACE,

City and County of New York, Part V.

THE PEOPLE OF THE STATE OF NEW YORK, Before: HON. THOMAS C.T. CRAIN,

Judge

-against-

ISAAC HARRIS and MAX BLANCK.

New York, November 20th, 1911.

Indictment filed May 16th, 1911.

Indicted for manslaughter in the first and second degrees. Appearances:

For the People: CHARLES F. BOSTWICK and J. ROBERT RUBIN, ESQRS,
Assistants to the District Attorney.

For Defendants: MAX D. STEUER, ESQ.

THE COURT: I understand both sides answer ready. We will suspend the trial of the case of the People against Casimir Ilg for a moment. You may call a talesman in the Isaac Harris and Max Blanck case.

ANTON J. GERICK, a talesman, being duly sworn and examined as to his qualifications, testified as follows:

THE COURT: You may ask him a preliminary question.

MR. BOSTWICK: This is indictment No. 82,980.

BY MR. BOSTWICK:

Q. What is your name, sir? A. Anton J. Gerick.

Q. Where do you reside? A. 427 East 156th street.

THE CLERK: (Addressing the defendants) If you desire

to challenge an individual Juror you must do so when the juror appears and before he is sworn. Do you waive the further giving of this notice?

MR. STEUER: Yes.

THE COURT: I understand the application, made practically by both sides, is that the trial of this case be now adjourned until the first Monday in December.

MR. STEUER: That is correct.

MR. BOSTWICK: I don't understand that it is made on behalf of the People, if your Honor please.

THE COURT: Well, not opposed by the People. Application having been made by the defendant and not opposed by the People, in the case of the People against Isaac Harris and Max Blanck, the trial of it is now adjourned until the first Monday in December. The trial will take place in the small room upstairs, known as the "Additional" Part. You are excused, Mr. Juror, until the first Monday in December.

(Adjourned to Monday, December 4th, 1911.)

New York, December 4th, 1911.

TRIAL RESUMED.

The examination of talesmen by counsel consumed the entire day.

New York, December 5th, 1911.

The examination of talesmen by counsel consumed the entire day.

New York, December 6th, 1911.

The empaneling of a jury was completed.

MR. STEUER: The defendants separately move separately to dismiss each count in the indictment No. 82,980, on the ground that no count in the indictment sets forth facts sufficient to constitute a crime, or the crime therein attempted to be set forth.

THE COURT: Motion denied. You have an exception.

MR. STEUER: Defendants separately except.

THE COURT: You may open the case, Mr. Bostwick.

Mr. Bostwick's opening address to the jury on behalf of the People:

MR. BOSTWICK: May it please the Court, Mr. Foreman, and Gentlemen of the Jury: I am very glad that in this short period of time we have been able to complete our jury.

The Grand Jury of the County of New York has indicted the defendants Isaac Harris and Max Blanck for manslaughter in its first and second degrees, and all that I am about to say to you, the People will prove by evidence that will be adduced before you. There is a large building at the northwest corner of Washington Place and Greene street, ten stories in height; the ninth floor, in conjunction with the eighth and the tenth floors, was used and conducted by the defendants as a factory. The defendants Harris and Blanck did business under the name of the Triangle Waist Company, which was a partnership. Their business was the manufacture of ladies shirtwaists. They gave their business their personal supervision and attention.

On March 25th at about 4:45 in the afternoon, as the employees were about to finish — or had just finished their day's labor and were about to leave the factory, a fire started on the eighth floor, on what is known as the Greene street side of the building. The quitting time on Saturday -- and this was a Saturday — was 4:45, and

the bell which was the signal for the employees to quit their work had just sounded.

Some of them were still at their machines and tables.

I think I should stop here for a moment and try and fix in our minds what are the different parts of the building, so that you can have, beside the mere words “Greene street” and “Washington Place” some definite and fixed notion as to the location and so that we may understand each other. I am going to assume that that portion of the wall (indicating east wall of court room) is Washington place; I am going to ask you to assume for the moment that that portion of the wall, (indicating north wall of court room) is Greene street. There were windows on the Washington place side and there were windows on the Greene street side, and that will be my idea of the Greene street side (pointing to north wall of court room) and that (indicating east wall of court room) will be my idea of the Washington place side. So you see that (indicating northeast corner of court room) is the corner of Washington place and Greene street. Washington place runs east and west and Greene street runs north and south. On that side (indicating north wall of court room) there are windows and Greene street goes along there. This (indicating west wall of court room) would be the northerly part of the building, and there is a great large building on that side. So, on that side (indicating south wall of

court room) there is the University building. So that this (pointing east in court room) is Washington place with its windows, and this (pointing north in court room) is Greene street with its windows, and there is a building on the north (pointing west in court room), and there is a building on the west (pointing to the south wall of court room).

At that part of the loft nearest to the Greene street end of the building, that side (pointing to north wall of court room) which is the most easterly end of the building, there were cutters' tables. The cutters had many thicknesses of lawn and materials from which the waists were made on the cutting tables, and the scraps from the cuttings were thrown in troughs underneath the tables. There was a considerable accumulation of these scraps and near the north end of the first cutter's table on the Greene street side of the building, on the eighth floor is where the fire started. The fire started and spread with great speed — you might say almost with lightning rapidity. These cuttings underneath the table ignited very quickly — they were like tinder — and the fire spread with great violence from the Greene street north end of the eighth floor. There were employed at the time of the fire, and in the three lofts occupied by the defendants, many working people — upwards of five hundred — mostly girls and women, and on the ninth floor there were several hundred operators then at work, or who had just finished their day's

labor. An alarm of fire was given which sounded in the firehouses of this city at 4:48. You will recall the bell that sounded for the quitting of work was at 4:45, or a quarter of five o'clock, and at 4:48 the alarm was received in the fire houses, and the first officer in command arrived and sent in a second alarm at 4:50 and there was a third alarm and there was a fourth alarm. On the ninth floor running north and south — that is, this way (indicating) — this is north and south as I have imagined the floor (indicating); that (indicating east wall of court room) is Washington place and Greene street runs north and south here (pointing to north wall of court room) — on the ninth floor running north and south and covering almost the entire loft were tables, on which were the machines which were operated by these many employees. There were two doors at opposite ends of the room leading to the stairways. And I ask your especial attention that you may get fixed in your mind some definite ground plan of a floor and fix in your mind these stairways and these doors, because neither of us want you to have confusion. We wish you to have a clear understanding of these various stairways and doors.

That is the Washington place side (pointing toward east wall of court room), and that is the Greene street side (pointing to north wall of court room), and there is a window so you can look out on the street there. It

cating on north wall of court room), as they would make it more real. In that corner, the north corner in Greene street (pointing to northwest corner of court room) were two freight elevators; and that is known as the Greene street entrance. Directly next to the Greene street freight elevators was the Greene street door which led to the Greene street stairway. That (pointing to northwest corner of court room) is the Greene street entrance, and when you went down in the elevator, or down the stairs and walked out, you walked out into Greene street.

At the other end of the building, and in that corner (indicating southeast corner of court room) were the Washington place passenger elevators, and the Washington place door which led to the Washington place stair-way, and when you went down that you would go out into Washington place. So you see, in that corner (indicating southeast corner of court room) if you took the passenger elevators of the stairway you would find yourself in Washington place. If you went down the elevators here (indicating northwest corner of court room) or went down the Greene street stair-way, you would go out into Greene street. I am going to try for the convenience of all through this trial, to keep these locations as I have indicated.

On the northerly side of the building — that would be the northerly side of the building (pointing to

west wall of court room), and about in the middle and on the outside — there was a fire-escape. So you see we had the fire-escape there (pointing to west wall of courtroom), we had the Washington place elevators and the Washington place door in that corner (pointing to southeast corner of court room), we had the windows along Washington place and the windows along Greene street, and the Greene street elevator said the Greene street stairway there (indicating northwest corner of court room).

Beyond that Greene street (indicating northwest corner of court room) and that Washington place (indicating southeast corner of court room) elevator and stairway, and the fire-escape (pointing to west of court room) there was no means of exit from that ninth floor. I should state here that the Washington place stairway did not go to the roof; it went from the ninth to the tenth floor but stopped there. The Greene street stairway went to the roof. And both stairways led to the street.

At the Greene street side, on the ninth floor, it had been so arranged that you had to pass through a door to get out by the Greene street way. There was no partition surrounding the doorway on the Washington place side.

All along in this building on the ninth floor was these tables — perhaps not so wide as this (indicating table) — the exact dimensions we will give you, and the height we will give you — and sitting at all these

operating tables on the ninth floor, which operating tables ran north and south, sat these men, these girls and these women.

At the cry of "Fire" those on the ninth floor ran in every direction. Some ran to the Greene street door, some got out the Greene street door and went to the street, some went to the roof, some got on the freight elevators. It was natural for them to go to the Greene street door, because I will show you that that was the every day and only method of exit at night. So that many rushed to the Greene street entrance, knowing that that was the usual place of exit. Some ran to the fire-escape on the north side of the building, others ran to the Washington place elevator, which made two or three trips, and some escaped that way. Others ran to the Washington place door. One of these was Margaret Schwartz, now dead. And it is for her death that these defendants are now on trial. Gentlemen of the jury, that door was locked. Those who ran to that door cried out "That door is locked. My God, we are lost." They were lost. That locked door barred their escape.

The fire had started on the eighth floor by the Greene street side and the flames were coming over towards them; the smoke was black. Margaret Schwartz was last seen near that door and fell, choking and overcome. It was near the Washington place side that she was last seen alive.

Some had jumped from the windows on the Washington place side; some had jumped from the windows on the Greene street side; others had died in the flames. And after the flames had been extinguished, the firemen went to the ninth floor, and there in front of the dressing-room, which was next to the Washington place stairway, the locked door, they found a heap of twenty or thirty bodies. The others were found on the ninth floor near the Greene street elevator.

We will show you that there was a partition that extended in front of the Greene street elevators, so that one sitting there could not see the elevators, and that this partition which ran along here (indicating) was used as a coat closet. And the bodies were found with their heads against this partition. That is, on the Greene street side. And along by the windows and the radiators twenty or thirty bodies were found by the Washington place side and among those the body of Margaret Schwartz. All those bodies found on the Washington place side near that Washington place door were lowered down the Washington place side of the building to the Washington place sidewalk, and all the bodies that were found over here on the Greene street side were lowered down to the sidewalk on the Greene street side, and there they were tagged by the police and taken in wagons to the Morgue as soon as they could be marked, tagged and taken there.

At the Morgue Dr. Schultz, one of the four Coroner' s physicians, who examined the remains of Margaret Schwartz, found that she had died by suffocation from smoke, and that her body was burned by fire.

We will prove to you that it was the universal custom to make the employees go out one way at night, and that one way was the Greene street elevators, and the Greene street stairway. When they were about to quit work and to depart from their day' s labor, there stood on guard at the ninth floor a watchman, and as these girls and women went out one by one they would open their handbags or their satchels or their parcels to show that they had not taken some lace, some thread, or anything that did not belong to them. This was the universal custom. That is the reason the Washington place door, we will show you, was kept locked, so that the watchman, as these persons passed before him, could see whether anything had been stolen from the concern. So they all had to go out that way. No one went out that Washington place stairway. They all went by the Greene street exit. And, in the early part of my opening, I told you that at the first cry of "Fire", many rushed, in spite of the fact that the Greene street place was where the fire started, to that Greene street exit, because it was their habit and their custom to depart at night by the Greene street stairway and the Greene street elevator.

We will show you that that Washington place door on the ninth floor was never used, it was always kept closed and locked, excepting in summer when it was very hot, during the hours when they were at their machines, it was occasionally opened. But at closing time, even in summer, we will show you that that door barred the exit of any employee.

Gentleman of the Jury, the law of this State, wisely enacted, said that all doors leading in or to a factory shall be kept open during working hours. The law said that to protect the people who were in those factories ~~-

MR. STEUER: I respectfully object to any such statement as that. I do not believe, in the first place, that there is any such law on the statute books; and in the second place, I hold and submit to your Honor that it is reversible error for counsel on either side to state in the opening what the law is. If the law is settled, and these people are determined already by the law, as put by the District Attorney, to be guilty, what is the use of having a trial?

THE COURT: Whereas in this case it is part of the matter to be established that there was a requirement that a certain thing should be done, it is not improper to call to the attention of the jury, during summation, at least, that that thing was not done. I think, perhaps, in the opening it might be omitted.

MR. STEUER: I would not even object in the opening, may it please your Honor, to the District Attorney stating to the jury that in his judgment certain things were required to be done that were not done, or some certain things were omitted from being done by these defendants that should have been done, but for the sworn officer of the law to state to the jury that it had been wisely enacted thus and so, it seems to me as very largely transgressing –

THE COURT: I think your criticism is perhaps well founded, Mr. Steuer. You may outline the theory of the People's case, Mr. Bostwick.

MR. BOSTWICK: Of course your Honor will realize I have not even been heard upon this proposition.

THE COURT: I know; I would have heard you if I thought it was necessary.

MR. BOSTWICK: It was the decision on the demurrer in this case that established the law of this case.

MR. STEUER: Please do not let us go into that. That does not establish any law by many years.

THE COURT: Do not go into that. I may say that I have ruled, Mr. Steuer, and discussion is unnecessary. You may state the theory of the People's case, Mr. Bostwick.

MR. BOSTWICK: (Continuing) The theory of the People's case is that these defendants committed manslaughter,

because where one is engaged in the commission of a misdemeanor and death ensues, even though there is no intent to kill, no design, that it constitutes manslaughter. It is the theory of the People's case that the law said that that door should be unlocked, that those employees might pass out. It is the theory of the People's case that the law says that that door should be kept open during working hours, and unlocked. It is the theory of the People's case that it was locked, and it barred the exit of these people, including Margaret Schwartz, who was seen to go to that door and fall choking before it, because of that locked door. If that door was locked, it is the theory of the People that they were guilty of a misdemeanor. And if that door was locked and Margaret Schwartz could not get out because thereof, and she fell choking because that barred her exit, it is the theory of the People that the defendants are responsible for her death and they are guilty of manslaughter. We will show you that because of the neglect to remove the waste that had accumulated under these cutters tables, that this fire spread with great violence; that this accumulation was the most culpable negligence. We will show you the way these people were obstructed in the passage to get in or out by the manner in which these machines were placed, by the partitions that barred their exit and their entrance. We will show you how the boxes and the machinery and the

tables obstructed the fire-escape, and how they had to climb over things to get to the fire-escape. We will show you that this waste had been allowed to accumulate for weeks. We shall prove to you the absence of the precautions that should have been taken by Harris and Blanck in case of fire to secure the safe departure of their employees; and after we have shown you all those conditions and after we have shown you that those people escaped where the door was open on the eighth floor, but they were burned on the ninth floor, and that that door was locked, we will then ask you for your judgment upon the evidence according to your consciences.

CHARLES B. MILLER, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(The witness states that he resides at South Norwalk, Connecticut)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Mr. Miller, do you know the building at the northwest corner of Washington place and Greene street? A. Yes, sir.

Q. Do you know who were the tenants of the eighth, ninth and tenth floors of that building? A. The Triangle Waist Company, Harris and Blanck, proprietors.

Q. Did you represent the owner of that building? A. I did.

Q. Do you still represent him? A. Yes, sir.

Q. How long, do you know, have they occupied the eighth, ninth and tenth floors, in round months or years? A. Well, the

tenth floor was not occupied by them as long as the eighth and ninth.

Q. Had the eighth and ninth been occupied by them for any period of time? A. I think the period of two leases of five years each, as my recollection goes.

Q. In other words, for several years? A. Yes, that is my recollection.

Q. Prior to March 25th, 1911? A. Yes, sir.

Q. And the eighth, ninth and tenth floors were used for what purpose? A. Manufacturing.

Q. Do you know whether Harris & Blanck were a partnership?

MR. STEUER: We concede it, if you want a concession, Mr. Bostwick.

MR. BOSTWICK: Yes.

THE COURT: For the purpose of expediting the case, Mr. Steuer, it is conceivable that during the recess hour you and Mr. Bostwick may agree upon certain things which can be conceded, which would be merely matters of formal proof.

MR. STEUER: I have already told Mr. Bostwick some time ago that any concession which relates to any formal proof that they require I should be glad to make either privately or –

THE COURT: It will shorten the case.

MR. STEUER: Yes, I will concede they were partners, or anything.

MR. BOSTWICK: If your Honor will adjourn now, so that Mr. Steuer and I may have a few minutes together, I think that much of the formal proof in accordance with has been practically our understanding can be arranged upon and save many witnesses and many hours of the time of the Jury and of the Court.

MR. STEUER: I will be most delighted to serve the People by any concession.

THE COURT: Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or to form or express any opinion thereon until the same is submitted to you. You will not talk with any one about the case, you will not allow any one to talk with you about the case, you will not visit the premises where this event is said to have happened, and without repeating it, if at any time during the progress of the trial any one of you gentlemen should receive any communication bearing in any way upon this case you will produce it in court and hand it to me at the earliest possible moment after its receipt. The jurors in this case will pass out first. The court takes a recess till 2 o'clock.

AFTER RECESS, Trial Resumed.

CHARLES B. MILLER resumes the stand and further testifies:

MR. RUBIN: If the Court please, the concession by

counsel for the defendant relieves us of the necessity of questioning this witness any further.

THE COURT: If you do not desire to interrogate him he is excused.

MR. STEUER: Just a moment. I would like to ask him one or two questions.

CROSS EXAMINATION BY MR. STEUER:

Q. Didn't you have, or didn't the landlord have, a person in or about these premises that looked after that building? A. Why, the engineer, and there was a person, a contracting engineer, who contracted to take care of the building:

Q. Well, I mean wasn't there a man named Stern? A. Isaac Stern, contracting engineer.

Q. Oh, was he the contracting engineer? A. Contracting engineer.

Q. Are you about those premises much? A. More or less during the past three or four or fire years.

Q. How frequently would you get to them? A. Why, during the year of 1910 I was there several times — excuse me, these particular premises, eighth, ninth and tenth floors?

Q. Yes. A. Yes, I was there in relation to some repairs.

Q. You were on the ninth floor, were you not? A. Passed up through it, yes.

Q. When was it that Mr. Blanck requested the laying of a new floor on the ninth floor, do you recall that? A I think in the year 1910; I should say in August, at a guess; it might

be July.

Q. Were you in and out the premises at that time? A Yes, sir .

Q. And were you in and out the ninth floor at that time? A. Yes, sir.

Q. Did you at any time, Mr. Miller, find any door leading into the ninth floor, or out from the ninth floor locked? A. I used the elevator.

Q. So that you never used either door? A. On the Greene street side, yes.

Q. And did you ever use the door on the Washington place side? A. No.

Q. Did you ever try to use it? A. No.

Q. So that you don't know whether that door was locked or open? A. No, used the elevators.

Q. Who was it that promulgated the regulations with respect to the management, running and operation of that building?

MR. BOSTWICK: Objected to, unless he states first if he knows.

MR. STEUER: Yes, of course, if he knows.

Q. You understand that everything you say you are to say only if you know? A Yes, sir.

Q. Now, in the light of that suggestion will you answer if you can the question last put?
A. Why, I don't know.

Q. Didn't you tell the District Attorney that you were the personal representative of the landlord? A. Yes.

Q. Was there any regulation that you know of with respect to the taking up and bringing down of people on what are called the “front” elevators in that building?

THE COURT: Yes or no, sir, or you don't know. A. I don't know.

Q. Who had charge of that, if you know? A. Isaac Stern.

Q. On behalf of the landlord? A. Yes.

MR. BOSTWICK: That is all, Mr. Miller.

DANIEL G. TERRY, called as a witness on behalf of the people, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q What is your address? A. 217 East 115th street.

Q. You are a custodian in the County Clerk's Office? A. I am.

Q. And the paper which you have in your hand is a paper that you brought from the files of the County Clerk's office? A. I have, sir. (Handing a paper to Mr. Bostwick)

MR. BOSTWICK: I offer the paper in evidence.

IT IS CONCEDED by the defendants that on March 25th, 1911, and that for several years prior thereto, they were the owners and proprietors of and engaged in operating and conducting a factory consisting of a workshop and manufacturing business establishment. They occupied the whole of the ninth floor and the eighth and tenth floors of the

building at the corner of Washington place and Greene street, known as 23-29 Washington place. That they were the lessees and tenants of the said floors, and were doing business there as partners, under the name of the Triangle Waist Company, manufacturing waists and other garments, and employed at labor therein a large number of persons, male and female. That they employed in the said factory on the ninth floor upwards of two hundred and twenty-five employees; and on the eighth floor upwards of one hundred and fifty employees; and on the tenth floor upwards of seventy-five employees; that Margaret Schwartz, the deceased named in the indictment, was one of those employed on the ninth floor.

THE COURT: That speaks of a definite date, does it?

MR. BOSTWICK: (Turning to Mr. Steuer) On the 25th day of March, 1911?

MR. STEUER: That's right, Mr. Bostwick. I don't think you have that paper in evidence, yet, (referring to the paper produced by witness Terry).

THE COURT: Read it.

MR. BOSTWICK: Under certificate filed September 1st, 1900, in the County Clerk's office.

MR. STEUER: If you want to read the certificate in, I have no objection.

MR. BOSTWICK: (Reading) "Whereas, we, the undersigned, have heretofore, do and now are conducting busi-

ness in the City of New York, under the name or designation of the Triangle Waist Company, now, therefore, pursuant to the provisions of Chapter 216 of the Laws of 1900, we, Isaac Harris, residing at No. 348 East 10th street, Borough of Manhattan, City, County and State of New York, and Max Blanck, residing at No. 327 East 8th street, Borough of Manhattan, City, County and State of New York, hereby certify that we are now conducting and intend hereafter to conduct our business under the name of the Triangle Waist Company, and that we are the sole persons conducting or transacting business under said name and style at No. 158 Wooster street, Borough of Manhattan, City, County and State of New York.

“In Witness Whereof we have signed the foregoing certificate this 18th day of August 1900.”

And it is conceded that the business was subsequently carried on at 23-29 Washington place.

JAMES P. WHISKEMAN, called as a witness on behalf

of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that his business address is 39 West 38th street)

Q. What is your occupation? A. I am a civil engineer, consulting engineer.

Q. And do you know Mr. John D. Moore? A. I do, sir.

Q. Were you and Mr. John D. Moore retained by the

District Attorney to make an examination of the building at 23-29 Washington place? A.

We were.

Q. Did you go there? A. We did.

Q. When did you first go there? A. On the 27th of March

BY THE COURT:

Q. What year? A. This year, 1911.

BY MR. BOSTWICK:

Q. How long a period of time were you at the building? A. Well, we spent about a month altogether at the building and making our report and looking up some data with reference to the building.

Q. Well, in regard to the matter about how often did you go there? A. We made daily visits to the building.

Q. And that was for a period of how many weeks? A. We made daily visits for a period of at least two weeks, perhaps three.

Q. Now, did you make measurements of the eighth, ninth and tenth floors? A. We did.

Q. Have you made diagrams of the eighth, ninth and tenth floors? A. I have.

Q. I show you an eighth floor plan, and ask you if it is a correct diagram of the eighth floor of that building? A. It is.

Q. And is that a correct diagram of the eighth floor as it was on the 27th day of March, 1911? A. It is.

Q. And are the dimensions, the windows and the doors and the open spaces, all correct?
A. They are.

BY THE COURT:

Q. Is the diagram drawn to a scale? A. It is.

Q. And the scale is what? A. One quarter of an inch to the foot.

BY MR. BOSTWICK:

Q. There are windows on the Greene street side, are there not? A. Yes, sir.

Q. As indicated on that diagram? A. Yes, sir.

Q. And windows on Washington place as indicated on that diagram? A. Yes, sir.

Q. There are on that diagram indicated passenger elevators? A. Yes, sir.

Q. Do those represent the shafts of those two elevators (indicating)? A. They do.

Q. That is on the Washington place side? A. Yes, sir.

Q. Annexed to them is a stairway? A. Yes, sir.

Q. We will speak of that as the Washington place stairway. Does that correctly represent the situation of the Washington place stairway? A. It does.

Q. And next to the Washington place stairway there is an indication of "dressing rooms"? A. Yes, sir.

Q. From what you found there does that properly indicate where the dressing rooms were situated? A. It does.

Q. Are also "toilet rooms" indicated? A. Yes, sir.

Q. Do they properly show the proper location of the toilet rooms? A. They do.

Q. And there are also an indication of five rows of machines? A. That's right.

Q. Are there indications of the situation of those machines? A. Yes, sir.

Q. And those are exactly as they were situated? A. Yes, sir.

Q. There were no cutting tables in the place? A. Not when we got there, no, sir.

Q. So that the words "cutting tables" are not placed there from any actual knowledge of yours that cutting tables were there? A. Excepting from the —

THE COURT: Yes or no?

THE WITNESS: (Continuing) No.

Q. The posts that are indicated were still there when you made this diagram? A.

They were.

BY THE COURT:

Q. They are indicated by small circles on the diagram, is that so? A. Yes, sir, they are.

BY MR. BOSTWICK:

Q. And near the freight elevators there was an indication of where a wood partition had been? A. Yes, sir.

Q. And that is in its proper place also? A. Yes, sir.

Q. And the surrounding buildings were and they are indicated on the diagram? A. That's right, yes, sir,

Q. And the fire-escape is situated on the north side of the building as indicated on the diagram? A. It is.

Q. And where you have the words “cutting tables” what did you find there? A. We found remnants of tables end remnants of materials.

Q. Were any of the legs fast to the floor? A. No, sir.

Q. In regard to the legs of these long tables on which there were machines, were they fast to the floor? A. In many cases.

Q. And did you find the shafting and driving wheels where they are indicated on the diagram? A. Yes, sir.

MR. STEUER: Did you mean by that question the wheels or the shafting? I think Mr. Whiskeman did not see the shafting, from what I judge; that is why I make that suggestion.

THE WITNESS: The wheels of the shafting.

MR. STEUER: Yes; that is what I thought you meant.

THE WITNESS: Well, the shafting that ran parallel to the tables, that ran the machines, was still there.

Q. The shaft itself was there? A. Yes.

Q. But the belting was not? A. You refer to the belting? That was not there.

Q. Did you see where the electric motor was placed? A. Yes, sir.

Q. Is it where it is indicated on the diagram? A. Yes, sir.

Q. Did you see the pulleys where the shafting had been adjusted? A. Yes, sir.

BY THE COURT:

Q. Does that diagram indicate anywhere the elevation of

any part above the floor level? A. No, sir.

BY MR. BOSTWICK:

Q. Now, will you state, so far as you could observe from the remains of the tables, what the height of these machine tables was? A. They were ---

MR. STEUER: Just a moment. I would like to be permitted to ask if Mr. Whiskeman knows upon positive knowledge what the height is, because I understand his measurement differs from ours in that regard, and before he answers I would like to have that made clear.

THE COURT: Yes.

Q. Do you now know the height of those tables from measurements? A. Yes, sir.

Q. If you have stated at another time a different measurement, have you since then been able to correct it? A. Yes, sir; that was an error before.

MR. BOSTWICK: I don't think we disagree.

MR. STEUER: Perhaps not. I am only judging by what he said in the past. I can't judge by what he is saying now.

Q. What did you find to be the height of the tables on which the machines were? A. They measured two feet four and a half inches in height.

BY THE COURT:

Q. That is to say, the top of the surface of the table was two feet four and one-half inches above the floor level? A.

That's right, yes, sir.

Q. And do you know, or did you make any measurement of the height of the machine above the top of the table? A. The machine rested on the table, and it was the height of the machine, which is about twelve inches.

BY MR. BOSTWICK:

Q. DO you know from your scale what the length is of these tables? A. Yes, sir.

Q. Of these three tables which are nearer the Greene street side of the building on the diagram? A. The total length of the first table there is about 36 feet — no, 66 feet. 66 feet.

Q. It is how many inches actually on the diagram? A. It is one quarter of sixty-six.

BY MR. STEUER:

Q. On the diagram? A. Well, it is a one-quarter scale; it is 16-1/2 inches.

BY MR. BOSTWICK:

Q The actual length from the diagram is 16-1/2 inches, is that correct? A. Yes, sir.

Q. And it is drawn to one foot to each one-quarter inch? A. Yes, sir.

Q. Therefore the actual length of the table would be four times 16-1/2? A. That's right.

MR. STEUER: That is perfectly clear.

Q And the length of the table next to that and to the

west? A. That is the same length.

Q. And the next? A. About the same length.

Q. The next is slightly shorter, is it not? A. Yes; the next one measures 61 feet.

Q. And the one furthest to west is still shorter, is it not? A. Yes, sir; that measures 45 feet.

BY THE COURT:

Q. That is the one nearest to the dressing room? A. Yes, sir.

Q. That was the width of the space between the end of the tables nearest to the fire-escape, and the fire-escape, in a straight line? A. 18 feet.

Q. That is to say, the tables came within 18 feet of the inside of the wall, containing the openings opening out on to the fire-escape? A. Yes, sir.

BY MR. BOSTWICK:

Q. The opening leading to the fire-escape was a window, was it not? A. Yes, sir.

THE TENTH JUROR: Was the space on the table, on both sides, the same, or only on one side?

MR. BOSTWICK: That was only on one end that his Honor asked about. That was on the northerly end.

Q. How far was the end of the table from the wall on the southerly end, meaning the table nearest to the Greene street side on the diagram? A. The table itself was three feet.

BY THE COURT:

Q. That is to say, the end of the table nearest to Washington place came within three feet of the wall? A. Yes, sir-

not the nearest table, but this table here (indicating diagram).

Q. We are talking now about that table which came closest to the Greene street side. And the Washington Place end of that table reached to within three feet of the Washington place wall of the building, is that right? A. That is right.

BY MR. BOSTWICK:

Q. Was there anything between the table and the Washington place wall? A. There was.

Q. In that three feet? A. Yes, sir.

Q. What was there? A. There was the shafting and the pulleys and a radiator.

BY THE COURT:

Q. How much space was there between the Washington place end of the table that we have been talking about and the shafting? A. About ten inches, - ten inches.

MR. STEUER: I don't think I follow that. May I ask a question with respect to the diagram, as we go along?

THE COURT: Suppose you come right here and then you will understand it. Stand right around on this side.

MR. STEUER: I think, your Honor, that the answer of the witness gave the impression that the shafting ran alongside of the Washington place wall, and that that shafting was within the three feet between the Washington place wall and the table.

BY THE COURT: Q. You have said that the shafting was between

the Washington place wall and the Washington place end of a table which stood nearest to Greene street, is that so? A. Yes, sir.

Q. We are talking about the clear space, Mr. Witness, between the Washington place and of the table, which is nearest to Greene street and the Washington place wall of the building. You have indicated upon the diagram two lines running parallel with the Washington place wall. I refer to these two lines, (indicating on diagram) what do those two lines stand for? A. The belting that ran from the motor to the shafting.

Q. Now, bearing those two lines in mind, fix your eye upon the end of that furthest away from Greene street. What is indicated at that end by those two lines? A. They run over a pulley which is fastened to the shifting.

Q. Now, bearing that pulley in mind what is the space between the side of that pulley nearest to the table that we have been talking about, and the end of that table nearest Washington place? A. Ten inches.

Q. Now, how high is that pulley from the floor? A. The centre of the pulley is about twelve inches above the floor.

THE COURT: Now, Mr. Bostwick, will you examine him respecting the Washington place end of the next table?

BY MR. BOSTWICK:

Q. Was there a similar distance at the next table? A. Yes, sir.

Q. Meaning the table next westerly? A. Yes, sir.

Q. And a third similar distance as to the third table? A. Yes, sir.

Q. The conditions were changed as to the fourth table? A. Yes, sir.

BY THE COURT:

Q. Now, what was the distance from the end of the fourth table, nearest to Washington place, to the inside of the Washington place wall, on a straight line from the table? A. Seven feet.

Q. Now, take the table furthest away from Greene street? A. One foot nine inches.

Q. Between the end nearest to Washington place and the inside of the Washington place wall? A. Yes, sir.

Q. What was the width of those tables? A. Four feet.

Q. How far apart are the tables? A. Four feet nine inches.

Q. How far is the side of the table which is nearest to the dressing room from the partition which separates the dressing room from the other room? A. Four feet nine inches.

Q. Are you able to say from the examination that you made of the premises whether the partition indicated on the diagram as having separated the stairway on the Greene street side from the room which you have marked with the words "cutting tables", went to the ceiling of that room or not? A. I don't think it did go to the ceiling.

THE COURT: Do you want that answer to stand, or shall I strike it out?

MR. STEUER: It may stand, Judge. It don't injure any one.

BY THE TENTH JUROR:

Q. How far was the passage between the two tables — between the chairs? How wide was the passage when the girls were working?

BY MR. BOSTWICK:

Q. If you know? A. Between the tables the distance was four feet nine inches.

BY THE TENTH JUROR:

Q. Between the chairs? A. I don't know that.

BY MR. BOSTWICK:

Q. Well, the chairs were burned when you got there? A. Absolutely.

Q. So you could not answer the question? A. I couldn't say.

MR. BOSTWICK: I offer the diagram in evidence as a diagram of the eighth floor.

MR. STEUER: No objection.

THE COURT: Suppose we get him to state while he is here, the width of the various doors as indicated by the diagram.

MR. BOSTWICK: That will appear further. It is right on the diagram.

THE COURT: Very well. The diagram is received in evidence and marked People's Exhibit 1.

BY MR. BOSTWICK:

Q. I show you what purports to be a similar diagram of the ninth floor. Was that diagram made by you and Mr. Moore? A. Yes, sir.

Q. And under the same conditions and circumstances as the diagram marked People's Exhibit 1? A. Yes, sir.

Q. And this also accurately states the distances and measurements of the doors, the windows, the elevators, the tables and the dressing rooms, the closets, partitions, and the place of the fire-escape, the courts and surrounding buildings? A. It does.

Q. And is it made on the same scale as the diagram of the eighth floor? A. Yes, sir.

Q. Can you state how many machines were on each table? A. Yes, sir.

Q. And are they as indicated on the various tables? A. Yes, sir.

Q. And does the centre part of the table with straight lines, and then broken lines, indicate anything? A. The broken lines indicate the shafts underneath the table, that ran the machines. The next lines represent a trough which existed in the table, in other words, the table was divided into three equal parts, - a place for the machine, a trough, and then a place on the other side for the machine on that side.

Q. And the trough was between these two flat places on either side? A. Yes, sir.

Q. And that trough was how deep? A. I don't remember how deep.

THE COURT: If there is no objection -- of course we have these diagrams -- but I suggest that it might be well, if you got the side of the room; I mean to say the area of the floor, the general area, then the location of the tables, and so on.

Q. What was the general area of the ninth floor loft? A. The building is one hundred feet wide and it was about ninety feet in depth.

Q. And you multiply those together and it gives the area? A. General area, yes, sir.

BY THE COURT:

Q. What do you call the width of it? A. From outside to outside.

Q. Along Washington place? A. Along Washington place.

Q. And the depth is the frontage on Greene street? A Well, the frontage on Greene street is a little deeper, but here is a court (indicating), and there (indicating) is another court.

BY MR. BOSTWICK:

Q. Now, you have on this diagram two places where it is marked "examining tables."

When you saw these premises there were no examining tables there? A. There were not.

Q. So that that is not placed there of your own knowledge? A. No, sir.

MR. BOSTWICK: I offer it in evidence.

MR. STEUER: No objection.

Received in evidence and marked People's Exhibit 2.

Q. I show you what purports to be a diagram of the top floor, the tenth floor, and ask you whether you and Mr. Moore made that diagram under the same circumstances as the diagram marked People's Exhibit 1 and Exhibit 2? A. Yes, sir, we did.

Q. And does that in the same respects correctly show the measurement, position of the windows, the doors and the distances and the places of the fire-escapes, the courts, and the surrounding buildings, and closets and poets? A. It does.

BY THE COURT:

Q. Was that the top floor of the building? A. It was.

Q. That is to say, the roof was immediately over it? A. Yes, sir.

BY MR. BOSTWICK:

Q. Was there or was there not sufficient indication of where partitions had been for you to put in partitions on this diagram? A. No; there was not.

Q. So that this diagram does not contain on its face any division or subdivisions of the tenth floor? A. That's right.

Q. And this likewise correctly shows the surrounding buildings and all the distances drawn upon the same seals as the other diagrams? A. It does.

Q. And correctly, states the condition of the tenth floor on the 27th day of March? A. It does.

MR. BOSTWICK: I offer it in evidence.

BY THE COURT:

Q. It is drawn to the same scale as the other? A. Yes.

sir, one-quarter inch, to the foot.

The diagram is received in evidence and marked People's Exhibit 3.

MR. BOSTWICK:

Q. I show you what purports to be a diagram of the roof of the premises, and ask you whether you and Mr. Moore made it under the same circumstances and conditions as People's Exhibits 1, 2 and 3? A. Yes, sir.

Q. And does that correctly state the measurements and distances, and the relative positions of the skylights and the entrance from the Greene street stairway, and the position of the tank, and is it drawn according to the same scale as the other three exhibits? A. It is.

BY THE COURT:

Q. Did you, at that time, make any measurements, or have you at any time made any measurements of the relative height of that roof, and of the roofs of the buildings adjoining — yes or no? A. I made measurements with our eye, that's all.

Q. Not otherwise? A. No.

MR. BOSTWICK: I offer that in evidence.

MR. STEUER: Received in evidence and marked People's Exhibit 4.

Q. What kind of a roof was it — a tin roof? A. A slag roof.

BY MR. BOSTWICK:

Q. I show you what purports to be the — this is the

ground floor, isn't it? A. The first floor, ground floor.

Q. The ground floor, the first floor, showing the entrance to the freight and passenger elevators respectively on Greene street and Washington place side, and the entrance to the building, and ask you whether that was made by you with Mr. Moore, under the same circumstances as People's Exhibits 1, 2, 3 and 4? A. The same thing, yes, sir.

Q. Does that correctly and accurately show the relative positions by scale of the various things shown upon the diagram — is it drawn to the same scale? A. Yes, sir.

Q. Are the distances as indicated there the correct distances? A. They are.

Q. And the courts and its relation to the surrounding buildings are also accurately set forth? A. Accurately set forth.

MR. BOSTWICK: I offer that in evidence. Received in evidence and marked People's Exhibit 5.

Q. Didn't you make a diagram of the front elevation? A. No, sir.

Q. I show you another diagram purporting to be a diagram of the situation of the fire-escape on the building, marked "rear elevation" and ask you whether you and Mr. Moore made that under the same circumstances as the first five exhibits? A. The same way, yes, sir.

Q. Does that correctly state the distances, the relative position of the fire-escapes, on the various floors? A. It does.

Q. And it is drawn to the same scale as the other five exhibits? A. The same scale, one-quarter inch to the foot.

BY THE COURT:

Q. So for the purpose of ascertaining distances on any one of these exhibits, you simply measure according to a measure — each inch representing four feet? A That's right, yes, sir.

MR. BOSTWICK: I offer that in evidence.

Received in evidence and marked People's Exhibit 6.

IT IS CONCEDED By counsel for the defendants that the diagrams, Exhibits Nos. 1, 2, 3, 4 and 5, made by James P. Whiskeman and John D. Moore, consulting engineers are fair, correct, accurate and true representations --

MR. STEUER: I cannot do that.

MR. BOSTWICK: I thought you had seen them.

MR. STEUER: You have got them in evidence. I don't know how accurate they are. I told Mr. Rubin that I would do nothing to prevent their going in evidence.

MR. BOSTWICK: I move that that portion of the concession be stricken from the record.

MR. STEUER: I want it clear to your Honor that I have adhered to every word that I said.

THE COURT: I understand.

BY MR. BOSTWICK:

Q. How long have you been a consulting engineer? A. I have

been a civil engineer for over twenty years.

Q. And will you state what experience you have had in that time?

MR. STEUER: I don't question the qualification.

MR. BOSTWICK: The qualifications of Mr. Whiskeman are conceded by counsel for the defendants.

Q. Now, I show you People's Exhibit No. 1, and at the same time I show you People's Exhibit No. 2, and I ask you whether the situation of the passenger elevators and the stair ways on the eighth and ninth floors are identical on both floors? A. They are identical.

Q. The same distance from the Washington place wall. And did you examine the stairways? A. I did.

Q. And the elevator shaft? A. I did.

Q. And there was no change in either the eighth or the ninth floor? A. No change at all.

Q. They bore the same relation to the building on each floor? A. They did.

Q. The door opening on the eighth floor into the factory and on the ninth floor — that is, the opening for the door was the same? A. It was.

Q. As indicated on the diagram? A. Yes, sir.

Q. Do you know whether the door on the eighth or ninth floor went inward or outward? A. They both went inward.

Q. Will you state which portion of the dressing room or toilet room partitions were made of stone material and standing

when you saw it on March 29th? A. The partition that was standing was around the toilet room, around the outside, and the dividing partition, the one that divided the ladies' from the men's toilet room.

Q. And one of these you call the men's toilet, and the other the ladies' toilet? A.

Yes, sir.

BY THE COURT:

Q. That was on the eighth floor? A. That was on the eighth floor.

BY MR. BOSTWICK:

Q. Will you state in general terms what the stairways were made of and how constructed? A. The stairways were made of metal, with metal risers, and slate treads. The walls surrounding the stair wells were terra cotta, four inches thick, with the exception on the outside where the wall was brick. The stairways were two feet nine and a quarter inches in the clear.

Q. Well, describe in as plain language as you can the nature of the stairway.

THE COURT: Referring now particularly to which one?

MR. BOSTWICK: I will ask this question first:

Q. Were the stairways on the Washington place side and the Greene street side different or alike? A. The stairway on the Washington place side extended from the ground floor to the tenth story and was enclosed in a solid shaft without any windows in it, and depending on the artificial light in the

hall and the skylight above it for its light, whereas the stairway on the Greene street side had a window in each floor. As far as the construction goes of the stairways themselves —

Q. May I interrupt you for a moment. For the general convenience of the jury and ourselves we have assumed without objection to consider for practical purposes that pointing in this direction (indicating toward east wall of court room) means the Washington place side of the building — A. Yes.

Q. And you have your back to what was the Greene street side of the building (being north wall of the court room). I would like to have that fixed in your mind, so that by pointing you will show it to the jury so they won't have to carry in mind these words which mean so little to them, but so much to you engineers and those who have examined the premises and seen the building. So that that corner (indicating northwest corner of court room) represents the Greene street corner, the freight elevators, and that (pointing to north wall of court room) represents Greene street, and this side (pointing to east wall of court room) represents Washington place, and the Washington place passenger elevators are supposed to be situated in that corner (pointing to southeast corner of court room). That would make the fire-escape, if I am correct, on the north wall right over where that door is situated (indicating on west wall of court room). Now, you say that the stairway on the Washington place side was dependent for light upon artificial light, but that the Greene street — and it was there I interrupted

you. Now, I simply want you to point, to make this clearer to us? A. The Greene street stairway depended on artificial light.

Q. The Greene street stairway? A. Only on a dark day or at night. I didn't want to say that. I meant to say that they had both artificial and natural light.

Q. On the Greene street side? A. On the Greene street side.

Q. How was it in regard to the Washington place stairway? A. The Washington place stairway depended wholly upon artificial light. The Washington place stairway ended at the tenth floor. The Greene street stairway extended to the roof.

BY THE COURT:

Q. That is to say, the Washington place stairway went from the tenth floor down to the street? A. Yes, sir.

Q. But there was no stairway on the Washington place side from the level of the tenth floor to the roof? A. That's right.

BY MR. BOSTWICK:

Q. Did the Greene street stairway extend to the roof? A. The Greene street stairway extended to the roof.

Q. And the opening from the Greene street stairway to the roof is indicated on People's Exhibit No. 4? A. It is.

Q. How, the original question which I asked you, and which I am coming back to is to tell us the substantial difference in construction, if any, between the Washington place stairs and the Greene street stairs? A. There was no difference.

Q. They were constructed alike? A. They were.

Q. In size, in material? A. Absolutely.

BY THE SEVENTH JUROR:

Q. You say there was absolutely no light, only artificial light in any Washington place stairway? A. Yes, sir.

Q. No windows or anything in either hail from top to bottom? A. There was a window in the doorway from which they might be able to borrow light from the factory.

Q. Well, I mean on the landing. Was there absolutely no light at all from the windows in any of the landings from the bottom to the top? A. No, sir, there was not.

BY THE COURT:

Q. The door at the Washington place end, reaching from the building out onto the sidewalk, was that a door that was wholly of wood, or solid substance, or was it partially glass?

A. At the ground floor level?

Q. Yes. You are on the sidewalk on Washington place and you want to get into this building on the Washington place side and you approach a door; was that door wholly of wood, or iron, or was it partially of glass? A. It was wholly of wood.

Q. How above that door, and between the top of that door and the ceiling, was there any fanlight or window of glass? A. I am not quite certain, but I think there was.

Q. Were there on either side of that door windows opening from a hall in which the door was situated onto the street?

A. I don't think so.

Q. After entering that door was there or was there not another door that had to be passed before entrance could be had to the door leading to the elevators, or before entrance could be had to the stairs? A. There was.

Q. Was that door wholly of wood and iron, or was it partially of glass? A. It was partially of glass.

Q. Transparent glass? A. I think it was translucent glass— I imagine it was opaque.

Q. Above that door and between the top of that door and the ceiling was there any fanlight of glass? A. I think there was, I am not certain.

Q. On either side of that door was there any window? A. Not to my knowledge.

THE COURT: Proceed.

BY MR. BOSTWICK:

Q. Was the width of the door, or the opening for the door, the same on the eighth floor, Washington place side, as it was on the ninth floor, Washington place side? A. The width of the doorway in both cases was four feet.

Q. The same? A. The same.

Q. And opened inward? A. Opened inward.

BY THE COURT:

Q. And now you are referring to a door opening into the loft on the eighth floor, and to a door opening into the loft on the ninth floor on the Washington place side; is that so?

A. Yes, sir.

BY MR. BOSTWICK:

Q. As part of your work that you and Mr. Moore did, did you have anything to do with an examination of the doors on the first floor? A. None whatever, no, sir.

Q. So that your answers in that regard to his Honor are simply your recollection and not a result of your technical work as a consulting engineer? A. Wholly so, yes, sir, just from passing in and out of those doors, that's all.

Q. Did you make any particular observation of those doors? A. Absolutely none, no, sir.

Q. On the stairway, on the Washington place side — that is over there (indicating southeast corner of court room) there were no windows on any floor on that stairway, is that correct? A. There were no windows.

Q. There was a skylight? A. There was a skylight.

Q. And on some of the floors leading into the loft —

BY MR. STEUER:

Q. On the Washington place side there was a skylight? A. Over the stairway, yes, sir.

BY MR. BOSTWICK: (Continuing)

Q. And on some of the floors there was partial glass and partial wood doors, is that not so? A. Yes, sir.

Q. Were there any electric light bulbs in the stairways in the Washington place side? A. There were.

MR. BOSTWICK: This witness, in addition to making

these plans m would like to call again, and I think it would be a matter of great convenience if the Court permits that I reserve the right to call him again on other parts of the case.

MR. STEUER: I shall make no objection.

MR. BOSTWICK: I think it would make it clearer to the jury.

MR. STEUER: I shall make no objection to anything that will clarify the situation.

MR. BOSTWICK: (Addressing witness) Then I will withdraw you.

THE COURT: This witness is a gentleman with some technical knowledge and is conceded to have visited these premises, and I think it very desirable that at some time during the trial by questions either put by yourself or Mr. Steuer, or both, everything that he can give us in the way of information; regarding the situation as it was on the 27th of March when he visited the premises be given.

MR. BOSTWICK: We will call him for such a purpose and will hold him in readiness at all times to furnish such information as the Court, jury and counsel for the defense may wish.

THE COURT: Very well. Would you like to interrogate him now, Mr. Steuer?

CROSS EXAMINATION BY MR. STEUER:

Q. Dealing with the Washington place stairway — and if any question that I put is not clear, I wish you would call my attention to it, because I know absolutely nothing about the building, or construction, so I am simply groping in the dark--now, on the Washington place side there was a stairway that led from the ground to the tenth floor; that is correct, isn't it? A. That is correct.

Q. And it terminated, going upward, on the tenth floor? A. That's right.

Q. There was no way of getting to the roof if you were on the Washington place side of the building, was there? When I say no way, I mean by such access as a person ordinarily uses? A. The stairway did not go to the roof.

Q. Was there anything that connected the roof with that stairway so that you could go up or down? A. No, sir; nothing there.

Q. Now, I want you to tell us about the skylight over that stairway. Was the skylight covered? A. It was.

Q. How was it covered? A. Covered with glass, in a metal frame.

Q. What was over the glass? A. There was nothing over the glass.

Q. Are you sure of that, Mr. Whiskeman? Didn't it have a screen over it? A. It might have had a screen under it, but I don't believe it had a screen over it.

Q. Is there ever a screen put over a skylight? A. It is usual, a screen is usually put under a skylight, so that in case it breaks and falls down the particles of glass will not injure anybody. And the owner must put a screen over his skylight to protect his skylight.

Q. Now, that screen over the skylight, would that have a tendency to introduce light, or to keep it out? A. If there was one there it would tend to keep it out.

Q. And if there was a screen underneath as well as above, would that have a tendency to increase or reduce the light? A. It would have a tendency to reduce the light.

Q. In answer to the questions that the District Attorney put you said that there was no difference in the construction of the stairway on the Washington place side and the stairway on the Greene street side; do you recall that question? A. I do.

Q. Well, now, are you positive about that? A. Quite positive, yes, sir.

Q. Well, you say, "Quite positive". Do you mean by that that you actually measured them so that you can say to the jury that they are identical? A. I measured them, yes, sir, both of them.

Q. And isn't it the fact that the construction of the stairways on the two sides of that building are different? A. No, they are absolutely alike. That is, in everything that concerns a stairway.

Q. Isn't it the fact that on the Washington place side the winding of the stairway continues until you reach the hall and that there is no platform of any kind? A. There is a platform in both stairways.

Q. Well, now, I would like you to be good enough to just answer my question, because if I am misinformed we can still verify that at the building, I presume. Do you tell this jury that there is a platform on the Washington place side at the head of each flight of stairs? A. There is, yes.

Q. And your recollection is not, and you state to the jury, that it is not the fact that it is a winding stairway which continues to wind until it joins the hall? A. There is a platform at the head of each stairway, each flight.

Q. What are the dimensions of that platform on the Washington place side? A. I show them on the plan -- if you will be good enough to get it.

Q. Well, now, you can refresh your recollection from the plan, or in any other way you like -- any memoranda you have anywhere --

THE COURT: If you do not mind, just for my information, what do you mean by "platform"? A break in the stairs?

MR. STEUER: A break in the stairs.

Q. That is what you mean, isn't it? A. That is what I mean.

BY THE COURT: Q. In other words, you go up a certain number

of stairs, and than you come to a landing that is between the floor levels, and then you proceed on up, is that what you mean? A. Yes, sir.

BY MR. STEUER:

Q. Which diagram do you want? A. The ninth floor.

(People's Exhibit 2 is handed to the witness.)

A. (Witness continuing) You see they are identical.

Q. You mean on your diagrams they are identical? A. Yes; on my diagrams.

Q. Will you tell us what there is on the diagram to indicate any platform on the stairs on the Washington place side? A. Right here (indicating). That is a platform, that space there is a platform (indicating on diagram People's Exhibit 2).

Q. What space? Just put a pencil mark around it? A. See here, here, here, here (indicating and pointing on diagram People's Exhibit 2).

BY THE COURT:

Q. In other words, you go up the stairs until you come to where that line is (indicating)?

A. That's right.

Q. Which means you are on the level with a square space?

A. That's right.

Q. And then these lines (indicating) indicate steps which are at right angles with that?

A. That's right.

Q. And this level space here you call "a platform"? A. Yes, sir.

BY MR. STEUER: Q. What are the dimensions of that platform?

A. The width of the stair itself is two feet nine and one-quarter inches square, this way and that way (indicating).

Q. Well, now, with relation to the platform, I would like to get the dimensions of that, if you can give it to us? A. The platform is two feet nine and one quarter inches square.

Q. Do you mean the platform is the same as one of the steps? A. No.

BY THE COURT:

Q. The dimension of the platform is the same as the length of the step?

BY MR. STEUER:

Q. Is that right? A. Yes, sir.

Q. So there is a platform there every time you go up a flight of steps that is two feet nine and one-quarter inches square? A. Yes, sir.

Q. And you say that is equally true --- A. I say that that exists above the first floor.

Q. Well, I don't care about anything below the first floor, so I will make no point about that at all. Now, are we to understand then that it is your testimony that that is the state of affairs above the first floor? A. I call the first floor the first one up.

Q. Above the first flight of steps, we will put it? A. Yes, sir, above the first flight of steps.

Q. That gets it entirely clear? A. Absolutely.

Q. And you say that the wind in the stairs on the Greene

street side is exactly the same as the wind in the stairs on the Washington place side? A. Yes, sir.

Q. The same angle and everything else? A. Well, it may not be to a hair, or anything like that, but nobody could tell the difference by looking at it.

Q. Well, that is the point. Anybody coming up would never be able to see the difference? I mean any ordinary person who was not going there for the purpose of making measurements? A. Yes, sir.

Q. I am not speaking of a skilled person, but just an ordinary lay person, —

THE FOURTH JUROR: Are not those stairway landings twice the size of the measurement given? There are two, one when you go up and one down?

THE COURT: Each platform is the width of one of the steps. Inasmuch as those steps, as I take it, are of equal width, the platform is two feet nine.

THE FOURTH JUROR: Isn't it twice that much?

THE WITNESS: No, there is only one platform to a flight of stairs.

THE FOURTH JUROR: Isn't the width of the stairs that size, two feet nine?

THE WITNESS: Yes, sir.

THE FOURTH JUROR: Then there is one platform on that side going down and one going up, so it makes it four feet and eighteen inches.

THE WITNESS: No, sir.

MR. BOSTWICK: I think the Juror means at the level of the floor.

THE WITNESS: Oh, yes.

BY THE COURT:

Q. You start to go down the stairs, and having gone down a certain number of steps you come to a square space that is neither on the level of the floor that you have been on, nor yet on the level of the floor you are going to, and that is called the platform, and that platform is the width of a step in both directions, and therefore it is square, and as the steps are two feet nine the platform is a square platform two feet nine inches.

THE FOURTH JUROR: That is one platform. There must be two of those platforms. The stairway is two feet nine inches and there are two stairways going down ~~ one going up and down, so that makes it four feet eighteen inches.

BY MR. BOSTWICK:

Q. On the floor level this platform is twice as large, is it not? A. At the floor level it is more than twice as large.

Q. But between the floors is it the dimension that you have given? A. Yes, sir.

THE FOURTH JUROR: That is what I want to know.

BY MR. STEUER:

Q. Now, Mr. Whiskeman, then, in other words, an ordinary

lay person going up those stairs on the Washington place side would meet with the same wind exactly in the stair as that same person would meet if going up the Greene street side? A. He would, yes, sir.

Q. And the platforms on the Greene street side and the Washington place side are, you say, the same? A. They are.

Q. Now, there were elevators in that building on the Washington place side? A. There were.

Q. What were the dimensions of those elevators? A. I will refer to the diagram, and I will tell you. (Witness is handed diagram People's Exhibit 2.) A. (Witness continuing) You mean the elevators themselves?

Q. I mean the cars. A. The cars. 4 feet 9 inches by 5 feet 9 inches; each one about the same size.

Q. What were the dimensions of the elevators on the Greene street side? A. 6-1/2 feet by 5 feet.

Q. They were considerably larger on the Greene street side, were they not? A. They were somewhat larger, yes.

Q. A larger number of persons could enter each car on the Greene street side? A. Yes, sir.

Q. Were there an equal number of cars on the Greene street side and on the Washington place side? A. There were.

Q. With respect to the entrance to the car, what was the dimensions on the Washington place side? A. Two feet six inches.

Q. What were they on the Greene street side? A. Four feet

six inches.

Q. There was more room in every way on the Greene street side of the building than there was on the Washington place side, wasn't there? A. You mean referring to the elevators or referring to the room?

Q. Yes, referring to the elevators, access to and egress from? A. If you refer to the elevators, the freight elevators on the Greene street side would hold more people than the passenger elevators on the Washington place side.

Q. On the Greene street side of the building the doors leading into each loft were constructed three quarters of glass, were they not? A. No, sir, they had a glass panel — I have never figured out with respect to the total area of the door — how much it covers -- but they had a glass panel.

Q. Do you mean to say no in answer to my question? A. I said I had not figured how much proportion of the total area they covered, but they had a glass panel, and it was at least half.

Q. The Greene street side stair case led to the roof? A. Yes, sir.

Q. There was a skylight over that? A. There was.

Q. Would you say to the jury that on that skylight there was any screen of any kind, either over or under? A. I don't recall any.

Q. On the Greene street side of the building there was the same means of artificial light that there was on the Washington

place side, was there not? A. Yes, sir.

Q. And in addition to the skylight, the glass door, the artificial light on the Greene street side, there was also a window on each floor, was there not? A. In the Greene street side there was a window leading out into the court, and there was an artificial light in the hall.

BY THE COURT:

Q. When you say a window, do you mean a window on each floor, or one window in the entire hallway? A. Oh, no, there was one on each floor.

BY MR. STEUER:

Q. Whereas on the Washington place side, as you said, in answer to the seventh juror, the wall was what is called a blind wall -- there was no window of any kind? A. There was no window in it.

Q. Did you measure the space between the entrance to any one of these floors in that building and to the elevator doors? We will take the Washington place side first? A. The plans show correctly the distance between all the doors and the elevators.

Q. And I presume it is fair to say that they were the same on each floor, is that the fact, or isn't it? A. That is relatively speaking. The Washington place stairways and elevators and the Greene street stairs and elevators were practically the same on all floors.

Q. Are we to understand your answer to mean this, that on

each floor the distance on the Washington place side was the same, and on each floor the distance on the Greene street side was the same? A. Practically, yes, sir.

Q. Well, now, was the distance on each side the same on the same floor? A. No.

Q. What was the difference in distance, do you know? A. I don't know.

Q. Tell the jury first on the Washington place side what was the distance from the entrance door to the loft, to the elevator door? A. On the Washington place side?

Q. Yes. A. The distance from the entrance door?

Q. To the loft? A. To the passenger elevator door? Now, I would like to know --

THE COURT: I don't think you want that, do you, Mr. Steuer? I mean to say, I think your question is not exactly what you wanted to bring out, - or is it?

Q. What I want you to elucidate, and what I would like you to make clear to the jury is suppose that the door had been built to open outward, could you have opened the door at all?

A. (No answer).

BY THE COURT:

Q. In other words, was there space enough between the riser, whatever you call it, of the bottom step, and the inside of the hall opposite that riser, to permit of the outward opening of a door of the width of the door that you found upon the ninth floor level? A. There was not.

BY MR. STEUER:

Q. You could not have opened the door at all, could you, if it had been built to open outward -- isn't that so? A. This particular door?

BY THE COURT:

Q. Suppose it had been a double door? A Then it could have been opened.

BY MR. STEUER:

Q. But as these doors were built by the builder, whoever constructed that building, tell the jury, could those doors have opened at all outwardly? A. They could have opened, but they would have clogged the passage-way.

Q. Wouldn't they have hit into something before they could be opened their full width?

A. Yes, sir.

Q. In other words, tell the jury what space it would have been necessary that was not in that building at all, for those doors to open outward? A. Well, it would have taken four feet at least, and the passage way was 3 feet 9 inches.

Q. Now we will go to the Greene street side. How did the doors open there by the person who built this? A. They opened inward.

Q. And what was the space on the Greene street side? A. The space between the partition and the top step was three feet one inch.

Q. So that you could not have opened the door at all if it had been built to open outward? A. You could have opened it

but it would have locked as soon as it struck the stair lines.

Q. Opening inwardly, of course it opened the full width of the door? A. Yes, sir.

Q. It had full swing? A. Yes, sir.

Q. There was nothing done by these people who occupied the loft to clog the swing, was there, if you know? A. I don't know? A. I don't know.

Q. You didn't find anything there, did you? Any obstruction that prevented that door from opening the full width?

THE COURT: Yes or no.

A. I didn't find anything.

Q. But you found that the people who built the building made it impossible to open the door outwardly, didn't you? A. Well, the door as ~—

Q. As constructed? A. Yes.

Q. The door that was there? A. It couldn't be opened outward.

Q. To qualify for your profession, Mr. Whiskeman, must a man be a practical builder? I mean by that, must he know about practical building? A. Well, it all depends. It is a good thing if he does.

Q. Well, really, I am not concerned with whether a men must, what I wanted to know is whether you are familiar? A. Oh, yes.

Q. And are you familiar with the building code? A. Yes, sir.

Q. You know the area of this building, do you? A. Yes, sir. I know it exactly, and I get it approximately, but I didn't refresh my memory.

Q. I don't think the approximate measurement you got would make any difference in the inquiry I'm going to put from the accurate measurement. For a building covering the area this building covered, the Building Code required how many flights of stairs? A. It required, according to the Building Code, three flights of stairs.

Q. How many did you find in the building? A. I found two and a fire-escape.

Q. In other words, when that building was put up there was counted in as a flight of stairs the fire-escapes that was constructed on the outside of the building, is that it? A. I believe that's it.

Q. That is, it was counted a flight of stairs? A. I believe it was.

Q. It they did not count that fire-escape, that is the Department and the people who put up that building didn't count that flight of stairs outside, -- didn't count that fire-escape as a flight of stairs, - then the building was not constructed properly, was it? A. That's right.

Q. Isn't there a provision in the Building Code as to what the stairs should be made of?
A. Yes, sir.

Q. Did you find any provision in the Building Code that the stairs could be made of the material that went into the

making of that fire-escape? A. In other words the fire-escape —

Q. No.

THE COURT: Repeat the question, Mr. Stenographer.

Q. (Question repeated by the stenographer as follows:) Did you find any provision in the Building Code that the stairs could be made of the material that went into the making of that fire-escape? A. No, sir, I did not.

BY THE COURT:

Q. The fire-escapes were made of what? A. Of metal.

Q. Of iron? A. Of iron.

Q. You mean to say there is no provision in the Building Code that says stairs may be of iron? A. Stairs may be of iron, but they have to have slate or some other kind of a tread — not necessarily, though, but they have to be solid, stairs have to be solid, the treads have to be solid, and the treads in the fire-escape were slats.

Q. So you refer in your answer rather to the method of construction than to the material, is that so? A. I do, yes.

BY MR. STEUER:

Q. Well, while the method of construction would have to be entirely different, the material also would have to be different, wouldn't it? A. Yes, sir, the material has to be of course, unflammable material, which was true in both cases, but the fire-escape was not built as a stairway, if that is what you mean.

Q. No, and that fire-escape material could not be used to build a stairway in a building, could it? A. It could not, no, sir.

Q. You have never seen a building anywhere, where a stairway was built of any such material as that? A. Well, I may have seen it some time. But I don't recall it.

Q. You don't recall it? A. No.

THE COURT:

Q. Do you know, as a matter of fact, Mr. Witness, what date it was that this building was built? A. Yes, sir. The building was built during 1900 — started in June and finished on January 15th, 1901.

BY MR. STEUER:

Q. And when you have spoken of requirements of the Building Code here, you have spoken of the requirements covering the construction at that time? A. Yes, sir.

MR. STEUER: I don't know as I understood as to these diagrams. Would you rather the examination was conducted at another time?

MR. BOSTWICK: It is quite immaterial, but I do suggest that your examination would be shorter after the photographs go in, because there are many matters that might be cleared up by the photographs that you might now dwell at length on.

MR. STEUER: I am perfectly willing to adopt the suggestion and examine at another time.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You saw the original plans of this building, did you not? A. Yes, sir.

Q. And do you know whether they met with the approval of the Commissioner of Buildings? A. They were approved by him.

Q. And do you know whether the fire-escape was substituted as a stairway? A. It was requested to be substituted, and the application was O.K'd.

Q. By the Building Department? A. Yes, sir.

Q. You have had some experience in the Building Department, have you not? A. I have.

Q. Were you in that Department? A. About nine years.

MR. BOSTWICK: That's all for the present.

OTTO H. SCHULTZE, called as a witness on Behalf of the People, being first duly affirmed, testifies as follows:

(The witness states that he resides at 47 East 58th street.)

IT IS CONCEDED by the defendants that Margaret Schwartz, the deceased named in the indictment, was an employee of the defendants on March 25th, 1911, and was in their factory on the ninth floor at the time of the fire mentioned in the indictment, and that her dead body was found on said floor, after said fire on said date, and was removed by a fireman on duty to the Washington sidewalk, and by the police on duty conveyed

to the Morgue at the foot of 26th street, in the County of New York. That her body was burned, and that the cause of her death was suffocation and burning.

IT IS CONCEDED that the body on which the autopsy was performed by Dr. Schultz on March 27th, 1911, was the body of Margaret Schwartz, the deceased in the indictment.

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Did you go to the Morgue? A. I did.

Q. Did you examine the body of Margaret Schwartz? A. I did.

Q. Was that body identified to you? A. It was.

Q. By whom? A. By Dr. Frank Klein, of 233 East 10th street.

Q. As the body of Margaret Schwartz? A. It was.

Q. And from an examination of the body will you state what was the cause of death? A.

Asphyxia by smoke. The body was almost completely charred.

THE COURT: Any cross examination?

MR. STEUER: No.

HAROLD L. COE, called as a witness on behalf of the People, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. What is your address? A. 925 St. Nicholas avenue.

Q. What is your occupation? A. Photographer.

Q. Where is your place of business? A. 681 Broadway.

Q. How long have you been in that business? A. For the

past eleven years.

Q. You are an expert photographer? A. I am.

Q. I show you photographs purporting to have been made by you of the various places and things on April 4th, 1911, and ask you first to look at them and state whether those photographs were taken by you? A. I did, yes, I took them.

Q. Do they fairly and correctly and accurately show and represent the conditions of the eighth, ninth and tenth floors at the time they were taken. A. They do.

Q. Or of the parts thereof which they depict? A. Yes, sir, they do.

Q. And you include these three also in the same answers? A. Yes, these are duplicates of three that I already hold.

Q. These are the three? A. Those three are duplicates.

Q. Are there any duplicates there? A. No, I don't think so. I think there is one more, though, in the set. I believe that is all. There is one set here.

MR. BOSTWICK: I offer them in evidence.

Photographs received in evidence and marked respectively People's Exhibit 7 to 17, both inclusive.

MR. BOSTWICK: It is conceded by the defendants that People's Exhibits Nos. 7 to --

MR. STEUER: It is not conceded, but we made no objection to the introduction of the photographs.

MR. BOSTWICK: I thought this had been read over, (indicating a paper) and agreed upon.

MR. STEUER: No, we said we knew nothing about it.

MR. BOSTWICK: These are offered in evidence without objection (referring to photos already marked Nos. 7 to 10, both inclusive).

IT IS CONCEDED that the physical condition of said premises was substantially the same on April 4th when these exhibits (Nos. 7 to 17 both inclusive) were taken as on March 25th, 1911, immediately after the said fire.

MR. STEUER: I think you had better include April 10th, I think some of those are dated April 10th.

Q. Were all these taken on April 4th? A. All on April 4th.

Q. Now are each of those photographs true and accurate representations of the things and places that they purport to be by the typewritten statement contained on the back thereof?

A. They are.

Q. And at what hour of the day were they taken? A. They were taken between the hours of four and six p.m.

Q. Did you take any other photographs? A. No.

Q. These are all that you took? A. That's all that I took.

THE COURT: Do you think no oral explanation is expected from the witness respecting those photographs? Hare you sufficient data on the back?

MR. BOSTWICK: I will look over these before I let the witness go. I think it is wise to do that now, it may save time.

Q. I show you People's Exhibit No. 7, and ask you if that correctly shows the entrance to the stairway and elevators on the Greene street side, tenth floor of the building at the time you took that photograph? A. Yes, sir, it does.

BY THE COURT:

Q. In other words, your camera at that time was placed inside of what you call the tenth loft? A. Yes, sir.

Q. And at a distance of about how many feet away from the doors indicated on that picture? A. About 20 feet.

Q. The space to the right of the picture, almost white, that indicates what? A. The window and the Mercer street side—that is, on the Greene street side. That is the Greene street side of the building, one of the windows.

BY MR. BOSTWICK:

Q. I show you People's Exhibit 8 and ask you if that is a correct representation of the Washington place stairway, taken from the stairway itself, showing entrance to the ninth floor, and also showing the electric light, and ask you whether it was in that condition at that time? A. Yes, sir.

BY THE COURT: Q. In other words, your camera at that time was somewhat above the level of the landing, the corner of which appears at the bottom of the picture; is that so? A. Yes, sir. It was taken very near to the level of the door, the top of the door, about half way up the stairs, looking out.

Q. And when you say the door, you refer to the door indicated on the righthand side of the picture? A. Indicated on

the right-hand side of the picture.

And that was a door leading from the hallway into what loft? A. The ninth floor.

BY MR. BOSTWICK:

Q. I show you People's Exhibit 9, and ask you whether that is a correct representation of the conditions of the doorway, electric light and landing, and Washington place stairway, at the eighth floor? A. Yes, sir, this photograph is taken from the eighth floor looking out the doorway onto the landing of the stairway.

BY THE COURT:

Q. In other words, your camera stood in the door leading from the loft on the eighth floor to the hall? A. Stood right inside the doorway in the loft, showing in both sides of the doorway.

Q. In other words, both sides of the doorway in which your camera was are shown upon that picture? A. It is.

BY MR. BOSTWICK:

Q. And the electric light bulbs on Exhibits 8 and 9 were exactly as indicated on these photographs? A. Yes, sir.

Q. I show you People's Exhibit 10, and ask you if that is a correct representation of the entrance to the stairway and elevators on the Greene street side, eighth floor? A. Yes, sir, it is.

Q. I show you People's Exhibit No. 11, and ask you if that is a correct representation of the entrance to the stairway and elevators, Greene street side, ninth floor? A. It is.

Q. I show you People's Exhibit No. 12 and ask you whether that correctly represents the landing, the 10th floor, Washington place stairway, showing the sides of the doorway, taken from inside of the loft, and also showing the landing? A. Yes, sir, it does.

Q. I show you People's Exhibit No. 13, and ask you if that is a correct representation of the doorway and landing of the ninth floor, showing stairway to the tenth floor, Washington place stairway? A. Yes, it is.

Q. That likewise was taken within the loft? A. From within the loft.

Q. I show you People's Exhibit No. 14, and ask you whether that is a correct representation of the handrail opposite the doorway to the ninth floor on the stairway of Washington place side, taken from the door? A. Yes, sir, it is.

Q. I show you People's Exhibit No. 15, and ask you whether that is a correct representation of the doorway leading to the Washington place stairway, eighth floor, taken from the rear loft, looking outward? A. Yes, sir.

Q. I show you People's Exhibit No. 16, and ask you whether that is a correct representation looking up the stairway, showing the landing and entrance to the tenth floor, also electric light and the Washington place stairway? A. Yes, sir, it does.

Q. I ask you from what position that picture was taken? A. That was taken from the second landing on the stairs,

looking up.

Q. Looking up? A. Looking up, showing the doorway to the tenth floor to the right, top of the picture.

BT THE COURT:

Q. Your camera was on a lower level? A. Lower level — it was on the second landing of the stairway from the top.

BY MR. BOSTWICK:

Q. And that is what gives it the unusual appearance differing from the other exhibits?
A. Yes, sir.

Q. I show you People's Exhibit 17, and ask you If that is a correct representation of the handrail opposite the doorway of eighth floor and leading up toward the ninth floor Washington place stairs? A. Yes, sir. It is a handrail, and the stairway leading up towards the ninth floor.

MR. BOSTWICK: Unless there are some questions by defendants' counsel, or the court, I think you can go.

THE COURT: Mr. Steuer, suppose you look at those photographs and see if you care to ask the witness any questions. Something may occur to you upon looking at them.

CROSS EXAMINATION BY MR STEUER:

Q. How did you get the light to make these photographs? A. Partly flash and partly day-light.

Q. That is, on the Washington place side, where did you get the light to make those?
A. They mostly all have a flash, a certain flash light as well as partly light that was there.

Q. You mean all the pictures were with a flash? A. All of them have a flash as well as day light combined.

Q. You couldn't have taken them at all without the flash? A. Some of them I could. The stairway I couldn't, but the lofts I could.

Q. The inside of the lofts have plenty of windows? A. Yes.

Q. But I am speaking of the stairway? A. No, you couldn't make anything at all there; they are dark.

Q. The stairways on the Washington place side are particularly dark? A. Yes, I didn't get there until four in the afternoon, and it was raining and it was dark anyway. We got there at four o'clock and left at six and it was raining all the time I was there.

GEORGE FIST, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that he lives at 311 Fulton street, Brooklyn.)

Q. Are you a photographer? A. I am.

Q. Where is your place of business? A. 311 Fulton street.

Q. How long have you been engaged in business? A. Twelve years.

Q. You are an expert photographer? A. Well, working at it all the time.

Q. Did you go to the building No. 23-29 Washington

place and take photographs? A. Yes, sir.

Q. When did you go? A. Sunday morning, 26th of March.

Q. I show you what purports to be a picture of the building from the outside? A. That was taken on Monday morning.

Q. Does that correctly represent the condition of the outside of that building on Monday, following the fire? A. Yes, sir.

BY THE COURT:

Q. What building is that? A. That is the Ashe building.

Q. Located where? A. Washington place and Greene street.

BY MR. BOSTWICK:

Q. This is the picture of the northwest corner of Washington place and Greene street? A. Yes, sir.

MR. BOSTWICK: I offer that in evidence.

Received in evidence and marked People's Exhibit 18.

Q. I show you a photograph purporting to have been made by you of the roof of that same building, and ask you when that was taken? A. Taken on Sunday morning.

Q. The 26th of March, 1911? A. 26th of March, 1911.

Q. Does that correctly represent the condition in which you found the roof at that time?

A. Yes, sir, that was taken from this point of the building (indicating).

BY THE COURT:

Q. Your camera was where at the time you took that? A. The easterly corner of the building.

Q. By the easterly corner you mean what corner with respect to the streets? A. Greene street and Washington place .

Q. And then the building that is shown upon that photograph rising to a greater height than the roof is what building? A. Well, I couldn't tell you the name of that building.

Q. It is a building fronting on Washington place? A. Yes, one fronting on Washington place and one on Greene street.

BY MR. BOSTWICK:

Q. The building on the left-hand side of this picture faces on Washington place? A. Washington place.

Q. And is on the westerly side of the building in which there was the fire? A. Yes, sir, and this one (indicating on photograph) is on Greene street.

Q. You don't know that that is the University Building? A. No, sir, I do not.

BY THE COURT:

Q. There is another building there shown, is there, on that picture? A. That is on Greene street.

Q. That is a building to the right? A. To the right.

BY MR. BOSTWICK:

Q. That building is on the north of the building in which there was a fire? A. Yes, the building to the north.

Q. And on Greene street? A. And on Greene street.

Q. Is this the shadow of the flag pole? A. That is the shadow of the flag pole.

Q. And that flag pole is situated — A. Right on the corner.

Q. Of Washington place and Greene street? A. Of Washington

place and Greene street.

BY THE COURT:

Q. And when you say "this" you refer to a dark line running from the bottom of the pictures up towards — A. The centre.

MR. BOSTWICK: I offer that in evidence.

Received in evidence and marked People's Exhibit No. 19.

BY MR. BOSTWICK:

Q. I show you what purports to be the interior of the eighth floor of the same building, and ask you when that was taken? A. Taken on Sunday morning.

Q. The day after the fire? A. The day after the fire, yes, sir.

Q. Does it correctly represent the conditions on that floor at that time? A. Yes, sir, it was taken from the same point, or angle.

BY THE COURT:

Q. In other words, your camera was located then inside of that loft at the corner formed by Greene street and Washington place? A. And Washington place, yes, sir.

Q. And the right-hand side of that picture represents then what wall? A. Greene street wall.

Q. And the left-hand side of that picture represents what? A. Washington place side.

Q. And the windows that appear at about the middle of the picture represent windows in which wall of that building?

A. On the westerly part of the building.

Q. What was your answer? A. Northwest, I think it is.

Q. Do they represent windows on the side of the buildings on which the fire-escape was located? A. Yes, sir.

MR. BOSTWICK: I offer it in evidence.

Received in evidence and marked People's Exhibit No. 20.

BY MR. BOSTWICK:

Q. I show you another picture which purports to be an interior view of the tenth floor and ask you if that was taken on Sunday also? A. Yes, sir.

Q. The same Sunday? A. Yes, sir.

Q. Same building? A. Yes, sir.

Q. And that correctly represents the conditions on that floor at that time? A. Yes, sir.

BY THE COURT:

Q. Your camera was where when you took that picture? A. At the corner of the building at Greene street and Washington place.

Q. So that the wall to the right represented the Greene street wall? A. Yes, sir.

Q. And the windows in the centre represent windows on the fire escape side? A. Yes, sir.

Q. And the windows along the left-hand side of the picture represent windows along Washington place, is that so? A. Yes.

MR. BOSWICK: I offer the photograph in evidence.

Received in evidence and marked People's Exhibit No. 21.

BY MR. BOSTWICK:

Q. I show you what purports to be a picture of the elevator and hall doors on the sixth floor and ask you when that was made? A. Made on Sunday morning.

Q. On the Washington place side? A. The Washington place side, yes, sir.

BY THE COURT:

Q. The same Sunday? A. The same Sunday, yes, sir.

Q. From inside the loft on that floor? A Yes, sir, from the sixth floor, inside the loft.

MR. BOSTWICK: Before offering this picture in evidence, the People wish to state that the iron door represented on this picture on the sixth floor, that there is no such iron door — or we admit there was no such iron door on the eighth, ninth or ten floors, and it is not offered as a representation of anything excepting the relative position of the elevators and the door on the sixth floor, and the character of the doors.

MR. STEUER: I think we had better make that very clear right at the start. On this photograph that I have consented should go in evidence (Mr. Steuer now illustrating with the photograph to the jury) you see here that is a representation of an iron door on the outside of the wooden door. That was the door built for access

into the floor. Do I make that clear?

THE FOURTH JUROR: It is a double door?

MR. STEUER: The people who occupied that floor built the iron door for themselves, but it is admitted on the eighth, ninth and tenth floors, the floors that we occupied, that we did not build, or have any such door on the outside of the regular door, that we only had the doors that were constructed by the people who built the building.

THE SEVENTH JUROR: What floor is this?

MR. STEUER: Sixth. That is understood, isn't it?

MR. BOSTWICK: That is understood.

THE COURT: Now, with that statement it goes in evidence.

Received in evidence and marked People's Exhibit No. 22.

BY MR. BOSTWICK:

Q. You also took a picture of the ninth floor? A. Yes, sir.

Q. And it is similar to the two other pictures in evidence marked Exhibits 21 and 20? A

Yes, sir; [it]s taken from the point of view.

MR. BOSTWICK (Addressing witness) We shall have to ask you to wait until the arrival of that other picture.

MR. STEUER: If you want to have him describe the position from which he took that picture there will be no objection made by me to that picture without his identification. I will concede —

MR. BOSTWICK: Well, he can wait a few minutes.

THE COURT: Examination suspended.

MR. BOSTWICK: It is further conceded that the physical condition of said premises was substantially the same on the day March 5th, 1911, immediately after the fire, as at the time of the taking of that picture by Mr. Fist.

DANIEL C. DONOHUE, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that he lives at 420 Albemarle Road, Brooklyn).

Q. Are you connected with the fire department of the City of New York? A. Yes, sir.

Q. What is your position in the department? A. I was in charge of the Tour the night of the fire.

Q. March 25th, 1911? A. Yes, sir.

Q. Will you please state what time the first alarm was received? A. At 4:45 p.m.

Q. And what time the second alarm was received? A. 4:48 p.m.

Q. And what time the third alarm was received? A. 4:55 p.m.

Q. And what time the fourth alarm was received? A. 5:10 p.m.

Q. And those are the accurate minutes of the time of the fire? A. Yes, sir.

MR. BOSTWICK: I would like to state here that I

was in error a minute or two in my opening.

Q. Have you the record here of the receipt of alarms of this fire? A. Yes, sir.

Q. Will you read the entry? A. March 25th, 4:45 p.m., received from Box 289; at 4:45 p.m., the alarm was received and transmitted to the Department. At 4:45-1/2 we received a pneumatic signal that comes under the heading of Class 10,247, which was not sent out, that being for the same fire.

BY THE COURT:

Q. How do you mean, was not sent out? A. We don't transmit any signal that is for the same fire. 4:45-1/2 p.m., received by the National District Signal, 15,109, not sent out.

Q. What do the numbers 15,109 represent? A. That is the special building, that is a special fire alarm, private companies that have boxes, these are private boxes in the various buildings that are adjacent to the fire or at the fire, this class 15,109, was a box in the Triangle building, -- in their office, I believe. At 4:46 p.m., the adjoining box No. 292 was pulled; not sent out. At 4:46 p.m., the same, -- Box 291 pulled; not sent out. At 4:46 we received an automatic signal under the heading of Class 19,717.

Q. What do you mean by Class 19,717? A. Well, that is a special building signal coming under the heading of -- we have to designate different signals so as to classify them, other than alarms that would come from street boxes — these are special fire alarm company signals.

BY MR. BOSTWICK:

Q. At 4:46 pm., we received a report from the vicinity of the fire, from a citizen who reports to us that there was a fire at 23 Washington place. That was the first intimation that we had of where the fire was. At 4:48, three minutes after the first alarm, we received the second alarm from this box 289.

Q. That came from the same box as the first alarm? A. Yes.

Q. You can't state of your own knowledge whether that came from the commanding officer first arriving upon the scene of the fire, can you A. Yes, sir, those second alarms can only be sent in by the officer. No one has access to the box except the officer.

Q. Well, the third alarm? A. The third alarm was received at 4:55 p.m., from the same box, 289.

Q. And the fourth alarm? A. The fourth alarm was received at 5:10 pm., from station 289, the same box.

BY THE COURT:

Q. Box 289 is a public box? A. A public box.

Q. Located where? A. Corner of Washington place and university.

BY MR. BOSTWICK:

Q. When these alarms are sent in they go first to Headquarters, do they not? A. Direct.

Q. And then they are sent out from Headquarters? A. To the companies, to the Department.

Q. And that is an accurate memorandum of the — A. Abso-

lutely.

BY THE COURT:

Q. Washington place and University place is a point how far from Washington place and Greene street? A One block -- it is on the same block.

BY MR. BOSTWICK:

Q. Is it also true that the third and fourth alarms must be sent in by the commanding officer? A. Yes, sir, it is only by their direction that a greater alarm than the first alarm can be transmitted.

BY THE COURT:

Q. By which you mean, perhaps, that after the companies arrive in the vicinity, some member of the company is left stationed at the box? A. No, sir. On the arrival of the Department at the place designated, to which they are sent, they find that the first alarm companies are not sufficient to hold -- what we call "hold the fire" they send for help, and that is done by the direction of the chief who is there in charge of the fire.

Q. But the box itself is just as accessible after the arrival of the first company for the transmission by any one of an alarm? A. No, sir.

Q. (Continuing) As it was before the arrival, is it not? A. No, sir.

Q. Why not? A. Anything over a first alarm has to be transmitted from a Morse key and sender and relay that is in

the inner box, and in order to get access to that, you have to have a key, and it is only an officer that can actually have that key or get into that box.

CROSS EXAMINATION BY MR. STEUER:

Q. You spoke of two special alarms, you said one was 15,109? A. Class 15,109 we would call that.

Q. Yes, and then there was another one? A. That earns under the heading of pneumatic signal, 10,247.

Q. Those are both private signals, aren't they? A. Yes, sir.

Q. Maintained by the proprietors of the establishment? A. Yes, sir.

Q. And Harris and Blanck maintained each of these signals that you have just mentioned on each floor of their establishment, did they not? A. Yes, sir.

Q. Those are maintained at the private expense of the person who maintains the loft? A. Yes, sir.

EDWARD G. WORTH (Battalion Chief, Fire Department) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You are a Battalion Chief attached to the Fire Department of the City of New York? A. Yes, sir.

Q. And in pursuance of your duties you responded to the alarm of fire at Washington place and Greene street on March 25th, 1911? A. Yes, sir.

Q. You received the alarm of fire at what time, do you know? A. 4:45 p.m.

Q. Were you the first chief officer due at that point? A. Yes, sir.

BY THE COURT:

Q. Where was your fire house located? A 155 and 157 Mercer street, between Houston and Prince.

BY MR. BOSTWICK:

Q. About what time do you think that you arrived at the fire? A. Probably about two minutes later.

BY THE COURT:

Q. That is to say two minutes after the alarm was received at your fire house, to the best of your recollection, you were at the fire? A. Yes, sir.

BY MR. BOSTWICK:

Q. Will you state generally the conditions and how far the fire had progressed by the time you arrived there? A. When I arrived at that fire and stepped out of the wagon, the eighth floor at that time was in entire possession of the fire — that is the floor was in entire possession of the fire, the eighth floor.

THE COURT: I suggest that you elicit from this officer what his command consisted of and whether any of his companies wan there at the time he got there.

Q. Your battalion is composed of what Hook & Ladder companies? A. Hook & Ladder 20, Hook & Ladder 9.

Q. What engine companies? A. 13, 20, 33, 55.

Q. That is on the first alarm? A. The first alarm.

BY THE COURT:

Q. What portions, if any, of your command, had reached the fire before you got there? A. Of my own battalion?

Q. Yes. A. Engine Company 33 was there previous to my getting there.

Q. And their house is where? A. Great Jones street, about 150 feet west of the Bowery.

BY MR. BOSTWICK:

Q. Will you state again what engine companies first responded on the first alarm in your battalion? A. Engine Company 33 is the only company of my Battalion that responds on the first alarm. 13, I should say, also.

Q. 13 and 33? A. That's right.

Q. And Hook & Ladder — A. 20.

Q. Now, from another Battalion comes No. 18 and 72? A. 18 from the Fifth Battalion, 72 comes from the Sixth Battalion.

Q. And what other Hook & Ladder comes from another Battalion on the first alarm? A. Hook & Ladder 3, But they didn't respond on the first alarm to that fire.

Q. They were at another fire at that time, were they not? A. In Trow's Directory, 12th street and Third avenue.

Q. Now, when you got there the only company that had arrived was Engine Company 33? A. And 72 of the Sixth Battalion.

Q. Had they arrived before you? A. Yes, sir.

Q. That is what I thought. And will you state now, or continue to state how far the fire had progressed, and the general conditions when you arrived at the scene of the fire? A. when I arrived at the fire it had entire possession of the eighth floor. The indications on the west wall on the ninth floor looked to me like fire. At that time the over-hang was full of people on the Washington place side.

Q. I can't hear you. A. On the Washington place side of the fire, the over-hang between the eighth and ninth floors was filled with people.

BY THE COURT:

Q. When you say "the over-hang" what do you mean? A. Up the facade of the building is a projection that comes out about two feet —

Q. Keep your voice up? A. When I got there the projection between the eighth and the ninth floor on the face of the building, possibly two feet six inches wide, or thereabouts, that was filled with people.

Q. That is what you might perhaps call a cornice? A. That's it exactly.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 18, and ask you whether that will show the cornice to which you refer? A. This would be about it (indicating).

THE COURT: The witness points to a certain part of the picture . Would you like him to make a mark there with

his initials?

Q. Indicated by a mark, a cross.

THE COURT: And your initials.

(The witness marks on the photograph as directed.)

Q. Now proceed. A. Engine company 72 and Engine Company 33 was then stretching a line to the stand-pipe on the Washington place entrance to the building. They proceeded up the stairs with hose, taken from their wagon to connect to the stand-pipe on the floor under the fire --

Q. You didn't go upstairs at that time? A. No, sir; my place was in front.

Q. So we will let the man who went up to the fire testify as to that portion of it. Now, just state what you observed? A. I observed one man jump —

BY THE COURT:

Q. Pardon me for interrupting you. Just tell us first where you were at the time that you were observing these things? A. Directly in the middle of the street, in front of the fire.

Q. And when you say the street do you mean Washington place or Greene street?

A. Washington place.

Q. About how far from the Greene street corner? A. Probably fifteen feet.

Q. Towards — A. East Washington Square.

Q. Now, you may go ahead.

MR. STEUER: Now, I desire, may it please your Honor, to object to this line of testimony, on the ground that

that is incompetent, immaterial and irrelevant and not connected with the subject matter in the indictment, which is now being tried and not within the immediate issues framed by the indictment and the plea thereto.

MR. BOSTWICK: It seems to me that that is all part of the res gestae, and in all the cases that have been tried all the details ~

THE COURT: I want to go into nothing that is not necessary or really a part of the case. I will allow the witness to testify and overrule the objection.

MR. STEUER: I except.

BY MR. BOSTWICK:

Q. Proceed. A. On the arrival of Engine company 15 in front of the building, they reported to me --

BY THE COURT:

Q. No, not what they reported to you, just what you saw. Now, you are standing there on the street at a certain point, and you are looking up, as I understand it, towards the ninth floor of the building? A. Yes, sir.

Q. Now, what did you see in or about the ninth floor? A. On the end of the projection, towards Washington place east a man stood on that projection, waving both hands.

Q. That is at the ninth floor? A. On the ninth floor. I raised both hands in this fashion (indicating) to hold him from jumping. In the meantime had a line stretched by Engine 13 to the stand-pipe on the wagon, started the water at that point

and ordered that company to cover that over-hang underneath; with a stream of water, an inch and a half steam. My idea was that to cool ~—

THE COURT: I think I won't allow that.

BY MR. BOSTWICK:

Q. No, not your idea. Now, just state what was done? A. The water was driven out from that pipe at 125 pounds pressure to cool off that, to prevent the people on the projection from jumping. It swept the cornice from one end of the building to the other for about possibly two minutes, when the man towards Washington Square east jumped. When he jumped it appeared to encourage everybody else. In the meantime —

THE COURT: I may say, Mr. Steuer, that during this narration, if the witness says something which standing independently of the balance is open to objection on some score other than that you have mentioned, if you call my attention to it I will strike it out and direct the jury to disregard it, because your objection may not be broad enough to cover some things that this witness may conceivably say, objectionable on other grounds. Now, proceed.

A. (Witness continuing) In the meantime I ordered the hose —

BY MR. BOSTWICK:

Q. Not what you ordered, what was done? A. Hook & Ladder 20 took a life net from the side of the truck, went into the sidewalk with it and caught one girl. She was tipped out onto

the sidewalk --

THE COURT: I don't think we will go into those details, Mr. Bostwick. I will allow you to show by this witness, everything that he observed, tending to establish that persons who, at the time of the fire, were upon the ninth floor endeavored to escape from the building by means of windows. I will limit you to that.

MR. STEUER: And I respectfully except, not to the limitation, but to the admission of the proof.

Q. Did you see any persons leave the building by the windows?

MR. STEUER: Objected to on the ground that it is incompetent, irrelevant and immaterial.

THE COURT: I will limit it to the ninth floor.

MR. STEUER (Continuing) And has absolutely no bearing on the charge contained in the indictment, and has no probative force.

THE COURT: I think it has, therefore I allow it.

MR. STEUER: (Continuing) With relation to the claims contained in the indictment, and I respectfully except.

THE COURT: I consider that it has.

A. They jumped from the ninth floor.

Q. And about how many?

Same objection. Objection overruled. Exception.

A. I can't answer that question.

Q. More than one? A. Yes, sir.

Q. You can't state how many? A. I can't state how many.

Q. Do you think there were as many as ten? A. Yes, there were more.

Q. Do you think there were as many as twenty? A. Yes, sir.

Q. Thirty? A. Yes, sir.

MR. STEUER: I object to this.

THE COURT: Objection sustained.

Q. What was the next Company that arrived? A. 18, Engine.

Q. Do you know who sent in the second alarm? A. Yes, sir.

Q. Who sent in that second alarm? A. Fireman Stapleton.

Q. Under whose command? A. My command.

Q. Were you the first Battalion Chief to arrive at the fire? A. Yes, sir.

Q. Do you know what time that second alarm was sent in? A. 4:48, p.m.

Q. Who ordered the third alarm to be sent in, if you know? A. I did.

Q. What tins was that sent in? A. I can't answer.

Q. Do you know that there was a fourth alarm sent in? A. Yes, sir.

Q. How long after the life nets were put up was their use discontinued? A. About three minutes.

Q. What companies with the line went first to the Washington place stairway? A. 33 and 72.

Q. Do you know what company went to the Greene street

stairway? A. 18, Engine.

Q. Now, will you state what was the condition of the fire, so far as you could observe, from the position in the street, respectively on the eighth, ninth and tenth floors, within a very few moments after you arrived at the scene?

MR. STEUER: I object to that on the ground that it calls for a conclusion, it is not based upon knowledge.

THE COURT: Well, I will allow the witness to state, for example, whether or not he saw flames coming out of the windows on the ninth floor or tenth floor, or smoke. What he may have seen with his own eyes I will allow. I will limit him to that.

BY THE COURT:

Q. Now, what evidences, if any, did you perceive with your eye-sight, as you were on the street at the point that you have mentioned, with respect to the ninth floor? A The ninth floor at the west wall, I saw a small spurt of flame, which proved that the fire was extending up the stairways —

THE COURT: I will strike out "which proved that the fire was extending up the stairways," and instruct the jury to disregard it.

MR STEUER: I except to the striking out of that. The witness knows that a fire extended up the stairways and saw it. That is competent.

THE COURT: I have stricken it out.

MR. STEUER: I respectfully except.

THE COURT: And the jury and told to disregard it.

MR. STEUER: Exception to that.

A. (Continuing) That fire went up to the rear out to the rear windows on the eighth floor into the ninth floor as well, went up the Greene street stairway.

Q. You are only to tell us what you saw with your eyes as you stood on the street? A. I saw the fire extending to the ninth floor from the eighth

BY MR. BOSTWICK:

Q. You saw the flames come out of the window? A. The heat was there and by the smoke being driven with terrific force I knew the flame was behind it.

Q. You must tell us just what you saw? A. I am just explaining what I saw.

Q. And not be conclusions that you draw. You must tell us what you saw? A. A heavy smoke coming out of the ninth floor, ascending from the windows of the ninth floor on the west wall on the Washington place side.

Q. At this time were the flames coming out of the eighth floor? A. Yes, sir.

Q. And some smoke coming out of the ninth floor? A. Yes, sir.

Q. At this time were there any flames, or was there any smoke coming out of the tenth floor? A. No, sir.

Q. You are speaking of a time how soon after you arrived at the fire? A. Two minutes.

Q. And how long in all was it before you saw all three

floors in flame? A. About ten minutes.

Q. At what point of the building, if there was any particular point did you first see the flame? A. Entirely throughout the eighth floor.

Q. When you arrived at the scene of the fire the flames were not confined to any particular part of the eighth floor? A. Entire.

Q. How long did you remain at the fire, Chief? A. Probably fifteen or sixteen hours.

Q. At what time did you first go up to the eighth, ninth or tenth floors? A. About three quarters of an hour after the fire alarm came in and my arrival at the fire.

Q. And can you tell us what Engine Company had first gone up the Washington place stairway? A. Engine 33 and 72 together.

Q. Do you know whether Oliver Mahoney belongs to Engine Company 72? A. Yes, sir.

BY THE COURT:

Q. Before Mr. Steuer begins his cross examination I will ask you this question, Chief: from the place where you were on the street could you see the Washington place entrance to the building? A. Yes, sir.

Q. During the time that you were upon street, at a point where you say you could see the Washington place entrance of the building, and before you went upstairs into the building, did you see any persons other than firemen come out of that entrance? A. No, sir; no, your Honor, I can't say that I did.

CROSS EXAMINATION BY MR. STEUER:

Q. Are we to understand that you watched the entrance to the building? A. I stood right in front of it and was watching everything that occurred on that front.

Q. And did you say, Chief, that from 8:47, that nobody came out of that Washington place entrance? A. Let me understand the question.

Q. From 4:47 on, then, Chief, are we to understand that you meant to say in answer to his Honor's question, that from 4:47 p.m. on, on that day of that fire, nobody except firemen came out of that building by the Washington place entrance? A. Not that I saw.

Q. Well, now, Chief, if the evidence in this case were to show indisputably that from 200 to 300 girls came out of that door, would you say that you were standing right in front of that entrance, looking into it and didn't see those people? A. As I understand it I said that I was in front of that building, I had the whole, entire facade of that building to watch, I say those people could come out of there without my knowledge; I didn't see any.

Q. Don't understand because I am cross examining you that I question what you say —
— A. Oh, no, that is all right.

Q. Your answer to his Honor simply meant that you individually did not see these people come out? A. I did not.

Q. But you do not mean to intimate to the jury that great quantities of people did not come out. Would you mind telling

me, Chief, which side of the building you indicate when you say the west? A. Well, in relation to any question that I have answered?

Q. Yes; you did use the term “west side” at one time, Chief, and I would like to know what was in your mind at that time? A. Well, I meant by that the southwest corner of that building, and that would be towards East Washington Square. That is the west side of that building, towards East Washington Square. At the stairway, the Greens street stairway, would be the northeast corner of the building.

Q. That is exactly what I am getting at. In one of your answers you referred to the west stair, if I recall it. We have been used to referring so far in this case to the Greene street stairway and the Washington place stairway? A. Well, then, that would be the Washington place stairway.

Q. The stairway which you had in mind when you were talking at that time was the Washington place stairway? A. Washington place stairway.

Q. Mr. Bostwick asked you whether you saw some smoke in the ninth floor, and I understood you before he said that to say that you saw a great volume of smoke; that is correct, isn't it? A. That is correct.

Q. And when you used the words "great volume" you meant there was a great quantity of smoke? A. Coming out of the windows.

Q. And you have had a great deal of experience with fires

have you not? A. Yes, sir.

Q. And that experience includes large fires, does it not? A. Yes, sir.

Q. And you know of your own knowledge, don't you, Chief, that smoke in such volume as you saw at that time could only be driven by flames? A. That's right.

Q. And that that smoke would be driven by a flame that was of large size already, and that was growing as it was going? A. Exactly.

Q. In other words, Chief, a flame of that kind gathers force from its own momentum, doesn't it, and every fraction of time, however small, it continues in its driving power to get larger and fiercer? A. Yes, sir.

Q. And the volume of smoke that it occasions and emits becomes larger, thicker and stronger and more choking and asphyxiating in its character? A. Yes, sir.

Q. It is the kind of smoke that you would term blinding, is it not, blinding smoke or choking smoke? A. It is blinding, choking smoke.

Q. It would very rapidly deprive a person of a person's senses, male or female, would it not? A. Yes, sir.

Q. It is the kind of flame or smoke that is responsible for panic at fires? A. Yes, sir.

Q. I don't know as I understood, but were you the person who was responsible for the stretching of the life-net? A. Yes.

Q. And you knew before you stretched it that it would be

insufficient for the purpose, did you not practically? A. No; I took it for granted that that net would fill the service that it was intended to fill.

Q. And it was only after you had made the experiment that it was discovered that it was impossible? A. Yes. When they came one at a time we could have helped; when they came entwined with one another, it was impossible.

Q. Wasn't it found — I don't know whether you know this or not — wasn't it found that by reason of the great distance from the floor — that is, the street level, to the height from which these individuals jumped — that the weight increases in such tremendous ratio while they are going through the air, that the net could not resist even a single individual? A. It did resist.

Q. It did resist? A. It did resist the single individual, because —

Q. Am I wrong about this? My understanding was that the single individual that was taken in the net was dead; am I wrong about that? A. When I took the first girl up out of that net, that girl was alive.

Q. And died later? A. One minute. I lifted her up when they tipped it, and I said, “now go right across the street.” She walked ten feet, but it was like an automatic motion ~~ probably six feet and dropped.

Q. It did not impress you as being a motion that was impelled by a person possessed of senses? A. No, it did not.

Q. Did you attend at the place subsequent to that day? A. At a fire in that building?

Q. No, I withdrew at a fire. I mean did you attend at that building subsequent to the day of the fire? A. At another fire I did.

Q. No, I am speaking ~~~ A. Oh, no.

Q. That ended your service at this fire? A. Yes, sir. Now, one minute. Let me have that question again. I stood there for sixteen or seventeen hours.

Q. I meant after you once left there on this continued service you did not go back again? A. I did not.

Q. You visited the ninth floor, I understood you to say about three quarters of an hour after you got to the premises? A. Yes, sir.

Q. Which way did you go up, Chief? A. Greene street stairway.

Q. And did you get over to the Washington place side? A. Yes.

Q. And did you go down the Washington place side? A. Part of the way.

Q. Going out of Washington place, what had been up to the time of the fire the Washington place entrance to that floor? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Was there anything left of any door when you got there?

THE COURT: Referring to a door on the ninth floor?

MR. STEUER: Yes.

THE COURT: On the Washington place side?

A. No.

Q. It was just an open space, as I understand it. A. An open space.

Q. When you got to the fire — and I understand that you calculate that that was about 4:47 p.m. — you found, if I recall your words that the eighth floor was in the possession of the fire? A. Yes, sir.

Q. By the term “possession of the fire”, Chief, do you mean that the whole floor was one conflagration? A. Yes, sir.

THE COURT: Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. You won't talk with anybody about this case nor let anybody talk with you about the case, you won't read anything about it, and you won't visit the premises where the occurrence is said to have taken place.

(The Court now directed an adjournment to Thursday

December 7, 1911, at 10:30 a. m.)

Last Exhibit:

People's

22.

New York, December 7, 1911.

TRIAL RESUMED.

E D W A R D G. W O R T H , resumes the stand and further testifies:

CROSS-EXAMINATION BY MR. STEUER: (Continued)

Q. When we adjourned last night you were saying that when you got to these premises, or were at the premises, that the eighth floor was in complete possession of the fire? A. Yes, sir.

Q. And then we adjourned. Now, at that moment, when you say the eighth floor was in complete possession of the fire, does that mean the whole width of the building? A. The whole width and the whole depth.

Q. When a fire is burning, is there any reason that is known to you fire fighters as to why the flames go up or down, or which way do they go? A. They burn both ways as a rule, but generally up, the tendency of fire is up.

Q. Is there any particular reason for that, as to why they generally burn up? What is it due to, do you know, or, if you don't — I don't know myself, I am just asking? A. As a rule, I have always seen fire go up three times as fast as I saw it come down.

Q. And that has been your experience for a great many years, has it, chief? A. Yes, sir.

BY THE COURT:

Q. Currents of air, I suppose, have something to do with

that? A. Entirely all, your Honor.

BY MR. STEUER:

Q. It is natural for a flame to raise by reason, as his Honor suggested, of the currents of air, rather than to go down? A. Yes sir.

Q. There is nothing to press it down, whereas there is something to take it up? A. A draft.

Q. In this instance, while the fire had possession of the eighth floor, as I understood you to say yesterday afternoon, you saw it going up the stairs? A. I didn't see it go up the stairs.

Q. Well, what did you see?

THE COURT: He inferred that it went up the stairs from a certain thing that he saw.

MR. STEUER: Oh, that was it, was it?

Q. Well, what things did you see? Just tell us those? A. A volume of smoke driven as with a heavy pressure behind, coming out the window on the Washington place side of the building, as if driven with force.

Q. Where did you see the smoke, this volume of smoke? A. On the ninth floor.

Q. And from that you inferred that the flames had gone up the stairs, is that the idea?

A. Yes, sir.

MR. BOSTWICK: I rather suggest that counsel might ask what he did infer.

MR. STEUER: No, I think on cross-examination I have

a right to put it that way, but it doesn't make any difference with this witness.

THE COURT: I think he has practically stated that he drew the inference —

MR. STEUER: That the flames went up the stairs. I think that's all —

Q. The stair that you are speaking of is the stair leading from the eighth floor to the ninth floor? A. Yes, sir.

Q. And that is on the Washington place side? A. Yes, sir.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. When you first arrived, Chief, the first part of the building you saw was what?

A. The Greene street side of the building.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. What space of time, if any, elapsed between your seeing the Greene street side and your seeing the Washington place side? A. Probably about thirty seconds.

BY THE COURT:

Q. And you have just said that you arrived, as nearly as you could estimate it, about two minutes after the fire alarm reached your house? A. The quarters, yes, sir.

BY MR. BOSTWICK:

Q. Was it after you arrived or before you arrived that men from the Engine Company had gone up the Washington place stairs? A. They were stretching on my arrival, toward the

Washington place entrance of the building —

Q. So that they had not yet gone upstairs when you arrived? A. No, sir; they were on the way.

BY MR. STEUER:

Q. They had not gotten to the building, though —

(Question withdrawn.)

BY MR. BOSTWICK:

Q. You didn't go up the stairs? A. No, sir; my place was in front.

BY MR. STEUER:

Q. The men who were stretching the line had not yet gotten to the entrance of the building when you got there? A. Two or three of the men were then entering the Washington place door with two inches of hose rolled up on their shoulders, and another, with a single length, was then entering the door, and two other men were connecting to the standpipe.

BY THE SEVENTH JUROR:

Q. Was there a net spread on the Greene street side as well as on the Washington place side? A. Yes, sir. Not at this particular minute, no; later on.

Q. Where was the net stretched first? A. On the Washington place side, about the center of the building.

GEORGE FIST, recalled on behalf of the People,

having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you what purports to be an interior view of the

ninth, floor of 23-29 Washington place, and ask you whether you took that photograph? A. Yes, sir.

Q. When did you take it? A. On Sunday morning.

Q. That is the day after the fire? A. Yes, sir.

Q. Is that a true representation of the conditions you found on the ninth floor at that time? A. Yes, sir.

MR. BOSTWICK: I offer that in evidence. (received in evidence and marked People's Exhibit 23.)

Q. I show you what purports to be a picture of the conditions on the ninth floor, and ask you if that substantially shows the condition or that floor on the Sunday when you saw it? A. Yes, sir, it does, but I didn't take this photograph.

Q. But you didn't take that photograph? A. No, sir.

MR. BOSTWICK: I offer it in evidence. There is no objection.

MR. STEUER: No objection.

(received in evidence and marked People's Exhibit 24.)

THE COURT: Any questions of this witness, Mr. Steuer?

MR. STEUER: No, sir.

OLIVER MAHONEY, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 139 Oakland street, Brooklyn.

Q. You were connected with Engine Company No. 72? A. Yes, sir.

Q. You are now with Engine Company 5? A. Yes, sir.

Q. And you were with No. 72 on the 25th day of March, 1911? A. Yes, sir.

Q. Do you know what time the first alarm came in for a fire at Washington place and Greene street? A. Four-forty-five P.M.

Q. Which was the first company to get to the fire? A. 72 Engine.

Q. Will you state just what conditions you found when you got there?

BY THE COURT:

Q. Where was your fire house? A. On 12th street, 22 East 12th street.

Q. How long did it take you to get there to the place of the fire? A. About one minute and a half.

BY MR. BOSTWICK:

Q. So that you arrived at the fire about 4:46-1/2 P.M.? A. About that time.

Q. When you got there did you see any flames? A. Yes, sir.

Q. Where did you see them? A. On the eighth floor, all the windows on the eighth floor, on the Washington place side.

Q. Now, did you see any people coming out of the building? A. Yes, sir.

Q. What did you and your men attempt to do? A. Stretch a

line and tried to get in the building,

Q. Just tell us what you mean by stretching a line? A. I ordered two men to stretch a line to the standpipe.

Q. Do you mean to say that these men took any hose with them? A. Well, they took hose — we took hose with us up the stairs.

Q. Well, that is just what we want you to tell us, if you will? A. Yes, sir.

Q. Who were the men who took the hose on their shoulders, if they put it there? A. Bernard McKenny, John McNulty, Thomas Foley; them three were with me.

Q. I want you to speak so that every jurymen can hear you. Was there any difficulty in getting upstairs? A. Yes, sir.

Q. Tell us what that was? A. The people was running out the door, panic-stricken people, I presume.

Q. Who were the people? A Well, I presume they were the employes.

Q. Were they men, women or children? A. both, mixed.

Q. And where were they coming from? A. Well, I couldn't get in the door in the first place, they had the hall all thronged at the time. The hallway inside the doorway was crowded with those people, men and women — girls, or whatever they might be, but I couldn't get in at first.

Q. And did you start to go up the stairs? A. No, sir. As I got in the elevator opened up and another crowd of people came from the elevator; they blocked the way a little while

again.

Q. Were there people in the elevator? A. Yes, sir.

Q. Did they come out of the elevator? A. Yes, sir.

Q. And go out into the street? A. Yes, sir.

Q. Imagine that corner over there to be the Washington place corner (indicating southeast corner of courtroom), where the elevator and stairs were situated; imagine this side (pointing to east wall of courtroom) of the room to be the Washington place side of the building; imagine that (indicating north wall of the courtroom) to be the Greene street side of the building, at your back; that would make this (indicating west wall of the courtroom) the north wall of the building, would it not? A. (No answer.)

Q. Greene street runs that way, north and south (indicating)? A. Yes.

Q. And that is south, because that is Washington place, and this would be the north side of the building, wouldn't it (indicating)? A. Yes, sir.

Q. And on the north side of the building was the University, was it not — the school building, near the Park? A. No — yes, it ran around the corner, that building runs right around the corner.

Q. It extends the whole block, doesn't it? A. Yes.

Q. So on the north side of the building in which the fire was, was a part of the University building? A. I think it was. I am not acquainted with that building.

Q. Now, the north side of the building would be that loft building on Greene street? A.

No answer.)

Q. Do you know what building is next door? A. No, I do not.

Q. Do you know what building is to the west? A. I am not positive about that building.

Q. Well, in that corner, however (indicating southeast corner of courtroom), that is where the Washington place elevator and Washington place stairway is? A. Yes, sir.

Q. And over here is Greene street (indicating)? A. Yes, sir.

Q. The stairs you are talking about are the Washington place stairs, are they not?

A. Yes, sir.

Q. And you say that the elevator came down? A. Yes, sir.

Q. And the people got out? A. Yes, sir.

Q. What happened after that? A. I got up the stairs.

Q. How far up the stairs did you go? A. I went as far as the eighth floor.

BY THE COURT:

Q. When you say as far as the eighth floor, do you mean the level of the eighth floor?

A. Yes, sir; right to the landing.

BY MR. BOSTWICK:

Q. Now, did you get your connection with the standpipe on any floor? A. Yes, sir.

Q. What floor? A. Seventh floor.

Q. Do you know who took the head of the line? A. Yes, sir,

Q. Who? A. Bernard McKenney and John McNulty, both together.

Q. When you got to the eighth floor, what was the condition that you found? A. All one mass of flame and nothing else there but one mass of flame.

Q. At the time that you got to the eighth floor, you had water, did you not? A. No, sir.

Q. When did you get the water? A. When I located the proper place where I was to work, I come down the stairs again, about two flights, and my men were coming up with the hose ~

BY THE COURT:

Q. At the time that you reached the eighth floor, what did you observe to be the condition of the stairs leading from the eighth floor to the ninth floor, on the Washington Place side? A. I don't know, sir.

Q. Did your eye rest on them at all? A. No, sir.

Q. Did you see them? A. I knew the stairs were there, but I didn't see them.

Q. In other words, you were not at a point where you could have seen those stairs, is that what you mean? A. Yes, sir, I didn't, because I was too interested in what I seen in the eighth floor.

Q. In other words, while you were at a point from which you could have seen the stairs running from the eighth floor to the ninth floor, by reason of the character of your occupa-

tion you didn't in point of fact observe them, is that so? A. That's true, yes, sir.

BY MR. BOSTWICK:

Q. Did you work your way into the eighth floor? A. Yes, sir.

Q. Then where did you go after that? A. I didn't work on any other floor at all. I stayed there until I was ordered off the floor.

Q. When you went up the stairs, did you find any bodies or persons on those stairs other than those that were coming out? A. No, sir.

Q. Did you see any body or bodies on the eighth floor? A. No, sir.

Q. And you didn't go to the top floor? A. No, sir.

Q. And you didn't go to the ninth floor? A. No, sir.

Q. Was there any of the door of the eighth floor left when you got to that place?

A. No, sir.

Q. It had all been burned away? A. Yes, sir.

BY THE COURT:

Q. And now you are referring to that door, are you referring more to that doorway between the loft on the eighth floor and the space occupied by the stairs on the Washington place side of the building? A. Yes, sir.

BY MR. BOSTWICK:

Q. You are referring to the Washington place side of the building, are you not? A.

Yes, sir,

Q. And you are speaking of the entrance to the loft on the eighth floor? A. Yes, sir.

Q. And there was no door there? A. No door there. Q. All burned away? A. Yes, sir.

CROSS-EXAMINATION BY MR. STEUER:

Q. When you got to the building, Officer, you saw the Washington place side of the building first? A. Yes, sir.

Q. And at that time the flames or the fire had complete possession of the eighth floor? A. Yes, sir.

Q. When you went upstairs first, it was without hose and without water? A. Yes, sir.

Q. And when you reached the eighth floor at that time, that is, before you started to go back, the condition was that the flames had possession of the eighth floor and that there was nothing left of any doorway? A. That's right.

Q. It was open space at that time between the hallway and the eighth floor proper? A. Yes, sir.

Q. And the flames were shooting out into the hallway at that time, were they not? A. No, not at that time.

Q. How soon after that was it when the flames reached the hallway? A. The flames did not reach that hallway through that door during my time there.

BY THE COURT:

Q. And you left there when? A. About quarter of seven.

Q. And at that time had the fire on the eighth floor been extinguished? A. Pretty much.

BY MR. STEUER:

Q. You had gotten it well under control before quarter of seven? A. Oh, yes.

Once we got our water on it, it had no chance to come up.

Q. That handrail of the stairs was burned away, wasn't it, from the eighth to the ninth floor? A. Well, that I don't know anything about. I wasn't on the ninth floor at all.

Q. Well, the fire went up, did it not? A. It went up, yes.

Q. It didn't go down through the stairs, did it? A. No, sir.

Q. Well, now, if the handrail — if it is conceded, Officer, that the handrail of the stairs leading from the eighth to the ninth stories was burned away, can you tell us where the fire came from?

MR. BOSTWICK: Just a minute, I object.

(Objection sustained; exception.)

Q. Was the fire very violent on the eighth floor? A. Yes, sir.

Q. Was there smoke in the hallway? A. Well, there was a little around there, a little smoke at that time.

Q. When you say "a little smoke", do you mean a little smoke for a fireman, or — A. Well, not enough to bother me either to see or stand in.

Q. And you are experienced in fires? A. Yes, sir.

Q. It would bother the ordinary individual? A. Well, it

may.

Q. And when you were on the stairs you could readily see the flames, could you not? A.

Oh, yes.

Q. You could readily see them if you were on the ninth flight of steps? A. I don't know anything about the ninth floor at all.

Q. Was there the reflection, Officer, of flames on the wall of the staircase? A. Oh, yes.

Q. The blind wall? A. Yes.

Q. Anybody there would know that there were flames there? A. Yes, sir.

Q. And that they were big flames? A. Yes.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 15, which purports to be the doorway leading to the Washington place stairway on the eighth floor, and ask you if the jamb of the door was substantially in that condition at that time, as nearly as you remember? A. I don't know that I could say about that.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. When you got there the first time, there was not anything left of the hardware on that door that you could see, was there? A. No, sir.

Q. And you never saw anything of the hardware on that door, did you? A. No, sir; no door at all.

Q. And we are speaking of the door on the Washington place

side, entering into the eighth loft of the building? A. Yes, sir.

Q. That is where you say that it was one mass of flames? A. Yes, sir.

THE FOREMAN OF THE JURY: I would like to see a diagram of the ninth floor, if I could.

THE COURT: Just sit down, Mr. Juror. If there is no objection, I would suggest that these various exhibits which have been received in evidence be shown to the jury.

MR. STEUER: The cross-examination on the diagrams was not gone into at all, your Honor. It really doesn't make any difference, though.

THE COURT: The foreman has requested to see one of them, and if there is no objection —

MR. STEUER: Oh, yes, go right ahead; I have no objection.

THE COURT: Hand it to the jury, without any explanations.

(Diagram handed to the jury.)

H O W A R D C. R U C H , called as a witness on behalf of the People, being first duly sworn, testifies as follows:

THE COURT: I think the diagram could be seen to better advantage by the jury, perhaps, if it were held in an upright position, possibly, before them.

MR. BOSTWICK: I have had prepared, if your Honor

please, and expect to have within an hour or so, several copies of a small-size, so that it could more conveniently be handled.

MR. STEUER: The Fourth Juror would like to know where the entrance on Washington place is.

THE COURT: You will probably find printed explanations on that diagram, and just study it, Mr. Juror. Just look at it without comment.

(Mr. Bostwick now hands People's Exhibit 5, Diagram of ground floor, to the jury.

THE COURT: Now we will proceed with the examination of the witness.

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Captain Ruch, you are and were on March 25th, 1911, connected with the Fire Department of the City of New York? A. Yes, sir.

Q. In what capacity? A. Captain of Engine Company 18.

Q. What time did you get the first alarm for the fire in Washington place and Greene street? A. 4:45 P.M.

Q. And about what time would you say that No. 18 rolled to that fire? A. We responded immediately, and arrived there in three minutes.

Q. Where is your fire house? A. 132 West 10th street; 80 feet west of Greenwich avenue.

Q. Will you kindly tell us what you saw and what you did and what happened upon your arrival at the fire? A. Upon our

arrival at the fire we connected our hose to a hydrant on the corner of Waverly place and Greene street, we stretched the hose or laid out the hose from that hydrant about 200 feet south on Greene street to a Siamese connection at the building line on the sidewalk; the Siamese connection led to a four-inch standpipe of the building on fire; we made the connection with the standpipe, when I looked around and saw or heard an awful shriek in the air and I looked up —

MR. STEUER: I object to that.

THE COURT: Objection sustained; strike it out. I may say now, because it will save time, that where objection is taken I intend to confine the evidence very strictly to that which I conceive to have by possibility probative value upon what I conceive to be the discuss in the case. Those issues, as I understand them, are, whether or not these defendants, by reason of criminal negligence, are guilty of the crime of manslaughter in either of its degrees in connection with the alleged death of one Schwartz. And, in that connection in part, whether or not these defendants are guilty of the crime of manslaughter by reason of the omission of any statutory duties, the omission of which by any provision of law would constitute on their part a misdemeanor. Any testimony that bears upon the conditions as they existed at the time of the outbreak of the fire and immediately before, in the loft in which the deceased is said to have been, or

in the loft immediately under that, I will receive in evidence. Any general description of outside conditions, except as it may bear upon that proposition, I shall exclude.

MR. BOSTWICK: The People absolutely concur in that view, if your Honor please.

MR. STEUER: And so do the defendants. That is the defendants' conception of the law applicable to this case.

BY MR. BOSTWICK:

Q. Now, Captain, did you see any people on the ninth floor? A. Yes, sir.

Q. Or in the windows of the ninth floor? A. Yes, sir.

MR. STEUER: Objected to as incompetent, irrelevant and immaterial.

(Objection overruled; exception.)

MR. STEUER: May I have the District Attorney indicate what windows those are?

Q. Will you state at what windows, as near as you can, at the suggestion of the counsel for the defense, you saw people? On which side of the building, first? A. On the ninth floor, on the easterly side of the building, which would be on Greene street, the west side of Greene street.

Q. Did you see any of the persons jump from any of the windows on the ninth floor? A. Yes, sir.

MR. STEUER: I object to that as immaterial.

THE COURT: I will allow it.

MR. STEUER: I except.

Q. Had any life nets been stretched either on the Greene street side or on the Washington place side?

MR. STEUER: I object to that as immaterial.

THE COURT: Objection sustained. We won't go into that.

Q. Now, at what point did you enter the building? A. The Greene street entrance, main doorway.

Q. I ask you to carry in mind that we are considering that (indicating northwest corner of courtroom) the Greene street entrance, that door; we will consider this (pointing to north wall of courtroom) going southerly along Greene street till you come to the corner of Greene street and Washington place, and then at this side (indicating east wall of courtroom) is Washington place, with the windows, looking south; and over in that corner (indicating southeast corner of courtroom) is the Washington place entrance. The Washington place entrance is over there, and the Greene street entrance is over there (indicating as before in this question). Can you fix that in your mind? A. Yes, sir; Greene street entrance, Washington place entrance.

Q. And that is the corner of Greene street and Washington place (indicating northeast corner of courtroom)? A. Yes, sir.

Q. Showing you People's Exhibit 18, this is the corner of the building, and corresponds with this corner (indicating north-

east corner of the courtroom), do you see ? A. Yes, sir.

Q. There is the Greene street entrance corresponding with that door? A. Yes, sir.

Q. And here is the Washington place entrance corresponding with that over there (indicating southeast corner of the courtroom)?

THE COURT: For the purpose of the record it had better appear that the District Attorney indicates certain doors and corners of the courtroom.

Q. You entered the building from the Greene street entrance (pointing to northwest corner of courtroom)? A. Yes, sir; Greene street entrance.

Q. And you worked your way up to what floor? A. To the sixth story.

Q. And what did you do at the sixth story? A. I disconnected the house hose from the valve on the standpipe, and connected the Fire Department hose in its place.

Q. Aid then where did you go? A. We unrolled the Fire Department hose up two flights to the eighth story, adjusted the nozzle and I opened the valve on the standpipe of the eighth story to start the water, and at the same time shouted, "Start your water, 18" from the high pressure hydrant.

Q. And then where did you go? A. The water came and we laid down on our stomachs or on our knees to try and make an entrance in on the eighth floor from the stair landing of the Greene street stairway. The fire was so intense that it was

impossible to stand up, and we laid down to work our way in as the pressure on the line would permit us, and we extinguished the fire.

Q. How long did you work on the eighth floor? A. For a period of about ten minutes.

Q. And where did you go? A. We made the ninth floor landing, one flight above.

Q. Went up the stairway? A. Yes, sir.

Q. What were the conditions on the eighth and the ninth floors as you found them at that time? A. The conditions on the eighth and ninth, floor ~

Q. Eighth floor first? A. The eighth floor was a mass of traveling fire along the floors, which appeared to be —

THE COURT: Stop right there after “along the floors”.

Q. And the ninth floor? A. And the ninth floor appeared to be the same, only in a more uneven condition.

BY THE COURT:

Q. What do you mean by in a more uneven condition? A. There appeared to be some kind of machinery stretched along in rows, and there seemed to be the sort of remnants of a board partition next the doorway as we entered that had been burned away up, I should think, about eighteen inches from the floor -- six feet, possibly five, from the main doorway into the floor proper towards the south.

1h

BY MR. BOSTWICK:

Q. The stairs was made of stone and metal, were they not? A. Slate and iron, yes, sir.

Q. And was there any fire in the stairway? A. The iron was very hot on the surface and the slate treads were more or less cracked.

Q. There was no fire? A. No, sir, not on the stairs.

Q. Could you see how the fire had gone from the eighth floor to the ninth floor? A. I discovered that before I went in the building.

Q. And how was that? A. The fire appeared to come out of the eighth story windows and was drawn in with a suction into the ninth, and come out of the upper sashes of the ninth, and was drawn into the tenth, where it disappeared; and I discovered afterward it went up through the ventilators in the roof.

Q. When you say the roof, do you mean the ceiling? A. Yes, sir. There was an enormous ventilator oil the top floor, or an open light affair for ventilation.

BY THE COURT:

Q. And the top floor was the tenth floor? A. Yes, sir.

BY MR. BOSTWICK:

Q. I show you the diagram of the tenth floor and ask you if you see on there the ventilator of which you speak? A. This one (indicating).

BY THE COURT:

Q. Referring to the one nearest Greene street? You are

2h

pointing now to the ventilator, Officer, which is nearest Greene street? A. Yes, sir.

BY MR. BOSTWICK:

Q. Keeping our locations always in mind, there is the Greene street entrance where you came in? A. Yes, sir.

Q. There is the Washington place (indicating on diagram of tenth floor)? A. Yes, sir.

Q. And you refer to the skylight nearest to Greene street? A. Yes, sir.

Q. Now, Captain, I show you People's Exhibit 2, the diagram of the ninth floor, did you finally get an entrance into the ninth floor? A. Yes, sir.

Q. Into the loft? A. We extinguished sufficient fire to permit it, then we got in.

BY THE COURT:

Q. And that was about what hour? A. Approximately five o'clock.

Q. When you entered the loft of the ninth floor did you enter the loft by the Greene street side, or did you enter the loft by the Washington place side? A. I entered the loft by the Greene street side stairway.

Q. What did you find when you got on the ninth floor?

MR. STEUER: As to what? I object to that as indefinite.

MR. BOSTWICK: I withdraw the question.

Q. Did you find any bodies on the ninth floor? A. Yes, sir.

3h

MR. STEUER: I object to that as incompetent, relevant and immaterial.

Objection overruled. Exception.

Q. Will you state in what part of the loft bodies were found, and, so far as you can, tell us the number?

THE COURT: Pardon me a moment. Let us find out first how far, if at all, this officer penetrated into the ninth loft.

BY THE COURT:

Q. Now, you take and look at that diagram which is before you, People's Exhibit 2, and indicate, if you will, how far, if at all, being on the ninth floor level, you penetrated into that loft? A. We worked our way with a stream of water.

Q. Not "we", but just you? A. I worked say way with a stream of water from the Greene street entrance door on the ninth floor to the Washington place window, what corresponded approximately with the door, worked it south.

Q. In other words, you went straight across the loft from the entrance door at Greene street to the window about opposite opening out onto Washington place, is that so? A. Yes.

Q. Keeping at all times about the same distance from the Greene street side? A. No, sir. We did get to the Greene street windows on our way back.

Q. What I mean is, when you first went from the entrance door on the Greene street side to the Washington place side of the building, as you first worked your way through, as you

have expressed it? A. Yes, sir.

Q. During that time you were at all times about the same distance from the Greene street side? A. About, yes, sir, and working in.

Q. And then you worked your way, as I understand, back from the Washington place end to the Greene street entrance end, along a line somewhat nearer to the Greene street wall? A. Yes, sir.

Q. Is that the extent to which you at any time penetrated that ninth floor, yes or no? A. I beg your pardon?

Q. Have you now told us the only parts of the ninth loft into which you personally went? A. At that particularly time, yes, sir; but at a later period I went further, when the fire had been virtually extinguished.

Q. And the later period to which you refer was about how long afterwards? A. One hour.

Q. And at that time into what parts of the ninth loft did you go? A. Towards the exact centre of the room, and towards the Washington place windows, further over towards the Washington place doorway.

Q. How close, at any time, while you were in the ninth loft, according to your best recollection, did you get to the doorway leading from the loft to the Washington place entrance? A. I can designate on the map?

Q. Yes. A. About the sixth window west from Greene street on Washington place (pointing on diagram).

Q. And you reached that point, as I understand you, about an hour after you had first entered the ninth loft? A. In the interval we had went further, and we worked on back again.

Q. I know, but you reached the point which you have called about the sixth window from the Greene street side on Washington place, about one hour after you had entered the ninth loft? A. About one hour, yes, sir.

Q. Now have you indicated all the parts of the ninth loft into which you penetrated at any time on the afternoon of the fire? A. In the performance of my duty I was compelled to tramp more or less about this loft, from the sixth window east to the Washington place side, for the purpose of extinguishing remaining fire in the window trim with buckets.

Q. Now, taking a section of that loft, west of the sixth window, that is to say, the section of the loft that is furthest away from Greene street -- and when I say the sixth window I am referring now to the window which you indicated a moment or so ago —— did you at any time during the course of your duties on that afternoon penetrate into any part of that loft? A. To the westward?

Q. Yes. A. No, sir.

BY MR. BOSTWICK:

Q. Now, while you were on the ninth floor at any time immediately after the fire did you see any bodies on the ninth floor? A. Yes, sir.

Q. Will you state where they were?

6h

MR. STEUER: I object to that on the ground that it is incompetent, immaterial and irrelevant.

Objection overruled. Exception.

MR. STEUER: And I object to the last question on the same grounds.

Same ruling. Exception.

A. The first bodies that I saw was to the south of the remains of the partition, about an inch or two inches.

Q. Will you look on that diagram of the ninth floor, People's Exhibit 2, and indicate the partition that you refer to.

(Witness points on diagram.)

THE COURT: The witness indicates with his finger the partition shown upon the diagram immediately adjoining the entrance door to the ninth floor from the Greene street side. Is that right?

THE WITNESS: Yes, sir.

THE COURT: Being the partition running parallel with Washington place. It is at right angles with Greene street and parallel with Washington place. Is that correct, Mr. Steuer, as a description?

MR. STEUER: Well, your Honor —

THE COURT: We will designate it by something that is conceded here on the exhibit. Being the partition immediately to the right of the words "wood partition door", and immediately to the left of the words "clothes closet". Is that right, Mr. Steuer?

7h

THE WITNESS: The partition apparently was a continuous stretch.

THE COURT: Now we will proceed.

BY MR. BOSTWICK:

Q. Now, in what other portions of the floor did you find bodies?

Same objection; same ruling; exception.

Q. Or see bodies? A Under the windows on the Greene street side, and they were scattered about the floor in the vicinity of the windows.

Q. Now, in all how many bodies would you say were on the Greene street side of the building?

Objected to as immaterial. Objection overruled. Exception.

A. Twenty-eight and thirty.

THE COURT: I think, Mr. Steuer, the objection you have taken covers this line; I will so regard it unless something different develops and then you may take another objection.

Q. Did you see any bodies in the middle of the room? A. One or two.

Q. And with the exception of the bodies on the Greene street side --

MR. BOSTWICK: I withdraw that question.

Q. How many would you say were at the partition which you have indicated on the diagram? A. I should judge in one pile or group there was over twenty.

Q. Do I understand that the rest were strewn along the side by the windows? A. Yes, sir.

THE COURT: Referring now to the Greene street side?

Q. To the Greene street side of the building? A. Yes.

Q. And about one or two in the middle of the — A. There might have been five or six here or there.

Q. A few in the centre? A. Yes, sir, towards the centre.

BY THE COURT:

Q. When you say “towards the centre,” you mean towards the centre of the loft? A. Of the ninth story, yes, sir.

BY MR. BOSTWICK:

Q. Did you see any bodies on the Washington place side? Or didn't you go over on that side? A. I went over on that side to the sixth window.

BY THE COURT:

Q. Did you see any bodies along the Washington place side, starting from Greene street, as far as the sixth window on that side? A. One or two windows towards the corner of the building, the Washington place and Greene street corner, I noticed particularly.

Q. You say you noticed particularly. What do you mean? A. When I got over there to extinguish this fire in this trim and windows that I spoke of I stepped on something that was soft, in my hurry and anxiety to finish up my work, and I looked down and my attention was called to a body by that means.

Q. Very well; you did see a body there? You saw one body there? A. When I looked at the one I stepped on I saw three or four that I had not noticed previous.

Q. And as I understand you, they were on the Washington side of the building, about three windows from the Greene street corner? A. Yes, sir.

BY MR. BOSTWICK:

Q. Where had the fire been hottest on the ninth floor, on the Greene street side or the Washington place side?

MR. STEUER: I object to that?

MR. BOSTWICK: I withdraw the question.

THE COURT: Pardon me for just one moment.

BY THE COURT:

Q. How close, Captain, according to your best recollection was that body which you saw upon the ninth floor, which was nearest to the entrance to the ninth loft on the Washington place side? Suppose you were to draw a direct line from that body which you saw, which was lying close to the Washington place entrance, how great would that distance be? A. From the Washington place entrance to the body?

Q. Yes, to the body that you saw lying nearest to it? A. I should judge between sixty and seventy feet from the Washington place entrance.

Q. Was that the body of a man or woman? A. I was unable to determine.

BY MR. BOSTWICK:

Q. Was the trim all burned away on the Greene side leading to the stairway?

MR. STEUER: I object to that as immaterial.

THE COURT: Objection sustained.

MR. STEUER: I think I misunderstood you. Did you mean the stairway trim?

MR. BOSTWICK: No, I mean where the door had been.

MR. STEUER: I have no objection to that. I do not think that is material.

MR. BOSTWICK: I think it is very vital.

MR. STEUER: I have no objection to that. I misunderstood the question, if that is the question.

THE COURT: In view of the concurrence of counsel I will allow it.

MR. STEUER: What side of the building were you talking about?

MR. BOSTWICK: Greene street side.

MR. STEUER: That is objected to.

THE COURT: You objected to it, it was sustained, and the objection was withdrawn and I will allow the witness to answer.

MR. STEUER: It was my error, but I misunderstood the location, and I ask your Honor that I should not be harshly dealt with for having made an error. I completely confess it, and perhaps I did seem to take an attitude that was not proper, and for that I apologize, but I respectfully urge the objection.

MR. BOSTWICK: I would like to make clear the question that I have put, in one word. I asked the captain on which side the fire was hottest. That was objected to, and properly so, because I had not laid foundation for it. I withdrew that question. I feel that I am entitled to

show the conditions, showing on which floor the fire was hottest, by a witness who saw the condition immediately after the fire and at the time of the fire.

MR. STEUER: I submit to your Honor that the question is entirely incompetent and I submit too that it is very prejudicial, because the captain, to my mind, gives expert testimony upon that subject, and I dare say he is qualified, and I feel he is qualified to give expert testimony upon the subject. But, your Honor, it is not what the captain thought, and it is not what was present to the captain's mind at all, that is pertinent upon that subject. It might be very pertinent if he could testify to what was the opinion of the deceased, Margaret Schwartz, upon that subject; that, I submit would be pertinent, but what any one else under the circumstances would conclude, I submit to your Honor has no probative force on what was present to the mind of Margaret Schwartz. It might be inferred that because it was obvious to the captain it was equally obvious to her, but I think that we all understand, your Honor, that things that would be understood by the captain with relation to fire and smoke would not at all appeal in the same way to the lay individual, having had no experience. And, then again, we must bear in mind -- I won't make this argument again if your Honor will only permit me to convey to you the thought that is in my mind at this time -- that the

captain went there to fight the fire with the trained mind and head and the implements for that purpose and very regardless of what risk it had to the individual —

THE COURT: I entertain but one doubt respecting the propriety of the reception of this evidence and that doubt arises from the circumstance that at the time when this witness observed the condition it was a time subsequent to the time when the casualty is said to have occurred. If this witness had been on the spot at the time I should have regarded testimony from him as otherwise than speculative. He observed a condition a brief period afterwards, but certain forces had been at work, and I question the probative value of it. Doubting the probative value, it is excluded.

MR. BOSTWICK: I wish your Honor would hear me. The Court of Appeals in the Pauley (?) case, in passing upon this almost identical question ---

THE COURT: I will withhold my ruling and be very pleased to hear you.

MR. BOSTWICK: They said no one could tell what was in the mind of the deceased and the best way that they could find it out was by an actual description.

THE COURT: That objection taken by Mr. Steuer is without weight with me, that is not the point at all. The objection taken by Mr. Steuer, in so far as it is predicated upon an argument that this testimony is not re-

ceivable, because it does not indicate what may have been in the mind of the deceased, is without weight with me. The reason why I am disposed to exclude the testimony is because it is not apparent that the conditions as they were observed by this officer when he first came were conditions existant at any time during the life of the deceased, and, therefore, conditions observable by her.

MR. BOSTWICK: But if this officer can swear that in any one part of the building the whole of the woodwork was burned away, and that in another part of the building it was not, the fair deduction is that the fire was greater in one part of the building than in another,

THE COURT: I will allow him to state what woodwork was found burned and where he found it burned, and the extent.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 11, which purports to be a photograph of the entrance to the stairway and elevators, Greene street side, ninth floor, and I ask you whether the woodwork was burned away, as appears in that photograph, immediately after the fire? A. Yes, sir.

Q. I show you what purports to be a picture of the doorway and landing of the ninth floor, showing stairway, and ask you whether the woodwork was still there although charred, as indicated by that picture? A. Greene street entrance?

Q. No, Washington place? A. I don't know anything about

Washington place.

Q. Now, Captain, did you at any time subsequent to the fire make an examination or go up the Washington place stairs? A. No, sir, at no time.

Q. And the Greene street stairs you went up? A. Many times.

Q. As you go up the Greene street stairs is there a window on each landing? A. There are windows on that stairway, but I can't say on every landing, but they open onto a light shafts or the rear of the building proper.

Q. Now, would the fact that there were windows on that stairway have any bearing on the question of the movement of the flames or the fire? A. There was a large quantity of fire —
Objected to. Objection sustained.

Q. When you went up the Greene street stairs you found no bodies on the stairs on the Greene street side? A. No, sir.

Q. And when you first got there in which direction was the fire traveling?

Objected to. Objection overruled. Exception.

A. It was traveling on the floor with great rapidity in all directions, more especially east and west.

Q. Well, you say east and west; it couldn't go both east and west, could it? Was it going from the east to the west? A. It was going from the west to the east, the flame, from the westward of the building to the easterly exposure of the building, which was on the west side of Greene street. The fire was going towards the windows at that time.

BY THE COURT:

Q. When you say “towards the windows”, you refer to what windows? A. The windows on the Greene street side.

Q. Did you find any oil tanks on any one of these three floors?

Objected to as immaterial; Objection overruled; Exception.

A. Yes, sir.

Q. On which floors? A. The ninth floor.

Q. What do you mean by an oil tank? A. It was a sheet iron cylinder apparently, used to hold oil.

THE COURT: Strike out “apparently used to hold oil”. A. (Witness continuing) It contained a combustible fluid.

MR. STEUER: I move to strike that out.

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

Q. You found in a certain place on the ninth floor a certain tank, is that so, yes or no? A. Yes, sir.

Q. That tank was made of what material? A. Sheet iron.

MR. STEUER: I respectfully object to these questions and except.

Q. It was located where? A. Setting on the floor at the northern wall, about ten feet west of the Greene street doorway.

Q. Therefore it was between, if I am right, the doorway on the Greene street side and the fire-escape? A. Yes, sir.

Q. That tank was about how many feet long? A. The tank was about three feet high, and about fifteen inches across.

Q. When you say, "across", you mean the width? A. Yes.

Q. At the time when you first noticed it was there any substance in it, yes or no?

A. Yes, sir.

Q. Do you know what that substance was, yes or no? A. No.

THE COURT: Now, that I will allow to remain in, subject to being connected; if not connected I will strike it out and tell the jury to disregard it.

BY MR. BOSTWICK:

Q. Do you know what the nature of that substance was? A. No, sir.

Q. Do you know whether it was material that would burn? A. It was boiling.

MR. STEUER: How would he know that? I object to it as speculative.

THE COURT: Objection sustained.

BY THE COURT:

Q. Was it a solid or a liquid? A. It was a liquid.

BY MR. BOSTWICK:

Q. And was it boiling? A. Yes, sir.

Q. Was there any odor from it?

MR. STEUER: I object to that.

A. No, sir.

THE COURT: I will allow that. He says "No."

MR. STEUER: Exception.

Q. You can't tell what was inside of that tank? A. No, sir.

BY THE COURT:

Q. In other words, so far as you know, it may have been water? A. Yes, sir.

BY MR. BOSTWICK:

Q. Could you see any of the material that had not been burned? Was there any such material? Was there any material that had not been entirely destroyed by fire?

MR. STEUER: I object to that as immaterial.

THE COURT: I think it is indefinite. Referring to what?

Q. On the ninth floor did you find any material or see any material that had not been completely destroyed by fire?

MR. STEUER: I object to that as immaterial.

THE COURT: I will allow him to answer.

MR. STEUER: I respectfully except.

A. There was considerable char — burned material on the floor, apparently had been the contents, but there was quite some wood of the construction of the interior

Q. No, what I want to know is was there any material there such as was used by these defendants in the manufacturing business? A. Not left.

Q. Was there any amount of debris on the ninth floor? A. Yes, sir.

Q. And how did it lay?

MR. STEUER: I object to that as immaterial.

THE COURT: I will allow it. The question has in mind, I take it, debris other than portions of the structure itself.

MR. STEUER: I except.

A. It laid in rows, resembled somewhat furrows -- in rows, every two or three feet.

Q. I ask you to look again at the ninth floor. I will show you People's Exhibit No. 23, which is a picture of the interior of the ninth floor, and ask you whether those furrows ran as appears upon that picture? A. Yes, sir.

Q. Could you from merely looking at any of the debris tell what the material had been before the fire?

Objected to. Objection overruled. Exception. A. Yes, sir.

Q. And what was its character?

Objected to. Objection overruled. Exception.

A. It appeared to be the remains of burned material, either linen or other muslin fabric, light fabric.

Q. And this you say, ran across the building in furrows? A. In rows or furrows.

Q. Did those furrows run east and west or north and south? A. They ran north and south.

CROSS EXAMINATION BY MR. STEUER:

Q. Do you wish to be understood by this jury that there was debris of this light fabric that ran in furrows north and

south, or ran in any direction, east and west? Do you mean to say there was enough left by that fire of that light material, after that fire, so that you could see pieces of material left? A. Yes, sir.

Q. So the fire ran along the floor, didn't it, Officer? A. Admitted.

Q. So that you could have picked up a piece of material, couldn't you, from that debris? A. Not material, sir -- the remains of the material.

Q. What do you mean by "remains of the material", Officer? A. When anything is burned there is left an ash or a char.

Q. Then you mean to say there were ashes there, is that it? A. Yes, sir.

Q. You mean to say, Officer, that anybody in the world could have picked up one of those things and told where the r it was silk or not? A. No, not everybody in the world.

Q. Could you? A. I couldn't identify the exact nature, whether it was silk or linen.

BY THE COURT:

Q. Could you tell whether it was a fabric or wood? A. Yes, sir, decidedly.

BY MR. STEUER:

Q. Could you tell, Officer, whether it had prior to the fire been in a whole piece or not?

A. No, sir.

Q. You couldn't distinguish how it had been prior to the fire, could you? A. No, sir.

Q. Looking at the debris, I suppose that you could draw the inference that there had been quantities of merchandise in that loft, and that the merchandise consisted of light fabrics? When I say "light" I mean light in weight, not in color? A. Yes, sir.

Q. Your attention when you got to this building was attracted to the Greene street side? A. That was my position to go to work.

Q. And you looked up towards the building and then saw, as I understand your testimony, girls jumping on the Greene street from the ninth floor? A. Not at that time.

Q. Well, then, let us get it right. Captain. Did you see when you got there anything from the outside of the building? A. Yes, sir.

Q. Now, what, Captain, was it you saw at that time? A. The window trim and windows burning.

Q. Were the flames bursting out? A. Yes, sir.

Q. And what floor was that, Captain, that you noticed that on? A. The eighth floor.

Q. Now, at that time could you, from your experience, judge whether the fire was raging on that eighth floor? A. It certainly was.

Q. And how long after that, Captain, was it that you saw any body at all at any window?
A. After my arrival?

Q. Yes. A. About two minutes.

Q. Where was it that you saw the persons whom you did

see? A. They were screaming in the windows on the ninth floor.

Q. Now, up to that time, Captain, you had not made any entrance into the building at all, had you? A. No, sir, I proceeded to make my fire connection.

Q. Yes, so I understood you to testify. Then after having made your fire connections you proceeded into the building? A. No.

Q. Well, what did you do? A. I heard the shriek, and saw the people start to jump and I ran to the apparatus and ordered the life net to the street.

Q. That you did before you went into the building? A. before I went into the building, yes, sir.

Q. Now, having done whatever you did in that regard, you finally got your apparatus so that you were prepared to go into the building? A. Yes, sir, that was my next duty.

Q. And you worked your way up to the sixth floor, I understood it? A. Yes, sir.

Q. And when you got to the sixth floor I understood you to say that you disconnected the house hose and put the fire department hose in its place? A. On the valve of the stand-pipe on the sixth floor landing.

Q. Yes, that is what I understood you to say. Now, had the hose of the building then been connected to the valve of the stand-pipe on the sixth floor at that time? A. Prior to my removing it, yes, sir.

Q. What did that indicate to your mind, Captain, if any-

thing, that some one had been trying to make use of that hose in connection with this fire so as to aid in its extinguishment? A. No, sir.

Q. Oh, that was a permanent connection, was it, Captain? Or are the connections kept that way in loft buildings? A. The hose was in the rack with the nozzle, and the swivle, or female end, was screwed to the valve attached to the stand-pipe.

Q. And you unscrewed it and substituted the fire department boss for that hose? A Yes, sir,

Q. Then I understood you to say that you went to the eighth floor? A. Yes, sir.

Q. You couldn't stand on that floor, could you? A. You couldn't stand up.

Q. And so you men fought the fire lying down, is that it, on your stomachs? A. Yes, sir.

Q. And your purpose was to get to the ninth floor, wasn't it? A. We had to extinguish the floor on the eighth floor before we would dare go to the ninth floor for fear we would be cut off.

Q. Just what do you mean by that, Captain, "For fear you would be cut off"-- so that you could not get back down? A. If we had not extinguished it on the eighth floor the fire would possibly come out and cut us off between the eighth and ninth floors and we would never get back.

Q. And then you couldn't get out alive? A. No, sir.

Q. So you worked on the eighth landing until you made

sure that you wouldn't be cut off, and then as rapidly after that as you could you proceeded to the ninth floor? A. To the ninth floor, yes, sir.

Q. I would like you to understand that in asking you these questions there isn't any suggestion of any kind that everybody had not done his full duty? A. Admitted, yes, sir.

Q. You understand that? A. Yes, sir.

Q. I want you to understand that, because I am not asking questions for the purpose of reflecting on anybody in the least degree that was at that fire? A. Yes, sir.

Q. So that, as soon as you men thought that it was feasible and possible for you to go to the ninth floor, you made to use your own language, you then "made the ninth landing"? A. We made the ninth landing.

Q. Up to that time you considered it unsafe to go to the ninth landing for the reason that you have given to the jury that the fire would come out and cut you off? A. If we had not extinguished it practically first.

Q. Now, you spoke of the fire traveling very fast, or, to use your words, "with great rapidity from west to east". At that time you were describing the condition on the ninth floor, were you not, Captain? A. Yes, sir.

Q. And that was the true condition on the ninth floor, that the fire was traveling very rapidly, and traveling front west to east? A. Yes, sir.

Q. Was there a great deal of smoke in the ninth loft? A.

No, not at that time.

Q. At what time? A. At the time that you spoke of in the previous question.

Q. Well, was there at any time? A. Yes, sir.

Q. When fire is traveling from one story to the story above, what reaches the story above first, the smoke or the flame? A. Smoke.

Q. From anything that you saw on the ninth floor are you able to say to the jury as to whether or not the debris was the debris of finished garments? A. No, sir.

Q. When I say garments I really mean waists-- they call them garments, but I mean ladies' waists? A. I couldn't identify their original nature, no, sir.

BY THE COURT:

Q. That is to say, you could not draw a distinction as between the finished garment, the unfinished garment or the piece of material before it had been touched at all? A. No, sir.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. If I showed you some of the material taken from the ninth floor after the fire would you be able to recognize it as the kind of material that you saw there when you made your examination? A. Yes, sir.

Q. I will ask you to wait then for about twenty minutes ~~

THE COURT: I do not think that there is any dispute that this witness has testified that he saw certain material there and that it was in the nature of merchandise, but he

is unable to say whether it was in the form of a finished garment, an unfinished garment or a piece before it was cut.

MR. STEUER: No dispute about that.

MR. BOSTWICK: I think it would be very valuable if the Captain could identify some material taken from that ninth floor after the fire and I think it would be enlightening to the jury, so if you will wait, Captain

THE COURT: Witness withdrawn.

MR. STEUER: Do I understand that the People claim that there was on the ninth floor any finished material?

MR. BOSTWICK: Rags.

JOHN BOYLE, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Boyle, you were on March 25th, 1911, a member of the uniformed Fire Department of the City of New York? A. Yes, sir.

Q. And were connected with the Hook and Ladder No. 8? A. Yes, sir.

Q. You went to the fire at the corner of Washington place and Greene street? A. Yes, sir.

Q. After you had done various work about the fire, did you finally go to the ninth floor? A. Tenth floor.

Q. You went to the tenth floor? A. Yes, sir.

Q. Did you find any bodies on the tenth floor? A. No, sir.

Q. Then where did you go after you went to the tenth floor?

on the ninth.

Q. Had you been on the roof? A. No, sir.

Q. Did you find any bodies on the ninth floor? A. Yes, sir.

Q. I want you to imagine that that is the Washington place door over there (indicating southeast corner of the court room)? A. Yes, sir.

Q. Imagine these are the windows along Washington place (indicating on east wall of the court room)? A. Yes, sir.

Q. Now you come to the corner of the building? A. Yes, sir.

Q. And imagine that that is Greene street along there (indicating north wall of the court room)? A. Yes, sir.

Q. And that is the Greene street door (indicating northwest corner of the court room)? A. Yes, sir.

Q. So that that is the corner of the building (pointing to northeast corner of the court room)? I will show that corner by showing you People's Exhibit No. 18. This is the corner of that building, that corner of the room (indicating northeast corner of the court room); there is the Greene street door (indicating the northwest corner of the court room)? A. Yes.

Q. And there is the Washington place entrance (indicating southeast corner of the court room)? A. Yes, sir.

Q. Now, have you got those fixed in your mind? A. Yes, sir.

Q. When you entered the ninth floor did you come in the Greene street door or did you come in the Washington place door, do you remember? A. Well, I was not very well acquainted with the place at the time. I think we come in and done the work

on the Greene street side.

Q. You did most of the work on the Greene street side?

A. Yes, sir — all the bodies there.

Q. About how many bodies did you find over on the Greene street side?

Objected to as immaterial. Objection overruled.

Exception.

A. Well, I worked there until around nine o'clock, and I helped to lower either eleven or twelve bodies.

Q. That is on the Greene street side --

BY THE COURT:

Q. About what time was it when you first reached the ninth loft? A. Well, I couldn't tell you exactly, Judge. It was dark.

Q. About what time was it when you got to the ninth loft, as nearly as you can recollect? A. It must have been about seven or half past.

Q. At the time when you got to the ninth loft, were there already other firemen in that loft? A. Yes, sir.

THE COURT: I think it is doubtful whether this evidence is competent, because for all that appears other firemen may have moved the bodies from the position in which they originally were before this man arrived at the floor. You have to negative that by showing that those who got there first left them unchanged in position until this man got there. Is there any point made about that, Mr. Steuer?

MR. STEUER: There is, your Honor.

BY MR. BOSTWICK:

Q. Do you know what fireman was on the ninth floor before you got there? A. No, sir, I do not.

BY THE COURT:

Q. They were members of what company? A. There was Hook and Ladder 3 working on the corner, and we started from the other end and walked all the way up until we met first the first bodies, and as soon as we did we gave orders to start lowering them to the street. Then we cleared away the machinery that was next to the wall, I think, three of them, three shaftings -- there was nothing else there ~ moved them back and pulled down the radiators to give us room to work.

BY MR. BOSTWICK:

Q. Could you see from the way the bodies were when they were found whether they had been touched since the fire?

Objected to as incompetent. Objection sustained.

MR. BOSTWICK: Cannot the witness answer yes or no to that?

THE WITNESS: Yes, sir.

THE COURT: I think I will sustain the objection.

MR. STEUER: I move to strike out the answer.

THE COURT: Yes. That suggestion that I have made, may have taken you somewhat by surprise, Mr. Bostwick, but you will have an opportunity during the recess to talk with the other officers and find the man who got there first and let him tell us what he saw and what was done. Take them up in the order in which they arrived, and then we will avoid on that score all possible questions.

MR. BOSTWICK: I must say that it is beyond my comprehension entirely why we cannot prove these facts.

THE COURT: I regret that. You can prove the facts, but not by this man.

MR. BOSTWICK: I mean simply because it is possible somebody else may have been there before. I cannot understand that that takes away from the probative force of the evidence, or its admissibility, but goes to its weight before the jury. But I cannot understand that.

THE COURT: Well, we will proceed on the assumption—

MR. BOSTWICK: I withdraw the witness.

JACOB WOLL, JR., called as a witness on behalf of the People, being duly sworn, testifies
as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, you were connected with the Fire Department of the City of
New York? A. Yes, sir,

Q. The uniformed force? A. Yes, sir.

Q. And attached to Hook & Ladder Company 20? A. Yes, sir.

Q. You were at the fire at the corner of Washington place and Greene street? A. Yes,
sir.

Q. The 25th of March, 1911? A. Yes, sir.

Q. When you first got to the fire where were you at work? A. When I first got to the
fire I worked in the street in front

of the building on the Washington place side of the building.

Q. I am going to ask you to imagine that this is the Washington place side of the building (indicating east wall of the court room)? A. Yes, sir.

Q. Well, never mind about that. Before you went upstairs what work were you engaged in? A. When I first reached the building, you mean?

Q. Yes. A. I first got there and raised the extension ladder of the truck.

Q. After that tell what you did? A. Took the net off the truck and caught as many people as possible that were jumping from the eighth, ninth and tenth floors.

Q. Did you see any people jump from the ninth floor? A. From all floors, they seemed to be coming out.

Q. I ask you to confine your evidence as to whether you saw any persons jumping from the ninth floor? A. I won't say I could recollect I did.

Q. If you saw them jumping from all the floors, you must have seen some jumping from the ninth floor? A. Yes, they seemed to come from all the floors.

Q. After that what did you do? A. Well, we got them into the net, until the net broke, and then we proceeded up to the entrance on Washington place side, we got to the door, and the top of the elevator was loaded down with people who jumped through the elevator shaft, and we removed all those bodies.

Q. Do you remember how many were removed? A. Nineteen.

Q. This was the elevator on the Washington place side? A. Yes, sir, from the top of the second elevator.

Q. When you say the second elevator, do you mean the one nearest Washington place, or the one furthest in the building? A. Furthest in the building.

Q. After that did you go upstairs? A. Yes, sir, proceeded upstairs and worked on the various floors up to the ninth floor, extinguished fire on some of the floors as we went up, wherever the fire came in; the fire was dropping down.

Q. You went up the Washington place stairs? A. Yes, sir.

Q. And you went to the ninth floor? A. Yes, sir.

Q. And you went in on the ninth floor? A. Yes, sir.

Q. Now (indicating on diagram), this is Washington place, and you went in this Washington place entrance? A. Yes, sir.

Q. Where is Greene street? A. Here.

Q. And there are the freight elevators over there? A. Yes.

Q. And the Greene street stairway? A. Yes, sir.

Q. And this is the corner of Washington place and Greene street? A. And Greene street, yes, sir.

Q. And these are the toilets? A. Yes, sir -- what was left of them.

Q. Now, when you went to the ninth floor did you find any bodies there? A. We did. After we entered the floor, nearly up the stairway, up here (indicating on diagram).

Q. You came in this door (indicating)? A. Yes, sir.

Q. Indicating the door leading from the stairway at

Washington place stairs on the ninth floor into the loft? A. Yes, sir.

BY THE COURT:

Q. When you went into the ninth loft as you have described, did you see any other firemen, or other person in that loft? A. Yes, sir. I saw a company working there with a line.

Q. You saw a company working there in that loft at the time that you entered it? A. Yes, sir.

Q. And you saw about how many firemen in that loft at the time when you entered it? A. Well, I couldn't tell that, because there was smoke there that would not permit me to see them all — prevented me seeing how many men there was, but there was a company in there with a line of hose.

Q. Are you able to say whether or not you were the first fireman to enter that loft by the Washington place entrance? A. No, I was not.

Q. Are you able to tell me what firemen, if any, you saw enter that loft by the Washington place entrance ahead of you? A. No, I couldn't tell you that. I didn't see them enter. We were working on the floors between the first and the ninth extinguishing fire that had fell down, while this company was working up the stairway.

BY MR. BOSTWICK:

Q. The firemen that you saw belonged to the engine company, did they not? A. Yes, sir.

Q. And their orders and duty were to extinguish fire?

A. Proper.

Q. You were a hook and ladder man? A. Yes, sir.

Q. And your duties were quite different, were they not? A. Yes, sir.

Q. And had anybody entered that building for the purpose of doing anything but extinguish fire?

MR. STEUER: Wait a moment.

MR. BOSTWICK: Question withdrawn.

Q. Were the firemen there firemen who belonged, all of them, to engine companies? A. Yes, sir, every one I saw there.

Q. And they were working with a line? A. With a line, yes, sir.

BY THE COURT:

Q. So far as you know, were you the first fireman attached to a Hook and Ladder company, as distinguished from an engine company, to enter the ninth loft by the Washington place door? A. Yes, sir, as far as I know I was.

Q. And at the time that you reached the ninth loft by the Washington place door did you see any other fireman connected with a hook and ladder company in the ninth loft? A. No, sir, only the men that followed me in.

Q. Certain men of the Hook and Ladder company to which you belonged entered the ninth loft? A. Yes, sir.

Q. But entered the ninth loft by the Washington place door after you had entered it? A. Yes, sir.

BY MR. BOSTWICK:

Q. As you entered the ninth floor on the Washington place

side, did you see any bodies?

MR. STEUER: I object to —

A. I did, after getting in.

THE COURT: Objection overruled.

MR. STEUER: I object to that as incompetent. Won't you fix the time, your Honor.

THE COURT: Well, I think it is proper to fix the time. Objection sustained.

Q. At what time would you say that you entered the ninth floor? A. I should judge about 6:10, about 6:10 p. m.

Q. Had the fire been entirely extinguished at that time? A. No, but it was under control. There was still fire burning underneath, in a corner.

Q. When you went on the ninth floor the fire was still burning? A. Yes, sir. It was under control.

Q. At that time did you see any bodies on the ninth floor? A. Yes, sir.

MR. STEUER: I object to that as incompetent, immaterial and irrelevant.

Objection overruled. Exception.

Q. Now, will you state where the bodies were?

MR. STEUER: I object to that on the ground it is incompetent, irrelevant and immaterial; no proper foundation for the introduction of the evidence has been laid.

THE COURT: Mr. Bostwick, I should say, and I make this plain to you for your guidance ~~ that it would be

proper to show what firemen reached that floor first, and prior to negating by the testimony of the men who got there first, if that is the fact, that they touched or moved any body that they saw upon that floor; and then you finally come to the man who reached the floor first who did move the bodies, and that man may then testify as to where those bodies were.

MR. BOSTWICK: We can call all the men who belong to the engine companies, but it will simply mean an entire battalion, and it leaves the city subject to a peril that may equal the one we now have.

THE COURT: It is entirely unnecessary to do that.

MR. BOSTWICK: We can bring one at a time. To bring those men will prolong the trial very greatly, and if I had the slightest idea that it was necessary as a legal proposition we would have had them here.

THE COURT: it is material in this case conceivably to show where certain bodies were found by those who first reached the place.

MR. BOSTWICK: It is in evidence that the engine companies were engaged in extinguishing the fire.

THE COURT: I am going to adhere strictly to the rule that I have laid down, for the reason stated. It will not involve the calling of all the men whom you have named, either at one time or even separately. Before I will receive evidence as to the position of the bodies, it must

be made to appear that the testimony as to the position relates to the position in which the bodies were before they were moved, because the position of bodies after removal is immaterial to any issue in this case«

BY MR. BOSTWICK:

Q. At the time that you entered the loft, there was still fire in the loft? A. Yes, sir.

Q. When you went in, could anybody have gotten — or, were the conditions such that anybody could have gotten in any part of that loft?

MR. STEUER: I object to that as incompetent

THE COURT: I will allow him to describe the conditions.

A. Well, the Engine Companies was in there. Outside of that I don't think anyone else could have went in there without a line of hose to protect them.

THE COURT: Strike that out. You may state when you got to the loft what you saw respecting the conditions there.

THE WITNESS: When I got to the loft it was fire all over the floor.

Q. Could a man have been in that loft unless he had a line? A. No, sir; he could not. He could not go in there without the protection of water.

MR. STEUER: I object to that as incompetent and speculative.

THE COURT: Well, it is the conclusion of the witness; I will sustain the objection. strike it out.

Q. Do you know who had entered the ninth floor? A. Members of Engine No. 33.

Q. Any others? A. Not that I know of.

MR. BOSTWICK: I will withdraw this witness.

MR. STEUER: Is he going to be recalled?

MR. BOSTWICK: Indeed he is.

THE COURT: Witness withdrawn.

MR. BOSTWICK: In view of your Honor's ruling, I shall have to ask for a few minutes time to send for certain information and papers.

THE COURT: Suppose we take the recess now instead of at the usual time, and to take it until a quarter before two; is that agreeable to you?

MR. BOSTWICK: Yes, sir. Just a moment if your Honor please --

THE COURT: I suggest, if it is agreeable to you, that you put back on the stand the fireman that you had here -- the officer that you had first -- to merely ask him the question which at the time did not occur to me, as to whether or not he himself moved or saw moved any of the bodies whose positions he described.

MR. BOSTWICK: I will call the first man who went into the building,

FELIX REINHART, (33 Engine), called as a witness on behalf of the People, being first duly sworn, testifies as follows:

MR. BOSTWICK: I call this witness out of order and will perhaps have to recall him at another time when other exhibits are in the case

THE COURT: Very well.

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Were you attached to Engine Company No. 33 of the Fire Department on the 25th day of March, 1911? A. Yes, sir.

Q. And was your company the first to arrive on the Washington place side? A. Yes, sir.

Q. And first to go to the ninth floor? A. Yes, sir.

Q. And when you got to the ninth floor, I want you to describe whether any or all of the door on the ninth floor leading to the loft on the Washington place side was there or not? A. No, sir; the largest part of the door was consumed by the fire.

Q. The largest part of the door was consumed by fire? A. Yes, sir.

Q. What portion of the door remained? A. The side jamb of the door remained, as well as small pieces of the tinder panels, of the lower panels.

Q. Tell me whether they were in the position where they would be if the door was closed, or where they would be if the door was open?

MR. STEUER: I object to that as incompetent.

MR. BOSTWICK: I withdraw the question.

Q. Where were they?

MR. STEUER: Objected to as incompetent, immaterial and irrelevant.

(Objection overruled; exception.)

A. The side jambs were in the same position as they are when

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the door was closed.

Q. And the bottom panel? A. And the bottom panel, part of it, was standing still in the earae position when the door was closed,

BY THE COURT:

Q. What do you mean by the jambs? A. The jambs ~~ to demonstrate it right by this door there (indicating in the court room) is the side part which fits into the framework; that is what I call the side jambs of the door.

BY MR. BOSTWICK: In other words, were you speaking of these two pieces of wood (Indicating on a door in the courtroom)?

A. These I call the side jambs.

Q. That piece and this piece (indicating on same door)? A. Yes, sir.

BY THE COURT:

Q. They are sometimes called the stiles, are they not, in doors, by carpenters? A. I don't know.

BY MR. BOSTWICK:

Q. Was there flame in the loft on the ninth floor? A. The flames were shooting through the door.

THE COURT: Pardon me. For the purpose of the record, let it appear that the pieces called jambs by the witness are the two upright pieces on either side of the door which immediately adjoin either the hinges on the one side or the part where the lock is on the other.

Q. When you first got to the ninth floor, could you enter

the loft? A. No, sir.

Q. Was the fire inside? A. Fire inside, shooting through the door. Where they licked this fire first -- after we licked the fire, then we kicked these pieces obstructing our way in with our feet and we entered the floor.

Q. Did you enter with a line? A. With the line we entered the floor; yes, sir.

Q. Who was with you — Meehan? Who was with you? A. Lieutenant Dunn, as far as I remember; Fireman Meehan, I guess.

Q. There was nobody else besides Dunn and Meehan, was there? A. Well, I can't remember exactly who was with me.

Q. Well, do you remember anybody else? A. I am positive about Lieutenant Dunn — he was right behind me.

Q. Were you in the presence of Lieutenant Dunn and he in your presence at that time?
A. Yes, sir.

Q. Did either of them touch any of the bodies on that ninth floor?

THE COURT: Yes or no. A. I did not.

Q. Did you see Lieutenant Dunn touch any bodies? A. I did not.

Q. And what was your duty there? What were you doing? A. Just extinguishing the fire on the floor.

Q. Extinguishing the fire? A. Yes, sir.

MR. BOSTWICK: Have I laid what your Honor considers a sufficient foundation?

THE COURT: Yes.

BY THE COURT:

Q. I suppose you are not able to tell us whereabouts on the floor of that loft you saw bodies, or are you? A. To the best of my recollection, the first bodies I seen around the wash stand a short distance from the door.

BY MR. BOSTWICK:

Q. I show you on People's Exhibit 2, Washington place; do you see? And there is the Washington place entrance from the street; that is Washington place and that is Greene street and there is the entrance at Greene street. Now you came up these stairs and you entered there (indicating on diagram People's Exhibit 2)? A. This is the door leading from the hallway?

Q. The door leading from the stairs to the loft? A. Into the loft, yes.

Q. And these are the toilets. There was a partition somewhere here still standing, was it not, of hollow tile? A. Well, I am not positive about this partition

Q. About how many bodies do you say you saw near the door?

MR. STEUER: I object. He has not said he saw any near the door.

THE COURT: Objection sustained.

Q. How many bodies did you see a short distance from the door?

MR. STEUER: Objected to as incompetent, immaterial and irreleant.

(Objection overruled; exception.)

A. I didn't count them.

Q. How many do you think were there?

(Objected to as incometent; objection sustained)

BY THE COURT:

Q. What is your best recollection as to the number that were there?

MR. STEUER: Same objectlon and exception.

A. I should judge about nine or ten.

BY MR. BOSTWICK:

Q. What is your best recollection that the distance of the nearest one of those nine or ten bodies was from the Washington place door on the ninth floor? A. I should say about nine or ten feet.

Q. Do you know what the first Hook & Ladder Company was to get up to that floor? A. I can't say.

BY THE COURT:

Q. Did I understand you that the Engine Company to which you belonged was the first Engine company to arrive and the first Engine Company to reach the ninth loft by the Washington place entrance? Yes or no to that. Do you understand me? A. file first Engine Company arrived at the fire is 72.

Q. Was your Company the first Company to reach the ninth floor? A. Yes, sir.

Q. And, so far as you recollect, or rather, to the best of your recollection, were you and the Lieutenant of that Company, whose name you have given, the first two men to enter the ninth loft from the Washington place side? A. Yes, sir; positively.

Q. And, that time, that is to say, at the time of your entrance, there were no other persons in the ninth loft, is that so? A. (No answer.)

Q. At the moment that you got in with the Lieutenant and possibly the Officer Meehan, at that moment there were no other persons in the ninth loft besides you three, is that so? A. I didn't see any others.

BY MR. BOSTWICK:

Q. Was the fire raging to an extent that no human being could have been alive and been in that loft?

MR. STEUER: I object to that.

A. All life was extinct. The heat was so intense that we had to fight our way with quite some difficulty up from the eighth floor to the ninth floor.

Q. It was a blazing mass, was it not? A. Yes, sir; one roaring mass of flames.

CROSS-EXAMINATION BY MR. STEUER:

Q. When you got to this fire, did you go right into the building? A. No, sir.

Q. Your Company preceded you, did it not? A. Well, our

Commander —

Q. No, no, your Company as a matter of fact preceded you into the building, did it not?

A. Preceded me to the building?

Q. Preceded you by quite some time, didn't it? A. Well, a few minutes, I would say.

Q. The fact of the matter is, you are not able to tell how many minutes it was, are you? A. I can't say, no.

Q. And the fact of the matter is, that when you got to the building you were assigned to duty at the life nets, isn't that so? A. Yes, sir.

Q. And your company proceeded into the building? A. Yes, sir.

Q. Isn't that so? A. Yes, sir.

Q. You say to these jurors now that you saw when you got into the ninth floor a number of bodies; at what place was it that you said? A. Around the washstand.

Q. And you estimate that to be about ten feet, I think it was — I am not sure ~~ you had better give us the figure — away from the door?

MR. BOSTWICK: I understand he did not say the washstand was eight or ten feet away from the doort but that the nearest body was eight or ten feet away from the door,

MR. STEUER: Didn't he say eight or ten?

MR. BOSTWICK: It was not the washstand he was say-

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ing that was that far away from the door, but it was the bodies.

MR. STEUER: That is what I understood.

A. Well, of course I couldn't measure in feet, but the best of my judgment, I judged the nearest bodies were between eight and ten feet from the door.

Q. Well, now, you didn't see anything near the door when you got to the door, did you?

A. Not only flames.

Q. You didn't see any debris or anything else? A. Only flames, as far as I can recollect.

Q. On the inside of that loft as you came in from the Washington place side, you didn't see any bodies and you didn't see any debris, isn't that true? A. No.

Q. You didn't see anything at all, did you? A. Flames I seen, that's all, fire.

Q. Flames? A. Yes.

Q. I want to ask you if it is not true that on the 10th of April you were a witness concerning what you saw, and that a juror at that time asked you these questions --

THE COURT: We will take a recess now. Gentlemen of the Jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon until the same is submitted to you. You are not to talk with anybody about it or to allow any person to talk with you about it. It is not necessary to say that you are not to visit the

place of the alleged occurrence. Now you are excused until two o'clock.

(Recess till 2 P.M.)

AFTER RECESS, 2 P.M.

TRIAL RESUMED.

FELIX RHEINHART, resumes the stand and further testifies:

CROSS-EXAMINATION BY MR. STEUER, CONTINUED:

Q. At the time when you got to the ninth floor and when you could see into the loft itself, you couldn't see any debris or anything else alongside of the door, could you? A. Well, all I said before was flames and fire -- it was one mass of fire, the whole floor.

Q. Now I ask you again --

THE COURT: Would you like the answer stricken out? Whenever, Mr. Steuer, you consider that an answer is not responsive, and I conclude you are right, I will strike it out and the question then can be re-read to the witness.

Q. Now, Mr. Rheinhart, will you tell the jury, please, whether you saw any debris or anything else alongside of the door, or near the door of the ninth floor, when you got in at the Washington place side? A. I didn't to the best of my recollection.

Q. You didn't see anything at all, did you? A. Oh, as I

said, the floor was full of fire, full of flames.

BY THE COURT:

Q. How long had you been in that loft, Mr. Witness, before you did see the bodies that you say that you saw about eight or ten feet away from the door? A. Well, as soon as we succeeded in extinguishing the flames around the door —

Q. And that was about how long? A. Well, a very short time — about two minutes, I would say.

BY MR. STEUER:

Q. I want to put the question in these words to you, if you please. Was there anything visible alongside of the door, any debris or anything? A. No, sir.

Q. Nothing there at all? A. Not to my recollection.

THE COURT: I understand that this witness in a different connection is to be recalled?

MR. BOSTWICK: Yes. I call now Mr. Cunningham.

MR. RUBIN: You will be recalled later, Mr. Rheinhart.

FREDERICK A. CUNNINGHAM, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSIWICK:

(The witness states that his address is 247 West 23rd street.)

Q. Did you visit the ninth floor of the building corner

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of Washington place and Greene street, in the month of March or April? A. I don't remember what the month was — it was about a week after the fire.

Q. About a week after the fire? A. Or a little less than that.

Q. Did you make any pictures of the main floor? A. I helped to make three photographs.

Q. I show you this and ask you whether that is one of those you helped to make?

A. It is.

Q. Is that an accurate and correct representation of the condition at that time? A. Yes. There is nothing changed. It was photographed just as it was.

MR. BOSTWICK: I offer the photograph in evidence.

MR. STEUER: Objected to as immaterial and incompetent.

THE COURT: Suppose you have it marked for the present for identification only, and then show it to some witness who was there immediately after the fire.

(Photograph marked for identification People's Exhibit 25.)

Q. Were these tables shown upon this photograph affixed to the floor? A. I believe they were; I wouldn't say for certain.

CROSS-EXAMINATION BY MR. STEUER:

Q. You said that that was a correct representation ~ this picture -- of conditions as they were on the day when you

were there?

THE COURT: I did not receive it in evidence, Mr. Steuer; it is merely marked for identification.

MR. STEUER: I understand, but afterward if someone else testifies to it, we won't have the opportunity of cross-examining this witness.

THE COURT: Very well, proceed.

Q. (Continuing) — of conditions as they were on the day when you were at the premises? A. That is the only day that I was there.

Q. Well, now, I ask you whether this portion of that picture had anything at all to do with this building (indicating on photograph)? A. The portion through the window, you mean?

Q. Yes. A. No; they are just other buildings, as we took the photograph looking towards the window.

Q. And in that way things were taken in that were not a part of those premises at all? A. Yes.

Q. That is equally true on this side (indicating on photo)? A. Yes.

Q. I wish to call your attention to what appears to be to be a cornice -- is it a cornice?
A. I believe that is the top of the building across the street.

Q. That is the top of another building across the street? A. Yes.

Q. Although it looks to be immediately on top of the radiators which purport to be there? A. Well, I wouldn't say

that.

Q. Well, now, what is it? Look at the windows underneath the cornice, are those windows in the ninth left of the building in which the fire was? A. Those are in another building across the street.

Q. And yet those radiators which were in the loft of the ninth floor stand in those windows of the building across the street on that picture, don't they? A. They appear to, yes.

Q. Anybody looking at that picture, or you, would believe that those radiators that were on the ninth loft in that building in which the fire took place were actually in windows that belonged to a building which is across the street? A. No, I wouldn't.

Q. What distance were those radiators from the nearest table? A. Why, I didn't notice particularly.

Q. Well, now, on that picture do not the tables appear to be dividing the radiators and passing by them? A. I know there was very little distance in between them, but how much I couldn't say.

Q. You don't know anything about the distance? A. I didn't pay any attention to that.

Q. And of course that photograph does not represent any such distance, does it?
A. Not on the photograph.

Q. That brings all these parts together -- the buildings across the street, the radiators and the table, doesn't it? A. It does.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I ask you whether this is a correct representation of the corner of the ninth floor, Washington place and Greene street corner, looking eastward? A. Why, that is just as much as the camera will show it, and there was nothing changed.

Q. And is it an accurate picture of the machines and the tables, the walls and the open windows and what could be seen from the open windows at that time and at that place? A. It is.

JACOB WOLL, recalled by the People, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. In all, how many bodies were found on the Washington place side of the building?

(Objected to as incompetent, irrelevant and immaterial)

(Objection overruled; exception?)

A. Fourteen bodies.

Q. And were those bodies found on the Washington place side lowered to the Washington place sidewalk? A. Yes, sir.

Q. And were you present when that was done? A. Part of it, not all.

Q. How many of the bodies were lowered while you were there? A. About six.

Q. What were the names of the other men who engaged in lowering the bodies on the Washington place side? A. I don't know as I could give you all those names from memory; I could

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look up the records.

BY THE COURT:

Q. Give those that you can? A. Well, Lieutenant Lauth is one.

BY MR. BOSTWICK:

Q. Was Mance there? A. Yes, sir.

Q. Stafford? A. Yes.

Q. Ott? A. Yes, sir.

Q. Kuhn? A. Yes, sir.

Q. Martin O'Connor? A. Yes, sir.

Q. Do you recall whether there were any other persons than those you have now mentioned? A. Yes, Fireman Sly was there, a member of Hook & Ladder No. 20.

Q. Do you know how many bodies were taken from the top of the passenger elevator? A. Nineteen.

Q. Do you know how many were taken from the dressing room? A. From the dressing room ~~ in front of the dressing room there was eleven.

BY THE COURT:

Q. That is the dressing room on the ninth floor? A. On the Washington Place side of the building; yes, sir. That is in front of it, outside of it, and behind it there were three.

CROSS-EXAMINATION BY MR. STEUER:

Q. When you got to the building, on which side of the building was it you were on first? A. Washington place side

of the building.

Q. And on the Washington place side of the building where did you see fire at that time? A. Coming out of the eighth floor.

Q. And have you fixed the time when you got there? A. Well, I could come within a half a minute. We received the alarm at 4:45, and we reached the building about 2-1/2 minutes later.

Q. Then it was anywhere from 4:47-1/2 to 4:48? A. Even sooner; yes, sir.

Q. It was within that radius of time? A. Yes, sir.

Q. Were the flames coming out of the windows? A. Yes, sir.

Q. And leaping upward at that time? A. Yes, sir.

Q. The flames were large at that time? A. Yes, sir; the whole side of the building was one mass of flames.

Q. The whole side on the Washington place side was one mass of flames? A. Yes, sir.

Q. Showing that the fire within was very intense? A. Yes, sir.

Q. Could you see, while you were still on the street, the Washington place stairway? A. No, sir.

Q. I am not speaking of the stairway at the entrance to the building, I am speaking in the upper part of the building while you were looking up and saw the flames? A. No, you couldn't see the stairway from the street; no, sir.

Q. Well, you subsequently found out the location of that

stairway, did you not? A. Yes, sir.

Q. And you have got the location of that stairway fixed in your mind now, haven't you? A. Yes, sir.

Q. And you have also got fixed in your mind the fire flames as they were raging at the time when you took in the situation? A. Yes, sir.

Q. Well, now, the flames at that time covered that portion of the premises in which the stairs were situated, did they not? A. Well, I couldn't say. I couldn't see that portion of the building. I should think they would.

Q. Well, you saw flames across the whole width of the building? A. The front of the building, shooting out across the street.

Q. There wasn't anything that you know of that stopped the spread of those flames on the eighth floor? A. Not just then.

Q. When you spoke of taking bodies from the top of the passenger elevator, I understood you to mean in your testimony today that was on the Washington place side? A. Yes, sir.

Q. Well, now, when you testified formerly, they have got you as saying that that was on the Greene street side. Now, I don't make any point of it, if it is a mistake here, that ends it. That was a mistake, was it? A. It was a mistake. I took them from the Washington place side of the building.

Q. It was on the Washington place side? A. Yes, sir.

Q. These bodies that you took from the top of the car --

it was on the roof of the car that those bodies were? A. Yes, sir.

Q. These were on the top, on the roof of the car? A. Yes, sir.

Q. Showing that the people that were on it never could by any possibility have been in the car? A. No, sir.

Q. And they were landed there and you said there were nineteen, I think? A. Yes, nineteen all told.

Q. And which you and your fellows in the Company removed from that portion of the car? A. Yes, sir.

Q. At that time and while you were removing those persons from the top of the car, did you see any body at all coming down the steps of the Washington place side of the building? A. No, sir.

Q. And at that time, this was after you had already seen the flames that you described to the jury a moment ago? A. Yes, sir.

Q. It was perfectly obvious to you at that time that traffic by a lay person who did not have a hose, down that staircase, was impossible, was it not? A. Well, that, I don't know — how the stairway was upstairs at that time; when I went up the stairs it was much later.

Q. Some time elapsed before you got up? A. Yes, sir.

Q. When you got up, traffic between the eighth and ninth floors was possible? A. Not when I got up there. It was passable because the hose line was up ahead of me.

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Q. That had made it possible at that time? A. I don't know what conditions was up there ahead of me. When I got there I went right to the ninth floor.

Q. What time was it when you reached the ninth floor? A. I should say about 6:10, between 6 and 6:10, around that time; exactly I couldn't tell you.

Q. In your testimony previously given — of course I only know what is in these minutes, I was not there -- they have you first as saying that you got up to the ninth floor within fifteen minutes after the time that you reached the fire; is that a mistake? A. Well, it is a mistake, it was a mistake on my part in the start, -- I said fifteen, and I meant an hour and fifteen and I come back and corrected the mistake within twenty minutes later.

MR. BOSTWICK: The correction is in the record.

MR. STEUER: That is all right t there is no claim made about any false testimony or Anything of that sort.

Q. When you got to the ninth floor, did you see any vestige of any door? A. No, sir.

Q. The space on the ninth floor that is ordinarily or was in that building covered by a door, was absolutely clear, was it not? A. The doorway was absolutely clear.

Q. That is what I am speaking about? A. The fireproof material was still there.

Q. What do you mean by fireproof material? A. The wall that the door is fastened to.

Q. But we are not speaking of the wall now, we are speaking of the door. Did you see anything, any part of a shred of that door? A. Not of the door, no, sir.

Q. It was a perfectly clear space? A. Yes, sir.

Q. Everything was removed that had ever been part of that door? A. Yes, sir; the door.

Q. That was true with relation to the hardware as well as to the wood? A. Well, I couldn't say as to the hardware.

Q. Did you see anything at all in the nature of hardware? A. I see one -- that the door swings on -- a hinge, I know, there.

Q. Where did you see the hinge? A. Right inside of the door.

Q. Inside the door? A. Yes.

Q. Did you see any hinge on the jamb? A. No, sir; I didn't see any jamb.

Q. When you got there to the fire was the fire all over the ninth floor at that time? A. No, sir; not to my sight. It looked to be all over the eighth when I first got there.

Q. I ask you if it is not a fact that on the 10th of April, 1911, Mr. Rubin asked you this question: "Q. Where was the fire when you got there?" And did you answer that question in these words "All over the eighth and ninth floors"? A. I don't remember answering the ninth, I know I said all over the eighth, that I am positive about.

THE COURT: For the purpose of the record, just in-

dicate what the occasion was on which that question is said to have been put.

MR. STEUER: That was before the Coroner, your Honor.

MR. RUBIN: At the Coroner's Inquest. A. I don't remember mentioning the ninth, I remember the eighth.

Q. Here is Mr. Rubin's question to you: "Where was the fire when you got there?" That question was perfectly clear to you, was it not? A. Yes, sir.

Q. And the answer was, "All over the eighth and ninth floors"? A. I couldn't say I didn't say it, because it is some time ago, but I don't remember it.

Q. Your recollection of that incident in April was probably better than your recollection today? A. I should think so.

Q. And if you said that at that time, don't you think that that was correct? A. That I wouldn't say. I remember that part of the fire just as well today as I did then.

Q. Well, now, the next question that Mr. Rubin asked you was, "Not extinguished? A. Part had been extinguished." Do you remember that? A. Please repeat that.

Q. The question was, the next question by Mr. Rubin was, "Not extinguished?" And your answer was, "Part had been extinguished." A. That question I don't remember.

Q. Do you remember that the next question was, "What companies were there? A. 72 Engine was there with a hose, that I see on the stairway." Now, that is correct, isn't it?

A. That is correct.

Q. And the rest you say was an error? A. As far as I can remember now, it must have been an error, I don't remember that question.

Q. Now, I wish to ask you if you remember this question; "What was the condition of the doorway at the entrance to the ninth floor?" — A. I said it was burnt away when I got to the ninth floor.

Q. (Continuing) And your answer was, "The doorway was burned away completely;" do you remember that? A. Yes, sir; everything was gone.

Q. And the next question was: "And on the eighth floor? A. The same way." Do you remember that? A. Yes, sir, that is proper; I remember that, yes, sir. Both doors was completely gone.

Q. Why was it that at that time, when you were asked those questions, you didn't say anything about having seen any hinge in there? A. The question was not put to me, I was not asked anything about what I see, the same as you asked me if I saw — I probably would have been reminded of the same thing.

Q. It was because today I did ask you whether you saw anything of the hardware and at that time you don't think you were asked that question? A. Yes, sir; and for the moment I didn't think of it.

Q. I suppose that when you were inside the loft you used

lanterns or some artificial light? A. Yes, sir; we used searchlights.

Q. Do you remember whether there was any light on the stairs? A. I don't think there was, I am not positive, I don't think so.

Q. This is the Washington place stairway we are speaking about? A. Yes, sir.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you People's Exhibit 13, purporting to be a picture of the doorway and landing of the ninth floor, Washington place, just after the fire, and ask you if, after seeing that picture you now recall that that was substantially the condition that it was in at that time? A. Well, I couldn't say that I recall it. I know the whole center space was open. I don't remember seeing any wood there at all when I got up there. This other company was already working when I got there, Engine 33, on the ninth floor, and I don't remember noticing the wood.

Q. You don't remember noticing that the woodwork was there? A. No, sir; I do not.

Q. You are positive, however, that there was no door? A. That I am positive about.

Q. And you are positive that the hollow tile was still there? A. Was still there; yes, sir.

Q. But as to the trim? A. That I am not sure of.

Q. That you are uncertain about? A. I am uncertain about that; yes, sir.

Q. What engine company had been there before you? A. Engine 33 was on the ninth floor.

Q. You have spoken of the fire being all over the eighth floor? A. Yes, sir.

Q. You do not mean by that to say that you could see all over the eighth floor from the sidewalk? A. No, sir; I am speaking on the Washington place side of the building.

Q. When you saw from the Washington place side the flames, indicating that the eighth floor was all fire, you could not see any of the stairway of the Washington place side?

A. No, sir; I could not; no, sir.

Q. And that stairway was an enclosed stairway, was it not? A. Yes, it was enclosed; a brick wall.

BY MR. STEUER:

Q. Do you mean on both sides it was enclosed? A. (No answer.)

BY THE COURT:

Q. Along the Washington place side of the building —

BY MR. BOSTWICK:

Q. I mean to say there were no windows in the Washington place stairway well? A. None that I remember; not sir. Q. Did you go to the roof? A. No, sir.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. When you were on the stairs on the Washington

place side, did you see any skylight there? A. Not that I remember, no; it was very dark when we got up there.

Q. You couldn't see a skylight very well that was not there, could you? A. I don't remember, I don't remember seeing one.

MR. STEUER: I withdraw that last question; that speaks for itself.

Q. I want to refer to that doorway once more at the ninth floor. You had a very distinct recollection in the early part of the trial, of the condition of that doorway, did you not? A. Pretty fair, yes.

Q. And Mr. Rubin examined you, and he was the only lawyer that was there examining you, wasn't he? A. I believe he was.

Q. There wasn't anybody there representing these two gentlemen, Harris and Blanck — they had nothing to do with the proceeding? A. I don't remember; I don't think there was.

Q. I ask you if you do not recall one of the jurymen asking you, "What was the condition of the doorway at the entrance to the ninth floor?" And your saying, "The doorway was burned away completely"? A. That is what I said, to the best of my knowledge.

Q. And that is the fact? A. That was the fact.

Q. And it is not any question of lack of recollection on your part as to whether there was any wood there, is it? A. That I don't remember, the door was completely open, and that space of wood may have been there in the dark. As I say, it was dark

when we got up there.

Q. You had a searchlight? A. Yes, but even so you could overlook such blatters under the conditions. Probably that is why I overlooked it. We were not informed to take notice of these precise little things; of courset if we were, I would have done it.

Q. Nobody suggested to you at that tiiae that the question was put that the doorway was burned away completely" A. That was the fact.

MR. BOSTWICK: He still says the doorway was burned away.

Q. When you say door, you do not include all that is about the door, do you? A. No, sir; I mean the opening of the door, the door space, the opening the door was in.

Q. And the door was burned away? A. Yes, sir.

Q. Have you ever been on the roof? A. No, sir; we didn't get to the roof.

CHARLES M. LAUTH, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(Assistant Foreman Hook & Ladder 20.) DIRECT

EXAMINATION BY MR. BOSTWICK:

Q. You were at the fire on the 25th of March, 1911, at Washington place and Greene street? A. Yes, sir.

Q. And you relieved Mr. Woll, did you not? A. I did, yes.

sir.

Q. Did you go to the eighth, ninth and tenth floors? A. Yes, sir.

Q. And you were one of the men engaged in searching for the bodies there? A. Yes, sir.

Q. Were any bodies found in the eighth floor? A. No, sir.

Q. Any bodies on the tenth floor? A. No, sir.

Q. All the bodies that were found were found on the ninth floor? A. On the ninth.

Q. None on the roof? A. None on the roof. At least, I was not to the roof.

Q. Oh, you didn't go to the roof? A. No, sir.

Q. Had any of the bodies been lowered to the sidewalk when you got there? A. I saw to that myself. I relieved Lieutenant Woll about six o'clock.

Q. Was that done under your command? A. Yes, sir; under my command.

Q. Do you recollect where the bodies were found on the ninth floor? Yes, sir.

Q. Whereabouts were they found?

MR. STEUER: I object to that as incompetent, irrelevant and immaterial.

(Objection overruled; exception.)

Q. Were you on the Washington place side of the building? A. Yes, sir.

Q. Were you near the dressing room? A. Yes, sir.

Q. Were you near the Washington place door? A. Yes, sir.

Q. Now, in relation to the Washington place door, or the dressing room, or any other part of the room, state where those bodies were found?

(Same objection; same ruling; exception.)

A. Well, I was under orders of Chief Croker —

Q. Just tell us where the bodies were found.

THE COURT: Please tell us where the bodies were. A. I was on the ninth floor, and I started to search for the bodies. I found two in a little crevice behind the dressing room, one right directly in front of it.

Q. I show you the diagram People's Exhibit 2. This (indicating on diagram) is Washington place and this is Greene street? A. Yes, sir.

Q. And that is the Greene street elevator and the Greene street entrance? A. Yes, sir.

Q. You walked down Greene street and then along Washington place and you got to the Washington place -- A. No, I entered by the Washington place entrance.

Q. You entered by this Washington place entrance? A. Yes, sir.

Q. And you came up the stairway? A. Yes, sir.

Q. And there is the door that leads from the stairway into the loft? A. Yes, sir.

Q. There is the sink, do you remember seeing that? A. Yes,

sir.

Q. Here is the door? A. Yes, sir.

Q. Here are the toilets? A. Yes, sir.

Q. Now, you say that you found how many bodies, two or three was it? A. I found two right behind the dressing room and one at the opening of it.

Q. When you say behind the dressing room, do you mean in the recess behind the toilets? A. In the recess behind the toilets; yes, sir.

Q. Were there hooks on the wall there? A. Not that I noticed.

Q. You didn't notice? A. No, sir.

Q. Did you find any in front of the dressing room? A. Yes, sir, I found eleven bodies in front of the dressing room.

Q. Will you indicate with a cross about where those eleven bodies were found? A. Well, it was right at the opening of the door. Is this the opening here, may I ask (indicating on diagram)?

Q. These represent wooden partitions? A. Well, this is the dressing room (indicating).

Q. Here is the door to the stairway? A. Yes. Well, the dressing room was this side.

Q. And this was burned away, all these partitions? A. The partitions were all burned away; yes, sir.

Q. Where did you find the bodies? A. I found them right

at the opening of the dressing room from the center of the floor as you go into the dressing room; I found eleven bodies in a pile right about here (indicating).

Q. Make a cross there.

THE COURT: And put your initials there, by the mark. A. (Witness marks on diagram as directed.)

Q. Do you remember that there were toilets still left? A. I don't remember whether there were toilets there or not. It was full of burned material in there.

Q. You remember the sink? A. I remember the sink, yes.

Q. Were the bodies that were found on the Washington place side lowered to the Washington place street? A. Yes, sir; by my orders.

BY THE COURT:

Q. How near, to the best of your recollection, was the body that was nearest to the Washington place door at the time that you saw the body? A. Well, about 30 or 35 feet — Oh, that is to the door? No, that was only about 15 feet.

Q. Now, what is your answer to my question? About how many feet away from the door on the Washington place side leading into the ninth loft was that body which was nearest to the door at the time that you saw it? A. About fifteen feet.

Q. And in what direction? A. In the direction of the dressing room.

BY MR. BOSTWICK:

Q. I show you People's Exhibit 13, which is a picture of the doorway on the ninth floor leading to the stairway, and ask you whether that door when you saw it, or that doorway when you saw it, was substantially in the condition represented by that picture? A. Well, that I couldn't say, because --

Q. That's all. Did you go to the roof? I think you said you did not? A. No, sir, I did not.

CROSS-EXAMINATION BY MR. STEUER:

Q. When you came in the Washington place door, it had been burned away, there was nothing left of it? A. No, sir.

Q. And nothing left of the Greene street door? A. Well, I didn't get over there till the next morning to make use of that door. I worked on that floor all night before I used either one — I always used the Washington place door.

Q. I find here that when you testified before the Coroner that Mr. Rubln asked you the question, "When you came in the Washington place door it had been burned away, there was nothing left of it?" And you answered, "No", meaning there was nothing left of it? A. Yes, sir.

Q. And then immediately after that he asked you — what is the next question — "And nothing left of the Greene street door?" And your answer is "No"? Do you want now that it should be understood that you mean that when you saw it next morning there was nothing left of it? A. There was nothing left of either of the doors the next morning.

Q. Well, you got into the Washington place door that

Q. You started at the Washington place entrance on the ninth floor? A. Yes, sir.

Q. You have indicated by your finger upon the diagram that having entered that loft you went along the side of it opposite Greene street, that is to say, the toilet side, for some distance towards the wall where the fire escape was, in the direction of that wall? A. Yes, sir.

Q. And that you then retraced your steps and went along the Washington place side of the building And along that wall until you came to the Greene street side, is that so? A. Yes, sir.

Q. And then along the Greene street side until you came to the place where other firemen were at work? A. Yes, sir.

Q. Is that about a correct statement? A. That is a correct statement, your Honor; yes, sir.

Q. When you got to that loft At half-past six, who, if anyone, of your own Hook and Ladder company, were there besides yourself? A. Well, the company was there working under the direction of Lieutenant Woll.

evening at about six-thirty, as I understand you? A. Yes, sir.

Q. The shutters hung on the windows, what were they made of? A. Made of sheet iron or steel, whatever they make them of, either one.

Q. You are not positive one way or the other? A. No.

Q. What was the condition of the shutters on the windows hung on the ninth floor? A. Well, they were all sprung and warped.

Q. They were badly warped, weren't they? A. Yes, sir.

Q. And they were all twisted, weren't they? A. They were twisted; yes, sir.

Q. That was from the heat? A. From the heat and water.

Q. Did you see anybody in the center or near the center or at the center on the ninth floor? A. No, sir; I did not.

BY THE COURT:

Q. Are you able by taking the diagram which is in evidence, and which is a diagram which purports to be a diagram of the ninth loft of that building, to indicate on it the portions of that loft which you went into after you reached it, as you said, about half-past six on the day of the fire? A. Yes, sir.

Q. Will you do so? A. Well, I entered on the Washington place side and then I removed all the bodies on the Washington place side, and then I come over through across the loft at the windows for bodies, I couldn't find any, and I come across and I assisted the Companies working on the Greene street side.

Q. And the company at that time present at the building consisted of about how many men? A. Seven men.

Q. Did you as a matter of fact find the other six men on the ninth loft when you entered it, referring to the other six men of your own Company? A. Yes, sir.

Q. Did you enter it in conjunction with the other six, that is to say, about the same time, or some time afterwards? A. Well, the men were at work when I got there, they were just starting in when I got there, when I relieved Lieutenant Woll.

Q. Are you able to indicate by looking at this exhibit which is before you the points at which the other men of your company were at the time you entered that loft? A. Yes, sir.

Q. Will you do so? A. Well, they were right in front of this dressing room, just straightening a net, or body bag, to lower the first body. Yes, I reported there.

Q. When you say they were there you mean how many were there? A. Six men were there.

Q. That is to say all the balance of the company? A. Yes, sir.

Q. You have previously indicated on this diagram by a certain mark the point at which you say you found a certain number of bodies? A. Yes, sir.

Q. With respect to that mark whereabouts were the other six men of your company at the time that you first saw them after you first entered that loft? A. Well, the men were working, just as I say, there were only six men working at it.

Q. We had seven men out, that includes the driver, and six men were working in front of this dressing room, just stretching out a body bag when I reported there and took command of the company and relieved Lieutenant Woll.

Q. And Lieutenant Woll, so far as you know, then went away? A. No, he stayed there till 4:30 in the morning, assisting me in whatever he thought he could do, but I was in command of the company at the time under the Captain's orders. At the time of the fire I was just out.

Q. Now we will take the space that is indicated upon; that diagram as the space between the table that is nearest to the dressing rooms, and the tables shown upon that diagram next to it, in the direction of Greene street, that space there. Do you understand that that diagram shows certain tables, officer? A. Yes, sir; I see these tables here.

Q. Now, we will take that space. Are you able to state from recollection whether or not you found any bodies within that space? A. Positively no.

Q. Now, we will take the space next, that is, the space between the table next to that and ~~~ A. No, sir, there were not any bodies in between any of these spaces of any of the tables.

MR. STEUER: May I make a suggestion with relation to the answer to your question, your Honor? You asked with respect to his recollection, and the witness answered "No". That would indicate that he did not have recol~

lection. What the witness meant was positively there were no bodies there.

THE WITNESS: There were no bodies there.

Q. So you are now prepared to testify from the examination you made of the premises in conjunction with the other members of your own company at the time you have named that there were no bodies in the spaces between any of the tables on the ninth loft? A. Yes, sir.

Q. Did you at any time while you were there on that afternoon go into the space between the ends of those tables, nearest the fire-escape wall, and the fire-escape wall? A. Yes, sir.

Q. You know the space I mean, do you? A. Yes, sir; the space where the window opens.

Q. I refer now to the space between the end of the tables nearest where I have called the fire-escape wall and the fire escape wall, for the entire distance? A. Yes, sir; we went clean around the floor.

Q. Are you able to say whether or not there were any bodies there? A. No, sir, there were not any bodies there, not that I know of.

Q. I call your attention to a remaining space on that diagram, being the part within the Greene street hallway on the ninth loft — you understand the space I mean? A. Well, on the floor space?

Q. The floor space. Now, are you able to state whether there were any bodies in that space? A. Well, there was a space

only around the door that there were any bodies, say at about six feet from the door there were several bodies.

Q. And when you say six feet from the door you have referenee new to the Greene street door? A. To the Greene street door, yes, sir, about six feet.

Q. When you say about six feet from what do you mean, six feet outside of it or six feet inside of it? A. Six feet inside of it.

MR. STEUER: I have no questions.

BY MR. BOSTWICK:

Q. Do you know the names of the other members of your company, besides Lieutenant Woll? A. Yes, sir, I believe they are all present; they are all outside.

BY THE COURT:

Q. Will you kindly give us their names for the purposes of the record? Start with Lieutenant Woll: now, who are the others? A. Lieutenant Woll, Fireman Ott.

BY MR. BOSTWICK:

Q. Was Stafford one? A. Fireman Stafford.

Q. Was Lauth one? A. I am Lauth.

Q. Mance? A. Mance is onef Yes, sir. O'Connor.

Q. Kuhn? A. Kuhn, that's right. I believe that was all.

FLOYD N. MANCE, called as a witness on behalf of the People, being first duly sworn,
testifies as follows:

(Hook and Ladder 20)

DIRECT EXAMINATION BY MR. BOSTWICK: Mr. Mance, you went

to the fire in the afternoon of March 25th, 1911, at the corner of Washington place and Greene street, on the first alarm, did you not? A. Yes, sir.

Q. And you were then and are you still connected with Hook and Ladder company No. 20? A. Yes, sir.

Q. Now, you did certain work first in the street, did you not? A. Yes.

Q. And finally you got up to the ninth floor? A. Yes.

Q. When you got up to the ninth floor was Lieutenant Woll up there with you? A. Yes.

Q. Was Fireman Ott there? A. Yes.

Q. Stafford? A. No.

Q. Was Lauth there? A. No.

Q. Kuhn? A. No.

Q. O'Connor? A. Yes.

Q. Now, when you went in the ninth floor did you go in the Washington place door?
A. Yes.

Q. You had come up the Washington place stairway? A. Yes, sir.

Q. And went in the Washington place door? A. Yes, sir.

Q. I show you what purports to be a diagram of that ninth floor of that building (People's Exhibit 2). Now (indicating on Exhibit 2) this is Washington place, there is the door where you went in, this is the end of the building, you walked down there, and that is the corner of Washington place and Greene street, and if you walked north, uptown, you come

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to the Greene street entrance; is that confusing to you? A. No, sir.

Q. Have you got that in your mind? A. Yes, sir.

Q. You came up this stairway, the Washington place stairway? A. Yes, sir.

Q. And you came through this door? A. Yes, sir.

Q. Which led into the loft? A. Yes, sir.

Q. I show you People's Exhibit No. 13, which purports to be a picture of the door leading from the ninth floor, Washington place side, and ask you whether that door was in substantially the same condition as shown by that picture? A. That looks about the same.

Q. Now, that is the door which you went through when you arrived at the ninth floor? A. Yes.

THE COURT: I suggest that you substitute doorway for that.

MR. BOSTWICK: Doorway.

Q. Did you see anybodies when you got inside? A. Yes.

Q. And, where did you see those bodies? A. In front of the window and in front of the dressing room that led to the left.

Q. And when you say to the left you mean the left, walking into the loft? A. Yes, sir.

Q. It was to your left when walking into the loft? A. Yes, sir.

Q. In other words, if you went in that door, it would be on this side, to the left? A. Coming from the hallway.

Q. Do you remember a sink there? A. There was a sink there.

Q. Do you remember any toilet there? A. No.

Q. Now about how many feet from the doorway on the ninth floor did you see the bodies? A. Only seven or eight.

Q. Seven or eight bodies, or seven or eight feet? A. Seven or eight feet.

Q. So the body nearest to the Washington place door was about seven or eight feet away? A. About seven or eight feet, I should judge.

Q. Did you make an examination at all or go on the eighth floor? A. I don't recollect about being on the eighth floor.

Q. Did you go on the tenth floor? A. Yes, sir.

Q. Any bodies found on the tenth floor? A. No.

Q. Any on the roof? A. No.

Q. And all the bodies that were found on the Washington place side were lowered to the Washington place sidewalk, were they not? A. They were all lowered at the Washington place side.

CROSS EXAMINATION BY MR. STEUER:

Q. You saw Mr. Lauth when he got there, didn't you? A. Yes.

Q. He relieved Lieutenant Woll, did he not? A. Yes.

Q. And he was in command? A. Yes.

Q. Up to the time when he got there had you moved a single body? A. We had started to move them.

Q. Now, he testified here just a moment ago that he got there when you were just straightening out the first body bag?

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A. That is what I say, just about starting to let them down.

Q. Had you moved the bodies up to that time? A. Not that I recollect.

Q. So that the bodies when you saw them were in the same position as when Mr. Lauth saw them? A. Yes, I think so.

Q. You didn't make any measurements of the distance to the door at that time, did you? A. No, I did not.

Q. And you are more or less guessing at that, aren't you? A. I guess at the number of feet.

Q. But looking at the diagram do you think you could tell us where it was you saw the nearest body? A. I imagine I could.

Q. Well, look at it and see. When I say the nearest body I mean the body nearest the Washington place door? A. In the space in between the dressing room and the stairway would be the nearest body, wherever that is. This is the doorway from the hall (indicating on diagram).

Q. Mr. Bostwick says that you had better know, and I want you to know whatever was the truth, Mr. Manes, that this room, which is now marked "dressing room" was not there. Do you remember any such room as that? A. Well, the dressing room what I had reference to, must have been the toilet.

Q. The room that is marked the "toilet room"? A. A fire-proof room.

Q. The fire-proof room, you say? A. Yes.

Q. Well, is that the room where you see these toilets indicated? A. This looks like it.

Q. Well, now, with relation to that where do you place the nearest body? A. In between that room and the stairway (indicating on diagram).

MR. STEUER: Did Officer Lauth make a mark?

THE COURT: Yes, he did.

Q. Now, will you make a mark, if you will, where you think you saw the nearest body to the Washington place entrance? A. The nearest body was in between that fire-proof room, and the door leading to the stairway (witness marks upon diagram with a pencil, and places his initials by his mark).

Q. Did you ever go back to the ninth loft after that day? A. Yes, once.

Q. When was that? A. A couple or three days after, I think.

Q. Two or three days later? A. Yes.

Q. Did you do anything there at that time? A. No.

Q. Were you sent there by your commander? A. No, I was taken there.

Q. Who took you there? A. I don't know the party's name.

Q. Did you make any measurements at that time? A. They made some measurements, the party that took me there. I don't know what they measured.

Q. You don't know what they measured? A. No.

Q. But the bodies that you saw that evening were in exactly the same position when you saw them first as when Mr. Lauth got there? A. I think so. They had not been removed yet.

BY MR. RUBIN:

Q. You saw them before Mr. Lauth, though, you were first? A. Well, I seen then before he did.

BY MR. STEUER:

Q. He was in command and made a record of the number that was lowered, and everything else, did he not? A. Yes, he did.

MARTIN A. O'CONNOR, called as a witness on behalf of the People, being first duly sworn, testifies as follows: (Hook and Ladder 20.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Were you at the fire at the corner of Washington place and Greene street on March 25th, 1911, as one of the company of Truck No. 20? A. Yes, sir.

Q. And you were under command of Jacob Woll? A. Yes, sir. Lieutenant Woll.

Q. And after that he was relieved by Lieutenant Lauth? A. Lieutenant Lauth.

Q. Now, after the work that was done upon the street, you finally got up to the ninth floor, didn't you? A. Yes, sir.

Q. When you went up to the ninth floor, you went up by way of the Washington place stairway, did you not? A. Yes, sir.

Q. I show you People's Exhibit No. 13 which purports to be a picture after the fire of the entrance by the stairway into the loft on the ninth floor and I ask you whether that sub-

stantially represents the condition in which that doorway was at the time that you were there? A.

Yes, sir.

Q. It is substantially a correct picture of that doorway? A. Yes, sir.

Q. Now, I show you a diagram purporting to represent the ninth floor. This is upon the corner of Washington place and Greene street, and if you walk uptown you walk up Greene street, and there is the Greene street entrance to that building. If, instead of walking uptown, you walk westerly you come to the entrance on Washington place; do you understand that, or is it confusing? A. Yes, sir, I understand it.

Q. Now, you entered the Washington place entrance and went up the stairs till you got to the ninth floor and then you came out into the loft, did you not? A. Yes, sir.

Q. Some of this which is indicated here means a partition which was burned and not there when you were present on the ninth floor, other portions of it represent hollow tiling that still remained; do you recall that? A. Do you mean the hollow tiling? You mean the partition on the wall?

Q. Right near the stairway? A. The partition of the wall?

Q. Yes. A. Yes, sir.

Q. You remember a sink? A. Yes, sir.

Q. Do you remember any of the toilets at all? A. No, sir. Yes, sir, I remember a toilet, one sink and one toilet.

Q. The elevators were right next to the stairway? A. Yes, sir.

Q. The elevators were right to the side of that door, were

they not? A. Yes, sir.

BY MR. BOSTWICK: (Showing witness Exhibit 13)

Q. The elevators, this being the door — this picture is a picture looking into the door toward the stairway, and the elevators are here (indicating on picture)? A. Yes, sir.

Q. After you went in that loft on the ninth floor did you see anybodies? A. You mean as soon as I got in the door?

Q. Well, when you got in there did you see any bodies on the ninth floor? A. I didn't see any bodies when I first looked around the floor. I seen a pile of rubble, which turned out to be bodies afterwards, but I didn't see no bodies.

Q. Not when you first went in? A. No, sir. They were buried in this rubble.

Q. Were the bodies in a pile? A. Yes, sir.

Q. How near to the door would you say was the nearest body? A. About twenty feet, I should say.

Q. Do you mean that the pile of bodies was twenty feet from the door, - that the body which was nearest —

MR. STEUER: Now, your Honor, I submit —

MR. BOSTWICK: I withdraw the question.

Q. Were all the bodies found on the Washington place side of the building lowered to the Washington place sidewalk? A. Yes, sir.

Q. And did you assist in that work under Lieutenant Woll and under Lieutenant Lauth? A. Yes, sir.

Q. Did you find any body there that was by itself? A. Yes, sir.

Q. Where was that? Do you remember where you saw that single body? A. I can't explain, but I can show you on this diagram.

Q. Take this pencil and you can then show? A. You say this is the stairway (indicating)?

Q. This is the stairway and there you come in the door, and this was burned away, this partition here? A. What kind of a partition is this?

Q. That was hollow tile? A. They were right in here (indicating).

THE COURT: Put your initials there with a mark. (Witness marks as directed.)

Q. Now, put a circle or a cross, or something to indicate where you think that body was. (Witness marks as requested).

CROSS EXAMINATION BY MR. STEUER:

Q. Did anybody from your company get into the ninth floor any appreciable space of time before you? A. Yes, sir.

Q. Who? A. Why, the whole company. I was the last one of the company to go in on the floor.

Q. Did you get there after Lauth? A. Oh, no, not -- I was there before, but I was sent down on the store floor. I happened to have a hook ~~~ that was the tool I had ~-- and there was a company working on the store floor, and I was sent in there to pull some partitions down to make room so they could get in there and during that time the rest of the company had gone upstairs and I went in after them. They might have

been in there well five minutes before I was there.

Q. When you got up there did you stop at the doorway at all, when you got up to the ninth floor, or did you walk right in? A. Well, I walked right in.

Q. You don't mean to tell the jury that you took any particular look so as to make note of the conditions at that time, do you? A. No.

Q. Just as soon as you got up there you wanted to help in whatever work there was to be done in there, and you wanted to go where you would be useful? A. Yes.

Q. There wasn't anything on that landing or at that doorway that was of any interest to you, was there? A. No.

Q. Had not the door been completely burned away long before you got there? A. It must have been, as I didn't notice any door.

Q. You didn't notice any remnant of any door left there, did you? A. No.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Did you go on the tenth floor? A. Yes, sir.

Q. Any bodies found on the tenth floor? A. No, sir.

Q. Did you go on the eighth floor? A. Yes, sir.

Q. Anybodies found on the eighth floor? A. No, sir.

JOHN E. STAFFORD, called as a witness on behalf of the People, having been first duly sworn, testifies as follows: (Hook and Ladder 23)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, you were connected with the Fire Department of the city of New York? A. Yes, sir.

Q. And attached to Hook and Ladder No. 20? A. Yes, sir.

Q. And you went to the fire and were under Lieutenant Woll? A. Yes, sir.

Q. And you finally got to work on the ninth floor, did you not? A. Yes, sir.

Q. Did you work there continuously after Lieutenant Woll went away under Lieutenant Lauth? A. Yes, sir.

Q. Now, I show you People's Exhibit No. 13, which purports to be a picture leading from the stairway on the ninth floor into the loft. So far as you recollect does that substantially represent the condition of that doorway at the time? A. Yes, sir, it does.

Q. Now, I show you a diagram of the ninth floor, and I show you People's Exhibit No. 18. That corner represents the corner of the building, that is the corner of the building? A. That is the Greene street side?

Q. There is the Greene street side over there, there is the Greene street entrance? A. Yes, sir.

Q. And this is the Washington place entrance over here. Now, you went up to the Washington place entrance, did you not? A. Yes, sir.

Q. And you went up that stairway? A. Yes, sir.

Q. And that is that door (indicating on diagram)? A. Yes.

Q. Do you see? A. Yes, sir.

Q. As you come in that door you come across that line?

A. Yes, sir.

Q. Now, you have got your bearings on that diagram?

A. Yes, sir.

Q. After you got in on the ninth floor did you see any bodies there? A. Yes, sir.

Q. How many bodies would you say were there? A. Well, I should judge about a dozen — maybe twelve or thirteen bodies. They were all in a heap, only three --

Q. How near the Washington place door on the ninth floor would you say was the nearest body? A. Well, I should judge about twelve feet, fifteen feet, somewhere around there.

Q. Did you go on the tenth floor. ? A. No.

Q. Did you go on the eighth floor? A. No, sir, ninth floor only.

Q. Did you assist in putting the bodies in the body bags and lowering them to the street? A. Yes, sir.

Q. And were all the bodies which were found on the Washington place side lowered to the Washington place sidewalk? A. Yes, sir.

Q. And when that was done did you go over and help on the Greene street side? A. Yes, sir.

Q. What time were you relieved? A. I was relieved about three o'clock in the morning. Sunday morning.

Q. Do you remember the names of any of the men who worked

with you in lowering those bodies and. hile they were found? A. Yes, sir.

Q. Jacob Woll? A. No, sir.

Q. Lauth? A. Yes, sir.

Q. Ott? A. Yes, sir.

Q. O'Connor? A. Yes, sir.

Q. Kuhn? A. Yes, sir.

Q. Mance? A. Yes, sir.

CROSS EXAMINATION BY MR. STEUER:

Q. You went up together with the other men in your company, did you not? A. Yes, sir.

Q. So that there was nobody from your company that got into the ninth floor any time before you? A. I don't think there was.

Q. Well, I don't mean a second or two, but I mean you men got there about together? A. About the same time, yes, sir.

Q. Walked in together? A. Yes, sir.

Q. Did you take any particular notice of the doorway, or did you try to get in where you would be useful as soon as possible? A. No, sir; we got orders to go to the ninth floor and we went up and right straight in on the ninth floor, and started to take the bodies, putting them into the bag, and lowering them to the street.

Q. Did you see any part, or any fraction, however small, of a door loft when you got up to the ninth floor? A. No, sir, I just walked right straight in, I didn't see nothing.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. The men of engine companies had been there prior to your going there? A. Perhaps so, I don't know; I wasn't there. I went to the fire about six thirty, you know.

Q. So you don't know what happened prior to your getting to the fire?

A. No, sir, I don't.

ANDREW OTT, (Hook and Ladder 20) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, you were a fireman of the Fire Department of the City of New York? A. Yes, sir.

Q. And attached to Hook and Ladder 20? A. Yes, sir.

Q. And in that capacity you went to the fire at the building at the corner of Washington place and Greene street? A. Yes, sir, Washington place I went in.

Q. I say to the building, corner of Washington place and Greene street? A. Yes, that's right.

Q. And after you had done your work down on the street, you were finally ordered up to the ninth floor, were you not? A. Yes, sir.

Q. And the other officers of your company? A. Yes, sir.

Q. And you were under command of Lieutenant Woll? A. Yes.

Q. And subsequently, when he was relieved, of Lieutenant Lauth? A. Lauth, yes, sir.

Q. When you got to the ninth floor you entered through

the Washington place door, did you not? A. Yes, sir.

Q. After yuu went in did you find any bodies? A. Yes, sir, I found bodies.

Q. Are they on the right-hand or left-hand side as you went in the door? A. On the left-hand side.

Q. And about how far from the door did you see the nearest body? A. About ten or fifteen feet.

Q. And were all the bodies which were found there lowered to the Washington place sidewalk? A. Yes, sir.

Q. And did you assist in that? A. Yes, sir.

Q. Did you go on the eighth floor? A. Yes, sir,

Q. Any bodies found on the eighth floor? A. No, sir.

Q. Any bodies found on the tenth floor? A. No, sir.

Q. Did you go on the roof? A. No, sir.

Q. Any bodies found on the roof? A. No, sir.

Q. Any on the fire-escape? A. No, sir.

CROSS EXAMINATION BY MR. STEUER:

Q. You didn't count the bodies, did you? A. No, sir, I did not.

Q. And the record of the bodies was made by Lieutenant Lauth, wasn't it? A. Yes, sir.

Q. Did you go into the building when you went into the Washington place entrance with Lieutenant Woll? A. Yes, sir.

Q. He got there the same time you did? A. Same time.

Q. And walked through the same time he did? A. Yes, sir.

Q. When you got there with Lieutenant Woll was the Wash-

ington place door completely burned away?

THE COURT: Referring now to the door on the ninth floor?

Q. On the ninth floor, the Washington place doorway? A. I think it was all burned down, yes, all completely out of the way.

Q. Don't you know it was? A. I know I didn't have no trouble getting in, I know I could walk right through it.

Q. Do you remember that you were asked distinctly about that door on the tenth of April, which was only about fifteen or sixteen days after the fire, by Mr. Rubin, at page 110 —A. I don't remember.

Q. Well, your recollection at that time about it was very good, wasn't it — fifteen days after the fire? A. Well, I will tell you, I was busy working. I didn't pay much attention to it.

Q. You didn't pay much attention to what you were saying at that time? A. No, to the work I was doing there.

Q. Well, I can understand that, but you were asked by Mr. Rubin, when there was no other lawyer to ask any questions, do you remember? You were asked, "Did you notice the condition of the Greene street side of the ninth floor? A. Burned away. Q. It was so with the Washington place door? A. Yes." Do you remember that? A. I don't get you right.

Q. How? A. I don't understand you right.

Q. Well, you remember Mr. Ottt that Mr. Rubin, who is

sitting at this table, asked you some questions about this matter about two weeks after the fire, when the Coroner was there, don't you remember that? A. Yes, sir.

Q. Do you remember that? A. Yes, I remember.

Q. Well, now at that time Mr. Rubin asked you, "Did you notice the condition on the Greene street side of the ninth floor?", and your answer was, "Burned away". Was that correct?

A. Well, the only thing, there was a partition there was burned away.

Q. Well, now, the next question he asked you was, "It was so with the Washington place door? A. Yes." Do you remember that? A. Yes, sir.

Q. Was that correct? A. I think it was, yes, sir.

Q. These bodies that you saw on that evening, their heads were pointing away from the door, were they not? A. I couldn't tell you how they were pointed, because they were all in a pile.

Q. Were they not pointing towards the windows? A. There was some found near the windows, I think.

Q. I didn't ask you about that. You spoke of having found certain bodies after having got in the Washington place door on the ninth floor, and I understood you to say that the nearest one to the door was about ten or fifteen feet away from the door, in answer to Mr. Bostwick's question? A. Yes, sir.

Q. Now, I ask you whether it is the fact that the most of these bodies were pointing away from the door and toward the windows? A. Well, I couldn't tell you how the heads were.

Q. Do you know whether you correctly remembered that when Mr. Rubin was asking you about it? A. I don't remember saying how the heads were.

Q. You understand the question I am asking you, don't you? A. Yes, sir.

Q. I am not asking you what the fact is as to the way the heads were pointing, but I ask you whether you remembered it correctly at the time that Mr. Rubin asked you? A. (No answer).

MR. STEUER: That's all.

CHARLES E. KUHN (Hook and Ladder 20) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, you were connected with the Fire Department in the City of New York, and attached to Hook and Ladder No. 20, were you not? A. Yes, sir.

Q. And in that capacity you went to the fire at the corner of Washington place and Greene street? A. Yes, sir.

Q. And you were there under the command of Lieutenant Woll, and then subsequently of Lieutenant Lauth? A. Yes, sir.

Q. Was Lieutenant Woll there when you were there? A. Yes.

Q. And there were also in your company Ott, Stafford —
A. Yes, sir.

Q. Mance? A. Yes, sir.

Q. O'Connor? A. Yes, sir.

Q. Lauth? A. Yes, sir.

Q. Woll? A. Yes, sir.

BY THE COURT:

Q. In other words, there were six other men besides yourself in that company? A. I believe there was, Judge.

BY MR. BOSTWICK:

Q. After you got through the work downstairs you finally got to the ninth floor, did you not? A. Yes, sir.

Q. And when you got to the ninth floor you went up by the stairway, did you not?

A. Yes, sir.

Q. And you went through the door into the loft? A. Yes, sir.

Q. I show you People's Exhibit No. 13, which purports to be a picture of the landing on the ninth floor and the entrance to the loft, and I ask you, so far as you can remember, whether that substantially shows the condition of that doorway at the time you went into it? A. Yes, sir.

Q. Now, I show you a diagram (People's Exhibit 2) and also People's Exhibit No. 18; that corner in that picture corresponds to that corner on the diagram, this is Washington place, and this is Greene street running north and south? A. Yes.

Q. Is that clear to you? A. Clear to me, yes, sir.

Q. There is the Greene street to this building, the entrance on Greene street to this big building? A. We had nothing to do with that.

Q. And here is the entrance to Washington place? A. That is the place we went into.

Q. That is the place you came in? A. Yes, sir.

Q. And there were two elevators there? A. Yes, sir.

Q. And next to the elevators comes the stairway? A. Yes.

Q. And you went up that stairway to the ninth floor? A. Yes, sir.

Q. And you went through this door? A. Yes.

Q. Now, this door in the picture of that door there in the diagram (indicating on picture and diagram); you came through this door? A. Yes, sir.

Q. From the stairway — there is the stairway (indicating)? A. Yes, sir.

Q. There is the picture of the stairway, there is the diagram of it, and you came in this door? A. Yes.

Q. Now as you came in that door did you see any bodies? A. No.

Q. Were any bodies found there? A. Not until about ten or fifteen feet from the entrance into the door.

Q. Now, did you go on the eighth floor at all? A. Not to my knowledge, no.

Q. Did you go on the tenth floor? A. No, sir.

Q. Did you find any bodies on the tenth floor? A. No, sir.

Q. Any on the roof? A. No, sir.

Q. Any on the fire-escape? A. No, sir.

Q. About how many bodies would you say were found on the ninth floor, on the Washington place side? A. Average around from ten to fourteen.

Q. And were all the bodies which were found on the Washington place side by your company put in body bags and lowered by ropes to the Washington place sidewalk? A. Yes, sir.

Q. And none of the bodies were taken to the Greene street side? A. No, sir.

CROSS EXAMINATION BY MR. STEUER:

Q. You got into the building together with the other men of your company, did you not? A. Yes, sir.

Q. I really meant to ask you whether you got into the ninth floor loft together with the other men? A. Do you mean with out company?

Q. Yes. A. Yes, all together.

Q. The other men of your company? A. Yes.

Q. The men about whom Mr. Bostwick asked you? A. Yes; Lieutenant Lauth was in at that time when we was on the ninth floor, he was in charge.

Q. Did you see between the doorway that has been mentioned as the ninth floor doorway and these bodies that you spoke of any separate body, on your way to these bodies?

A. Well, the nearest body I have seen is from ten to fifteen feet.

Q. And that was one of the group that you had reference to? A. One of the group, yes.

Q. Now, at the time when you got up there there was no door to the ninth floor, was there? A. No, sir.

Q. There wasn't any part of a door left, was there? A. No, sir, only the frame work I seen on that photograph there, the

interior part of what is on the picture, the frame work of the door.

Q. But speaking of the door itself, I want to get that distinct, - there wasn't a shred or a vestige of that left? A. Not at that door itself, no.

Q. Every time that Mr. Bostwick asked you whether you got in through that door, of course you meant through the space where the door had been before the fire? A. Where the door was, yes.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. And you joined the Lieutenant and the other men a little later than some of the company, didn't you? A. Yes. On arrival of the alarm I was not in quarters, I went after the apparatus responded for the fire.

Q. And you don't know what fire companies had been up there, do you? A. No, I do not.

Q. And Mance was there ahead of you? A. Yes, sir.

ALLAN LANDRY (7th Precinct) called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, you were connected with the Chief Inspector's office, were you not? A. I was.

Q. And you were working at the Washington place fire on that evening? A. I was.

Q. And you were assisting Officer Kenseler? A. I was.

Q. And were you taking the descriptions of the various bodies that were lowered from the ninth floor? A. I was.

THE COURT: Ascertain what time he got to the premises.

Q. What time did you get there? A. About 4:50 p.m.

Q. And at what time were the first bodies lowered? A. Around eight o'clock, eight or nine o'clock.

BY THE COURT:

Q. On the evening of the same day? A. On the evening of the same day.

BY MR. BOSTWICK:

Q. Were all the bodies which were lowered on the Washington place side tagged on the Washington place side? A. They were.

Q. And put in boxes? A. They were.

Q. And removed by patrol wagons to the Morgue? A. They were.

(No cross examination.)

CHARLES KENSELER, called as a witness on behalf of the People, being first duly sworn, testifies as follow:

DIRECT EXAMINATION BY MR. BOSTWICK

Q. Did you go to the scene of the Washington place fire on March 25th, 1911? A. Yes, sir.

Q. What time did you get there? A. About 5:12 p.m.

BY THE COURT:

Q. You are an officer attached to the Municipal Police

force and you were on the 25th of March last? A. Yes, sir.

BY MR. BOSTWICK:

Q. About what time did they commence to lower the bodies from the Washington place building? A. Well, I was busy with the bodies which were on the street, and they lowered --

THE COURT: Strike out what he said. Answer the question.

Q. About what time did they commence to lower the bodies? A. About seven o'clock as near as I can remember.

Q. It was some time after 4:45 p. m.? A. Yes, sir.

Q. Were all the bodies which were lowered on the Washington place side tagged on the Washington place side? A. Yes, sir.

Q. And then they were taken in patrol wagons to the Morgue? A. Yes, sir.

Q. And the same is true of the bodies on the Greene street side? A. Yes, sir.

Q. And who assisted in that work besides you and Officer Landvoe? A. I had patrolmen Jahalka and Patrolman Taglianlo of the Second ~~~

BY THE COURT:

Q. When you say "tagged" what do you mean? A. I described a body and Patrolman Jahalka, who was a stenographer, took notes as I described the body; then Taglianlo put a tag on the body with a number to correspond to the description I had just called off to the stenographer.

Q. You caused the descriptions which you gave to your

stenographer, to be separately taken down and numbered? A. Yes.

Q. And then upon tags which were attached to the body were placed numbers corresponding to the different descriptions? A. Yes, sir.

MR. BOSTWICK: In view of the concessions I don't think we will call the Officers Taglianlo and Jahalka.

(No cross examination.)

DOMINIC HENRY (Captain Police Department, 16th Precinct), called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You were a captain of the Police Department on the 25th of March, 1911? A. Yes, sir.

Q. And as such you had charge of the bodies which were lowered from the 8th floor of the Washington place and Greene street building? A. Yes, sir.

Q. And all the bodies that were lowered were tagged by the police Department? A. Yes, sir.

Q. And a description taken by them, and then they were removed in the patrol wagons to the morgue t were they not? A. Yes, sir.

(No cross examination.)

CORNELIUS G. HAYES, called as a witness (4th Inspection District) being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You are an Inspector of the Police Department of the

City of New York, are you not? A. I am.

Q. Were you present on the 25th of March, 1911, at the building on Washington place and Greene street? A. I was.

Q. And did you have charge of all of the bodies that were lowered from the Washington place and Greene street side of that building? A. Not all, no.

Q. Well, on which side? A. All that came down on the Washington place side.

Q. Were all those bodies taken in charge by the police and tagged? A. They were.

Q. And then they were removed in patrol wagons in boxes to the Morgue? A. They were.

WILLIAM HOGAN, (Captain, First Precinct), called as

a witness on behalf of the People, being first duly sworn,

testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You were a captain of the Police Department on March 25th, 1911? A. Yes, sir.

Q. City of New York? A. Yes, sir.

Q. And you were in attendance at the Washington place and Greene street fire? A. Yes, sir.

Q. And you were one of three officers — that is, in connection with Cornelius G. Hayes, and Captain Dominic Henry, that attended to the tagging and removal of the bodies to the Morgue? A. Yes, sir.

Q. And all of the bodies that were —

MR. STEUER: What is the purpose of multiplying this evidence?

THE COURT: It will only take a moment to complete this.

MR. BOSTWICK: I can finish it by one.

MR. STEUER: All right.

Q. And all the bodies lowered from the Washington place or Greene street side of that building were tagged and removed to the Morgue? A. Well, most of them, yes, sir.

Q. Weren't they all? A. I was not there all the time. I went around on Greene street side afterwards and finished up there. That was a part of the time.

Q. Weren't all of the bodies that were lowered on the Greene street side kept on the Greene street side and tagged there? A. Yes, sir.

Q. And weren't they removed in patrol wagons to the Morgue? A. Yes, sir.

(No cross examination.)

JOHN W. O'CONNOR (Captain, 29th Precinct) called as a witness on behalf of the People,
being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Were all the bodies which were lowered and tagged at Washington place and Greene street brought in patrol wagons to the Morgue? A. They were.

Q. And did you receive them there? A. I did.

Q. And you turned them over to Mr. Fane? A. To whom?

Q. To the keeper of the Morgue? You left them in charge of Keeper Fane when you left there? A. No, I was in charge of them and delivered them to their relatives as they were claimed or as they came. They remained in my charge until they were claimed, and removed after identification.

Q. They remained in your charge until they were removed? A. Yes.

BY THE COURT:

Q. When you say removed you mean removed from the Morgue? A. Yes, sir.

IT IS CONCEDED on the record that there was only one Margaret Schwartz on the ninth floor of the building at the time in the employ of these defendants.

THE COURT: During the progress of this triad there is no objection to the exhibits remaining in the custody of the District Attorney's office rather than with the Clerk of the Part?

MR. STEUER: Not the slightest, your Honor.

THE COURT: Do you want to concede on the record anything respecting the apparent age of the deceased? That is to say, whether an adult or a child?

MR. STEUER: We have no record, your Honor, but I will make inquiry with relation to it and will stipulate with the district Attorney.

MR. BOSTWICK: I have had made a copy for defendants'

counsel and each member of the jury and for the court, for convenience, a useable sized diagram, which is a counterpart, a mineature, of the larger diagrams. If there is no objection on the part of counsel I will allow the jury to use them.

MR. STEUER: Suppose you let me go over those after adjournment this afternoon, Mr. Bostwick.

MR. BOSTWICK: Very good.

JAMES P. WHISKEMAN, recalled on behalf of the People, having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 25, marked for identification, which purports to be a picture of the southeast corner of the ninth floor of the building, at the corner of Washington place and Greene street. I ask you whether you saw that portion of the premises immediately after the fire, that is, within a day or two? A. Yes, sir.

Q. And I ask you whether you examined the tables and machines in that portion of the floor? A. I did.

Q. And I ask you whether you didn't take measurements from some of those tables and machines? A. Yes, sir, I did.

Q. I ask you whether that is an accurate representation of the condition of the tables and machines in the corner of the building when you saw it? A. It is.

MR. BOSTWICK: I now offer it in evidence.

MR. STEUER: Objected to on the ground that it is incompetent and clearly confusing and entirely inaccurate, as appears from the examination of the photographer.

THE COURT: I have looked at the picture. I have reached the opinion that it is not confusing. If the objection to its reception is pressed I shall feel constrained to sustain the objection. Do you press the objection?

MR. STEUER: I don't want to seem to be captious about it. If Mr. Bostwick really has a purpose that is important for his side of the case to have it introduced, I would prefer to have it introduced.

THE COURT: It is a couple of days after, and of course it is open to objection, but —

MR. STEUER: It is a week later.

THE COURT: No, he says about two days. This gentleman has now testified that that is a correct representation as of two days afterward.

MR. STEUER: I beg your Honor's pardon, I was referring to the stenographer.

MR. BOSTWICK: I only offer it because I think it gives the jury a more complete notion of what the machines looked like and the tables, than any amount of words.

THE COURT: Shall we take it for what it is worth?

MR. STEUER: I want to be frank with, your Honor, and say if I were looking at that picture — I don't know

how to take photographs, I should imagine that that was all in one place. I wouldn't ever imagine that that was an outside building.

THE COURT: Well, I certainly would not. But I leave it entirely to you. It is technically open to an objection, and if you press the objection I will sustain it.

MR. STEUER: No, I won't press any technical objection, but, your Honor, I might be permitted to explain, and I don't care whether it is at this time or at any other proper time —

THE COURT: Yes, the jury will now be told in connection with that picture, by way of explanation, that the portions which are white, or about white, in the upper part of the picture, represent window openings. That that which is seen between the dark upright lines surrounding those white portions are objects not within the loft but outside of the loft, being portions of a building on the opposite side of the street from the loft in question, and portions of buildings still further removed. Does that cover it?

MR. STEUER: Yes, sir.

(The photograph is now received in evidence and marked People's Exhibit 25.)

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 19, which is a picture

of the roof, and I ask you what these two skylights are over, if you know? A. I know, yes, sir.

Q. Is one of them over the stairway and the other over the elevators? A. Yes, sir.

Q. And that is Washington place? A. Washington place, yes.

Q. There has been some doubt or confusion in somebody's mind as to whether there were skylights over the stairway ~-

MR. STEUER: It was not mine.

MR. BOSTWICK: That's all for the present.

CROSS EXAMINATION BY MR. STEUER:

Q. I wish you would point out to the jury and mark which is the skylight that is over the Washington place stairway. Just put a mark there so everybody can see it ~ mark right above it.

THE COURT: Yes, with your initials. (Witness marks as requested.)

MR. STEUER: That's all.

IT IS CONCEDED on the record that Margaret Schwartz was an adult, twenty-four years of age, and at the time of the fire in good health.

CARMELLA INGEGENO, called as a witness on behalf
of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 521 Atlantic avenue, Brooklyn.

THE COURT: Madam, there are two or three things I
want to impress upon you, when a question is asked you by either the District Attorney or the
attorney for the defendants, be sure that you understand the question before you answer it, and if
you don't understand the question, say so, and when you do answer the question try and speak
so that all the gentlemen who are in the jury box hear you. Will you do that?

THE WITNESS: Yes, sir.

Q. You were in the employ of Harris and Blanck on the 25th day of March, 1911, were
you? A. Yes.

Q. You worked as an operator, did you not? A. Yes.

Q. And you worked on what floor? A. Eighth.

Q. Were you present at 4:45, that is, quarter to five o'clock on Saturday, March 25th,
1911? A. Yes.

Q. Where were you when the bell sounded to quit work? A. At my machine.

Q. And where was your machine? A. On the third row, near Washington place side.

Q. Was it the first table of machines? A. First table.

BY THE COURT:

Q. What floor, did you say? A. The eighth.

BY MR. BOSTWICK:

Q. I show you People's Exhibit 1; where I am pointing are the passenger elevators, do
you see? A. Yes.

Q. There is a passenger elevator and there is a passenger elevator? A. Yes.

Q. And here is a stairway, and then come dressing rooms? A. Yes.

Q. And then comes toilet room? A. Yes.

Q. And then more toilet rooms? A. Yes.

Q. And there were rows of machines. Now, on the 8th floor there were five rows of machines were there not? A. Yes.

Q. Toward the Greene street side in here there were no machines were there? A. No.

MR. BOSTWICK: That was indicating the blank space marked "Cutting tables".

Q. What was in here? A. Cutting tables.

Q. And were there any tables over here? A. There were two cutter's tables.

Q. Over by the fire-escape? A. Yes.

MR. BOSTWICK: Indicating blank space between the fire-escape and the end of the machines where the words "Cutting tables" appear on Exhibit 1.

Q. You say you worked at this row of machines? A. Yes, on the first row.

Q. Can you tell exactly how many cutting tables there were there? A. No, I can't; I never looked.

Q. What is the first thing that you heard? A. I saw myself a little smoke; I didn't heard anything.

Q. You were at this row of machines? A. Yes, sir.

Q. Were you looking at Greene street? A. No. I was with my face on the Washington place side.

Q. You had your face toward the Washington place side toward the dressing room? A. Yes, and when the smoke was I was with the eyes on the Greene street —

BY THE COURT:

Q. As you were working at that machine, did you work standing at it or sitting?

A. Sitting.

Q. That is to say, you were sitting in a chair? A. A chair, yes.

Q. (Continuing) Which was on the Greene street side of the table nearest the dressing rooms? A. Yes, sir.

Q. You were facing the dressing rooms? A. Yes.

Q. Now, about how close to Washington place was your chair? A. Well, like that here on this side I was sitting and there was the other place (indicating on diagram).

Q. You were sitting rather nearer — A. Just in front of my eyes the dressing rooms.

Q. You were right opposite the dressing room? A. Right.

Q. Opposite the door going into the dressing room from the left? A. Yes.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 25, and ask you if the tables were like those in the picture, and did they have machines on them like the machines in that picture? A.

The space of the machines?

Q. Did they have tables like that? A. Yes.

Q. And did they have machines on them like that? A. Yes.

Q. And this was a row of tables like that? A. Yes.

Q. And they had machines on both sides? A. Yes.

Q. And in the middle? A. They was about just like that.

Q. I don't know what you call it — A. I don't know myself. We put the work in when we work.

Q. A. trough? A. That was a space, yes.

Q. In which the work was put? A. Yes.

BY THE COURT:

Q. Did those tables come up close against each other? I mean to say, you take that line of tables that is nearest the dressing room, did one table touch the other table? A. All was a straight table.

Q. It was one table? A. One table, yes.

Q. One long table? A. One long table.

Q. Did they have machines on each? A. Machine on each, sure.

Q. You say there was more than one machine upon that long table? A. There were a lot of machines on it. I don't know how many, I never counted.

Q. You didn't count how many, but there were a number of machines on that table? A.

(No answer).

BY MR. BOSTWICK:

Q. Did each operator have a machine? A. Yes.

BY THE COURT:

Q. And how many operators were at that table? A. I don't know.

Q. About how many? A. I never counted, I never saw anything because I never counted.

BY MR. BOSTWICK:

Q. There were cutter's tables, you say, over here? A. Yes.

Q. There is the Greene street elevator? A. Yes.

Q. In front of that elevator there was a partition, was there not? A. Yes.

Q. Now, where did the fire start? A. Just on the corner where the cutter's table and the partition is.

Q. Near the partition? A. Yes.

Q. And by the cutter's table? A. Yes.

Q. Was it the first or the second or the third, or what cutter's table, counting from Greene street as No. 1, 2 or 3? A. Well, I can't tell you how far it was. I can just tell you it was just on the corner of the cutting table and the- ~~

Q. It was near the cutter's table? A. Yes.

Q. And near the partition? A. Yes.

Q. Was it near the Greene street windows? A. Not so near, right near the door, almost near the door.

Q. Was it this side of the partition? A. Yes.

Q. What did you see anybody do?

THE COURT: "This side" won't mean anything for the record.

MR. BOSTWICK: I will make that clear by another witness, your Honor.

Q. So the fire started first, you think in this portion of the loft?

THE COURT: Make a mark about where you think it

started.

A. This is the partition, this is the cutting table, and the fire started here on the corner.

THE COURT: You make a mark where you think the fire started.

Q. It is beyond the Greene street windows there? A. Yes, this is the door.

Q. That is the Greene street door? A. Yes.

Q. And this is the partition? A. Yes.

Q. And there is the post? A. Yes. It was this way (witness marking on diagram and putting her initials near her mark.)

Q. Did you see anybody do anything to put out the fire? A. Yes.

Q. What did you see them do? A. I saw a man with a pail of water throw it on.

Q. Do you know who the man was? A. No.

Q. Did you see any other persons try and put out that fire? A. No. Well ~

Q. What did you do? A. What I do? I rush out.

Q. You were standing by your machine, were you not? A. Yes.

Q. So you first saw there was fire by the cutter's table, over on the Greene street side of the building? A. I was with my back on the machine, I was putting my hat on when I saw smoke.

Q. When you saw this small fire that you speak of, where did you go, what did you do?

A. I rushed to the elevator, Washington place.

Q. You rushed to the Washington place elevator? A. Yes, sir, and I ring it and nobody come up, and then the machinist run and open the door and we all come down.

Q. That was the Washington place door on the eighth floor? A. Yes, sir.

Q. Did you see Brown, the machinist, open the door? A. Yes, he says, "I will open the door, girls".

Q. Now, there were other girls around that door? A. Yes.

Q. What were they doing? A. Trying to open it.

MR. STEUER: I object to that as incompetent, immaterial and irrelevant.

THE COURT: Objection sustained. She passed out of the Washington place door on the eighth loft.

BY THE COURT:

Q. You went from where you were standing or sitting at this table, upon which there was a machine to the door leading to the eighth floor to the Washington place entrance, and you went out of that door, isn't that so? A. Yes, I went out of that.

Q. And down the stairs? A. And down the stairs.

Q. And out of the Washington place door on the ground floor? A. Ground floor.

MR. STEUER: No cross examination, but I will ask

you as a favor to have her where she might be available at some time if I should need her. I have no questions at this time

BY THE COURT:

Q. About how many persons were working at the same table that you were working at?

A. Well, I can't tell you because I never counted.

Q. You can't give me the exact number? A. No.

Q. About how many persons were working on the side of the table that you were working on? A. No, I can't never say anything because I never counted them.

Q. Were the people who were working at that table men or women or both? A. All women.

Q. Were the people who were working at the other table on that floor, and I am not speaking now of the cutters' tables, men or women? A. They were all women, and a couple of men were there.

Q. Were there any men upon that floor at the time that you say that you saw the fire except the man whom you say poured water on it? A. I don't know. You know when you see flames you don't know what to do, you don't look around for that, you want to save yourself and go down. You don't know anything.

Q. About how long had you been working there? A. Seventeen months.

Q. In that loft before that day? A. I worked seventeen

months in there.

Q. Did you know by sight or name Margaret Schwartz? A. No; she worked on the ninth floor.

THE COURT: Strike out all after "No".

BY MR. BOSTWICK:

Q. Whom do you work for now? A. Nobody. I just found a job last week.

Q. Did you work for Harris and Blanck after the fire? A. No, I was sick after that.

Q. Now, you may be wanted here again, and if you get word to come, you want to come promptly –

BY THE COURT:

Q. What is your house address? A. 521 Atlantic avenue, Brooklyn.

Q. And on what floor do you live? A. First floor.

Q. What is the name of the person with whom you live? A. My brother, Joe Ingegeno.

Q. Where does he work? A. He has got a barbershop down where I live.

Q. In the same building? A. Yes.

WILLIAM BERNSTEIN, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. What is your address? A. 228 East 6th street.

Q. By whom were you employed on the 25th of March, 1911? A. By the Triangle Waist Company, Harris and Blanck.

Q. And you are still in their employ, are you not? A. Still employed.

Q. Employed there now? A. Yes, I am still there.

Q. On what floor were you working on Saturday afternoon? A. On the eighth floor.

Q. What part of this room were you working in on that day? A. Where the fire-escapes were.

Q. Were there any cutters' tables near the fire-escapes? A. Two cutters' tables.

Q. I show you a diagram of the eighth floor, (Peoples Exhibit 1), here are the cutters tables (indicating on diagram)? A. Yes.

Q. And the machines are here near the Washington place side? A. Yes.

Q. And there were cutting tables near the fire-escape? A. Yes, sir.

Q. How many cutting tables here? A. Two.

Q. How long were they? A. Well, I don't know exactly how long they were.

BY THE COURT:

Q. By comparing them with these tables — A. About three times as big, or four times.

BY MR. BOSTWICK:

Q. Three or four times as long as this table (indicating table of District Attorney in court room) A. Yes, sir.

Q. How near to the windows looking out into the school

court did they come? A. What do you mean by looking out?

Q. You know these windows here all look out into the University? A. Yes, sir.

Q. Do you know the toilet? A. Yes, sir.

Q. Do you know there are three windows right next to the toilet? A. Yes, sir.

Q. Then comes the corner of the room? A. Yes, sir.

Q. That is the corner of the room (indicating) A. Yes.

Q. And there are the toilets. Now, how near this wall or these windows did the end of the cutting table come? A. About four, five or six yards, say something like it.

Q. Some distance away? A. Some distance away, yes, sir.

Q. And how far down there did they go? A. As far as to the clock.

Q. And where was the clock? A. Near the door.

Q. How near to the door? A. Well, a few feet away from the clock.

Q. And the clock was how far away from the door? A. I don't know exactly how long. I know it was near the door.

Q. So these cutting tables are situated in here. A. Yes.

Q. That is, they were parallel with the fire-escape and occupied the space marked "Cutting tables"? A. Yes.

THE COURT: I suggest for the sake of accuracy, that some statement be written out descriptive of the —

MR. STEUER: I understand Mr. Blanck gave Mr. Bostwick a statement some time ago. I didn't know about that

until Mr. Bostwick just told me.

THE COURT: A. general description of the —

MR. BOSTWICK: Well, I will try to build that up.

BY MR. BOSTWICK:

Q. Now, tell us where you were about 4:45 on that afternoon? A. I was around the Greene street side where I kept my clothes.

Q. Now show us where you kept your clothes? A. By the second window.

Q. There was a wooden partition here, was there not? A. Yes, sir, after the wooden partition.

Q. And your clothes were kept on this side? A. No, sir, but on the wall from the Greene street side.

Q. Show us where they were kept? A. Somewhere about here.

Q. On the wall, hanging on the wall? A. Yes, sir.

Q. On the Greene street side? A. Yes, sir.

BY THE COURT:

Q. Between the second and third windows starting from the partition, is that so? A. Yes, sir.

Q. Don't say yes unless you mean it? A. I say everything I mean.

Q. Well, between the second and third windows? A. Yes,

Q. Is that where you hung them? A. That is where I hang them.

BY MR. BOSTWICK:

Q. And had the bell sounded? A. Positive.

Q. The bell had just sounded? A. That happened three minutes after. When I went to put my coat, it was after the bell rang.

Q. And where did you first see the fire? A. I happened to put my coat on when I was there with six or seven cutters, when somebody hollered out "Fire!", and near the window there were a few pails of water and I grabbed a pail of water and spilled it on the fire, and I couldn't make it out, because the rags on the table caught fire. I went around the partition to get more water and when I wanted to go back the door was blocked with people going down the stairs, so I left everything stand and go out.

Q. When you first saw that fire was it near the end of the first or the second cutter's table? A. Between the first and second.

Q. And was it near this partition (indicating a partition in front of freight elevators)?
A. A few yards away.

Q. Was it near the Greene street windows? A. Yes.

Q. Now, make a mark, imagine that there are five cutting tables in there? A. Well, --

Q. And that the first one is there and the second one there, and the third, fourth and fifth --- A. Between the second and the first one, -- the first and second row.

Q. Between the first and second cutters' tables? A. Yes.

Q. At the end near the wood partition in front of the freight elevators? A.
About a yard or to away from the

partition.

Q. And near the Greene street windows? A. Near the street windows.

Q. Did you put water from the pails? A. Yes, sir.

Q. Could you see whether that fire was on the floor or underneath the cutters' tables? A. On the floor.

Q. Now, what was there on the floor? A. A few rags burning.

Q. Underneath the cutters' tables what was kept? A. Rags.

Q. Everything that was cut from the rags — A. Would be thrown under the table.

Q. Do they have bins underneath the cutters' tables? A. I don't know what you mean by bins.

Q. Did they have a place to hold these rags? A. Just under the table.

Q. That is what I mean when I say a bin. A. Yes.

Q. And as these cuttings came off the cutters would put them underneath the table?
A. Yes, under the tables.

Q. The fire when you first saw it was on the floor? A. On the floor.

Q. And did it go to the stuff in the bin? A. It got right afire, yes.

Q. And then what happened? A. The fire spread all under the tables.

Q. And then you ran out around the partition to get some water? A. first I go here near the partition, first I spilled a pail of water on it; so did some more cutters, then I went

around the partition to get some more water.

BY THE COURT:

Q. You were in the act of putting on your coat? A. Yes.

Q. And your coat was hanging on the partition? A. No, not on the partition.

Q. Right on the wall between the second and third windows on the Greene street side?

A. Yes.

Q. You went and you got a pail? A. A pail of water.

Q. Where did you find the pail? A. Near the windows.

Q. And when you say the windows, which windows? A. On the second window.

Q. Which side of the building? A. Greene street side.

Q. At the time that you got the pail did you find the pail empty or anything in it? A.

Full of water.

Q. What did you do with that pail of water? A. I spilled it on the fire.

Q. About how far did you have to go from the place where the pail was to the place where the fire was burning? A. About two yards away.

Q. After you had entitled that pail of water what was the next thing you did? A. I went to get some more water around the partition, I got hold of a pail, and when I wanted to go in the doorway the door was blocked with people going down.

Q. Where did you go for the water? A. Around the partition.

Q. When you say the partition you mean the partition separating what? A.

Between the elevator and the cutting tables.

BY MR. BOSTWICK:

Q. You mean the freight elevators? A. The freight elevators, sure, on the Greene street side.

BY THE COURT:

Q. You started to go out in the hall? A. Not not in the hall, but in the same room, I wanted to go back again with the water and I was blocked, the people were rushing out at that time, and I left the water standing and I went down the stairs.

BY MR. BOSTWICK:

Q. You didn't have your hat and coat when you went downstairs? A. No.

Q. So you had not got your hat and coat? A. No.

BY THE COURT:

Q. How long had you been working in that loft? A. One or two months.

BY MR. BOSTWICK:

Q. You were out the Greene street stairway? A. Yes, sir.

Q. Was there any smoke in the stairway at this time? A. No, it was only the beginning of the fire.

Q. Did you find anybody on the stairs going down? A. Plenty of people going down.

Q. Did you see people coming down from the ninth floor? A. Yes, sir.

BY THE TENTH JUROR:

Q. Did the people know from the ninth floor that the fire

started on the eighth floor? A. They telephoned, and somebody went up to give an alarm.

BY MR. BOSTWICK:

Q. State that if you know? A. Positively, sure.

MR. STEUER: May I ask your Honor to inform the juror that neither side means any discourtesy, but —

THE COURT: Mr. Juror, we can only ask questions to bring out competent evidence, and that doubtless will be brought out, but it cannot be given by this witness.

Q. Do you know whether they knew on the ninth floor that there was a fire?

Objected to. Objection sustained.

A. Of course I didn't go up to tell the people but there were people going up.

BY THE COURT:

Q. You didn't go up to the ninth floor yourself? A. No, sir, I went right down.

Q. Can you tell us how many people were working on the eighth floor at the time when you first saw the fire? A. I believe all the people was working that time.

Q. Can you tell us the number of people who were working on that floor at the time when you first saw the fire? A. I can't tell exactly, but over two hundred people.

Q. And of the two hundred do you know how many were men? A. No, your Honor, I can't tell you.

BY MR. BOSTWICK:

Q. What do you do now? A. Still working for the same firm.

Q. Well, what do you do? A. Still working as a cutter.

LOUIS LEVY, called as a witness on behalf of the People, being first duly sworn, testifies as follows.

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 725 Fairmount place, Bronx.

Q. Did you bring any of your books with you? A. No, I didn't. I have got a copy of the books.

Q. What is your business? A. Paper maker's supplies, or, in other words, rag business.

Q. Did you purchase rags from Harris and Blanck? A. I did.

Q. And how long had you been purchasing rags from Harris and Blanck? A. Several years.

Q. Several years? A. About three or four years, I believe.

Q. And you are still doing that business with them? A. I am.

Q. When was the last time that you removed rags from the Triangle Waist Company prior to March the 25th 1911?

MR. STEUER: Objected to as incompetent, immaterial, and irrelevant.

Objection overruled. Exception.

A. I removed some stock on February 20th.

Q. I said rags? A. On January 15th.

Q. Was that a Sunday? A. Well, we packed it on Sunday, we removed it Monday.

Q. And on January 15th, 1911, was the last time that you

removed any rags from the Triangle Waist Company? A. Yes, sir.

Q. Do you know whether that came from the eighth floor or the ninth floor? A. Well, the bulk was from the eighth.

Q. And do you know how many pounds it amounted to? A. I do, sir.

Q. Was it as much as a ton?

MR. STEUER: Objected to as incompetent, immaterial and irrelerant.

THE COURT: Well, I think I will receive it.

MR. STEUER: Exception.

A. About a ton.

Q. Exactly, it was how many pounds? A. 2,252.

Q. 2,251 or 2,252? A. 2,252.

Q. On February the 20th you bought some remnants, did you not? A. Yes, sir.

Q. But those were not the cuttings which went underneath the cutters' table? A. They were not.

Q. On January 16th did you pay for the rags that you had gotten on January 15th?

A. I did.

Q. And other than the payment for the remnants did you make any payment to Harris and Blanck for any rags taken between January the 15th, 1911, and March 25th, 1911? A. For rags? I did not.

Q. When prior to January 15th was the last time that you had taken rags? A. January 8th, but I am not very positive if it was the Triangle or of the other place.

Objected to. Question withdrawn.

Q. At this time, that is January 15th, 1911, whom did you have in your employ? A. My employ, packing the rags, or in my employ.

Q. In your employ in packing the rags, who could have packed rags at the Triangle Waist Company? A. Do you want me to name the man?

Q. Yes. A. Fingeruth.

Q. Harry Fingeruth? A. A. Goldberg.

Q. Aaron Goldberg. A. Sam Rappaport, Samuel Gondelman.

Q. And Meyer Cohen? A. Correct, Meyer Cohen.

Q. Have you any memorandum or any recollection as to which of those persons were engaged in the removal of the rags on January 15th or the 16th, 1911? A. I can't say positively. I haven't kept no record of whom I sent yo pack.

Q. But it was all or some of those men? A. They were.

Q. You didn't take the sweepings from the operating table, did you? A. I did not.

Q. And all you took were the rags that went under the cutters' tables? A. Yes,

CROSS EXAMINATION BY MR. STEUER:

Q. How many years have you been buying these rags as you call them? A. From the Triangle?

Q. Yes. A. Three or four years, I believe, even five.

Q. Have you a record of all the purchases that you made from them? A. I have.

Q. But you did not bring the record with you prior to the 15th of January, is that the idea?

THE COURT: He has not brought the record at all.

Q. Well, a copy of the record? A. I want to say something. If I am allowed I will explain now.

THE COURT: No.

Q. (Question repeated by the stenographer as follows:) But you did not bring the record with you prior to the 15th of January, is that the idea? A. I did.

Q. Mr. Bostwick, I understood, asked you before, when prior to the 15th of January you had removed rags from the Triangle Waist Company, and you said you could not say, he says? A. I meant to say I couldn't say if I took it out of the International or of the Triangle. I made out checks to the order of the Triangle Waist Company, so in the books we have the Triangle Waist a week prior.

Q. You mean to tell the jury you might have removed from the place of business of the International Waist Company, the rags for which you made your check payable to the order of the Triangle Waist Company; is that what you mean to say? A. Yes, sir.

Q. Well, are we to understand that the way you fix your dates of the removal of rags is by the dates upon your checks? A. Yes, sir, correct.

Q. What method have you of identifying a removal on the 15th of January, any better than you have a removal on any prior date? A. I didn't quite understand that.

Q. (Question repeated) No particular method.

Q. Well, how do you distinguish then the removal on the 15th of January as being one from the premises occupied by these people in Washington place, from any other removal from the premises occupied by them in their business of the International Waist Company? A. I don't make any distinction in the books.

Q. Well, are you prepared to say then that the removal of these rags on the 15th of January, of 2252 pounds was from the place of business at Washington place and Greene streets? A. This I could.

Q. That is what I asked, how do you distinguish that.

THE COURT: How do you happen to know that? A. Not by books but just by memory of which I am positive.

Q. In other words, you have an independent recollection on that subject, is that so? A.

Yes, sir.

BY MR. STEUER:

Q. Did you do the removing? A. Personally?

Q. Yes. A. I supervised it.

Q. Did you supervise the removal that was made last prior to that time? A. I might have.

Q. Well, do you recall? A. Not exactly. Sometimes I would and other times I would not.

Q. The only independent recollection that you have is of that one occurrence? A. I have a recollection of a good many others besides that one.

Q. Was 2252 pounds a usual amount to remove? A. It was not.

Q. And you want to tell the jury — if you do just come right out with it -- that at other times you removed smaller or larger amounts; which is it? A. Well, there were times I used to remove less and other times more, I got an accumulation.

Q. Who tells the time for you to come and make your removal? A. A man that had charge of the Triangle Waists, of the rag business.

Q. Who was the man? A. Mr. Alter.

Q. And you got your communication from Mr. Alter? A. I do.

Q. When to come to make the removal, is that right? A. Yes, sir.

Q. Well, now, these rags that you removed they were cuttings from the cutting table, were they not? A. They were.

Q. And they were the cuttings from the eighth floor, were they not? A. Yes, sir.

Q. You didn't ever remove anything from the ninth floor, did you? A. Wherever the cutting tables were.

Q. Don't you even know where the cutting tables are? A. Eighth and tenth, I believe.

Q. Will you tell this jury that you ever removed anything from the tenth floor? A. We did.

Q. What did you remove from the tenth floor? A. Cuttings from the cutting tables.

Q. You know there were no cutting tables on the ninth floor, don't you? A. I do.

Q. And you know there were no cuttings to be removed from

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Witness.	Direct. Cross. re-D. Be~C.
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JAMKS P. IHISKEMAK,	23 49 65
OTTO E. SCHUXTZE,	65
HArOLD L. COX,	66 72
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DAbIII C. DOIJOHUE,	30 84
EDVAHD G. WOrTH,	84 96

EffbEX.

\H.tne as.	Direct. -Cross. rc-b. re-C.		
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the ninth floor? A. Yes.

THE COURT: I think we will suspend now, Mr. Steuer. Gentlemen, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon until the same is submitted to you. You are not to talk to anybody about the case or let anybody talk with you about the case. You are not to visit the premises where the occurrence is said to have taken place.

I may say to you, Gentlemen, because it may be a matter of convenience for you to know, that to-morrow we will adjourn at four o'clock. You are excused now. The Court stands adjourned until tomorrow morning at half past ten o'clock.

(Adjourned to Friday, December 8, 1911, at 10:30 a.m.)

Last Exhibit:

People's 25.

New York, December 8th, 1911.

TRIAL RESUMED.

LOUIS LEVY, resumes the stand and further testifies:

CROSS EXAMINATION BY MR. STEUER (Continued.)

Q. You testified yesterday that on the 15th of January — I think you said the 15th of January — 1911, you took from the eighth and tenth floors, occupied by the defendants here as the Triangle Waist Company, in the Washington place and Greene street premises, 2252 pounds of what you styled rags? A. Yes, sir.

MR. BOSTWICK: Just a moment. My recollection was — I don't know what your Honor's may be — that it was from the eighth floor.

MR. STEUER: On the contrary, I thought that and I asked him if that was not the fact.

THE COURT: My recollection is —

MR. STEUER: well, we can ask him; isn't that the best way.

THE COURT: Yes. He said he had been on the tenth floor, but I am not sure whether he said he took the rags from the tenth, floor. You may ask him.

BY MR. STEUER:

Q. I will withdraw it. I say be in error.

Q. Will you please tell the jury where, what you call rags, came from? A. When, on the 15th?

Q. Yes, sir. A. It came from the eighth ~ the bulk of

the rags rather was from the eight floor, and some rags from the tenth.

Q. I want you to be good enough to look at these clippings of offings of rags, or whatever you see fit to call them, it doesn't make any difference —

THE COURT: Mark them Defendant's Exhibit A for identification. (So marked)

Q. (Continuing) And tell the jury whether in a general way those are the kind of goods, the material that is, that you took on the 15th of January, 1911, from the premises of these defendants, described in the last question? A. Well, this is about the general sort of cuttings, smaller and larger.

Q. You told the jury that on the 20th of February you took from these same premises what you styled as "remnants"? A. I did

Q. Do you remember that? A. I do.

Q. Will you be good enough to tell the jury what in pounds was the weight of the goods that you called remnants and which you took from these premises on the 20th of February? A. The weight, I presume, was about a thousand pounds, about.

Q. On the 20th of February did you take all that there was in the bins on the eighth and tenth floors of the premises occupied by these defendants? A. They were not in bins, they were in cases.

Q. Well, did you take all that was there in the cases? A. I did.

Q. So that you took all the clippings or offings on the 20th of February, 1910, that were there from the 15th of January, and you called them remnants?

Objected to. Objection sustained. Exception.

MR. STEUER: May I inquire why, your Honor?

THE COURT: Because this witness would not be competent to testify to that point manifestly. He don't know but that there may have been half a dozen other different other concerns moving things.

MR. STEUER: I see your Honor's point and I think that it is entirely correct, and I beg your pardon.

Q. Did you take all that were there on the 20th of February? A. I took cases and all.

Q. You took even the cases. Now, I ask you if these were the character of goods that you took on the 20th of February?

(Sample just referred to in Mr. Steuer's question is marked for identification Defendant's Exhibit B.) A. It was embroidered pieces.

Q. Were they of the different designs, but the character of goods the same as those you have in your hand?

MR. STEUER: There is no point made of the question of design, I assume, your Honor.

Q. Look over there and see whether those are the goods? A. Well, I won't say exactly about the shades, but that was about the nature of the goods.

BY THE COURT:

Q. In other words, the distinction, as I understand you,

practically that you draw between what you call rags on the one hand, and remnants on the other is that in the case of what you call remnants there appears to have been some work done on the material, and in the case of rags there has been no work at all; is that it? A. Well, there was others. There may be some work on it where it would have no value for remnants, and if there is some embroidery that could be used for some purpose better than rags.

Q. Wherever you found embroidery or work on a piece of goods, you called that a remnant, and where you found none at all, you called it a rag, is that it? A. It all depends how I bought it, your Honor.

BY MR. STEUER:

Q. Well, we are not particular about what you call it. Will you please tell this jury whether it is the fact that on the 20th of February, what you got were pieces of goods of the size and character that I am now showing you?

THE COURT: And those are Defendants' Exhibit B for identification.

A. They were.

MR. STEUER: These, your Honor, are different designs --

THE COURT: But the substantial point is, what he got on the 20th were pieces of work on which some work had been done as distinguished from pieces upon which no work had been done. Is that it?

MR. STEUER: I don't think so. It seems to me that

whether they could be used for one purpose or another is whether he classified them one way or the other, as to whether he could make different uses of them. The point is that these goods that were given him from January 15th to February 20th are what they call in the business —

MR. BOSTWICK: I object to the statement. I think a question should be put to the witness.

Q. Do you know what these goods are called in the shirtwaist business (referring to defendants' Exhibit B for identification)? A. Some call it rags, others would call it remnants.

THE COURT: He don't know in the trade.

Q. Did you say that between the 15th day of January, 1911, and the 20th day of February 1911 — do you know whether in the premises of the defendant there were any other kind of goods cut, except as are indicated by the defendants. Exhibit B for identification?

MR. BOSTWICK: I ask that the witness say yes or no.

MR. STEUER: That is all I asked. I asked him if he knows.

THE COURT: Yes, yes or no.

A. I don't know.

Q. You have been in the business place of these defendants many times have you not?

A. I have.

Q. And when you removed what you call the rags or remnants— I don't care either or which — from the premises if these

defendants, you saw the floor themselves, did you not? A. I did.

Q. The floors on which the work was done, and on which the cutting was done?

A. I did.

Q. I want you to tell this jury how these clippings or offings, or cutting or rags or remnants, whichever you call them were taken care of by the defendants?

THE COURT: You are making him your own witness in that respect.

MR. STEUER: I am, your Honor.

THE COURT: You may go ahead, though.

A. On the eighth floor where we took the cuttings was about eight cutting tables, six on the Washington -- Greene street side, rather, and two on the north side of the building; they were in bins, kept underneath the cutting tables, which I considered kept clean -- they were kept clean.

MR. BOSTWICK: I ask that that part of the answer be stricken out, - "which I considered kept clean -- they were kept clean".

THE COURT: Yes, "they were kept clean" is stricken out.

Q. Were they in the bins when you took the offings or clippings, or were they on the floor? A. They were in bins underneath the cutting table.

Q. How were the floors themselves kept, whenever you were there? How did they appear, rather, whenever you were there? A. They were clean, the cutting tables.

Q. Have you been to other shirtwaist factories in the

City of New York? A. Certainly I have been.

Q. Do you purchase material of the same kind from other shirtwaist manufacturers in the City of New York? A. I do.

Q. Is it at all extraordinary to take from a place of business or factory the size of that which was conducted by Harris and Blanck, 2252 pounds of offings or remnants or clippings or cuttings at one time?

Objected to. Objection overruled.

A. Nothing unusual.

BY THE COURT:

Q. On how many different occasions did you personally go to the lofts occupied by these defendants on the corner of Greene street and Washington place? A. About the time —

Q. About how many time? A. Altogether your Honor?

Q. That is what it means? A. Well, I couldn't say — quite a number of times.

Q. What is your best recollection? A. I wouldn't say exactly. It might have been --

Q. About how many times? A. It has been about twenty-five to forty times. I don't know exactly.

Q. And that is covering a period of about how long? A. Of about three years, I presume.

Q. What is your best recollection as to the number of times that you visited any one of those lofts during the year from March 25th, 1910, to March 25th, 1911? A. Well, I would say about six times.

Q. Now, directing your attention to the date, January 15th, were you personally on those premises that day, January 15th, 1911? A. I was.

Q. What is your best recollection as to the length of time that you were on those premises at that time? A. About two months —

Q. No, I mean to say the length of time that you remained in those lofts, or in any one of them on the 15th day of January 1911? How many minutes or hours? A. Your Honor, they were packed on Sundays.

Q. I am not asking you that. A. But I wish to explain.

Q. You were there on January 15th, 1911, in those lofts, is that so? A. It must have been the 14th. I have got in my books the time when I paid the check.

Q. You say now it was the 14th of January? A. Sunday.

Q. How long were you then in those lofts on January 14th, 1911? A. About four hours.

Q. Getting there about what time and leaving there about what time? A. Getting there about eight o'clock.

Q. Morning or evening? A. Morning, and leaving about twelve o'clock.

Q. Now, take People's Exhibit 1; that which is now before you purports to be a diagram of the eighth floor of those premises; do you recognize it as such? A. That would be about right.

Q. You do recognize it, do you? A. Yes, but there were

more tables there.

Q. Do I understand you to say on that occasion, January 14th, you found the substances that you took away already contained in cases?

MR. BOSTWICK: That was the remnants of February 20th.

MR. STEUER: January 14th they were in bins, and they put them in bags.

THE COURT: I beg your pardon.

Q. Where were the bins from which you took the stuff on January 14th? A. On the eight floor.

Q. You have got the diagram there of the eighth floor. What part? A. On the northwest corner of the building where the tables were.

Q. Those bins with respect to the cutting tables, were located where? A. The northwest corner of the loft.

Q. What I mean to say is —

MR. STEUER: He has got the direction wrong. I think we had better tell him this is west, that is south, that is east over there, and this is north (indicating and pointing on diagram.) So that would be the southeast, don't you see.

BY MR. STEUER:

Q. Put yourself looking this way, over here; put yourself on that wall —

THE COURT: You are looking uptown, then.

Q. We have been treating that as the Washington street

side of the building, you see (indicating on diagram)? A. Yes.

Q. And the Washington place side of their loft was the south side of their loft, and if you stand here and look over this way you would be looking uptown, do you understand? A. Yes.

Q. Well, now, there is Greene street where you have got your hand? A. Yes.

Q. And Greene street is the easterly wall, or the Greene street wall is the easterly wall of that building, so that putting those cutting tables where the words "cutting tables" appear on this chart, you are in the southeasterly part of their loft; Greene street being the easterly part and Washington place being the southerly part. Now, that we are all agreed upon in this case, so you might take that to be correct wheat you are answering the Judge's questions.

MR. STEUER: That is right, isn't it, Mr. Bostwick?

MR. BOSTWICK: Yes.

BY THE COURT:

Q. Now, with respect to the cutting tables, where were the bins? Or, possibly to put it plainly, how close to the cutting tables were the bins? Was there a bin attached to the cutting table? A. Underneath the cutting table, with boards alongside of it.

Q. And when you speak of a bin, what do you mean? A. It is a table underneath a cutting table, where it has boards nailed onto the table.

Q. And the substances that you took away on January 14th were contained in such bins, is that so? A. Yes, sir.

MR. STEUER: I would like him to make that clear, your Honor as to the bin.

THE COURT: It is not entirely plain, but perhaps some other witness will make it so.

MR. STEUER: All right, just as you like.

BY MR. STEUER:

Q. Did you ever visit a shirtwaist factory in all the business dealings that you have had with shirtwaist factories, or clothing factories, or any other kind that make ready-to-wear apparel, where the tables for the offings and clippings were better arranged than they were in Harris and Blanck's factory?

MR. BOSTWICK: I object to the question.

THE COURT: Yes, it calls for an expression of opinion. I sustain the objection.

MR. STEUER: I except.

THE COURT: It is a subject on which he is not shown to be an expert.

Q. You do a large business in the purchase of these clippings or rags or offings or remnants, as you call them? A. I do.

Q. And visit how many factories a year? A. Quite a number.

THE COURT: I will allow you to show by this witness, if you care to show by him, if that be the fact, that the arrangement with respect to the bins and with respect to the

material in them was substantially the same in the factory of these defendants that it was in other factories in a similar line visited by this witness.

MR. STEUER: Thank you.

Q. Limiting your answers --

MR. BOSTWICK: May I ask my right to examine this witness on the voir dire, prior to his giving this testimony?

MR. STEUER: I have no objection to Mr. Bostwick examining anybody. It is the same thing.

BY MR. BOSTWICK:

Q. Weren't nearly all of your visits to the Triangle Waist Company made on Sunday?

A. To pack the rags?

Q. Weren't nearly all of your visits to the Triangle Waist Company made on Sunday?

A. They were not.

Q. Do you know of any other shirtwaist company of the same size of the Triangle Waist Company? A. I do.

Q. How many? A. A few.

Q. How many? A. That I have dealings with? A. Yes, that you visited and know about or have dealings with? A. About two.

Q. What? A. Two that I know.

Q. You know and have business dealings with two shirtwaist factories as large as the Triangle Waist Company? A. Almost as large.

Q. As large, I asked you? A. I don't think they are as large as the Triangle.

Q. Do you do any business, or have you done any business within the last three years with any shirtwaist company of the same size or larger than the Triangle Waist Company? A. I did.

Q. What is the name or names of those concerns? A. Bijou Waist; Tutelman Brothers -- that is about all.

Q. These two factories were as large as the Triangle Waist Company? A. About as large.

Q. Well, were they as large? A. I think they were.

Q. Are those the only two companies as large as the Triangle Waist Company with which you had business dealings with in the last two or three years? A. In ladies' waists, they were.

Q. And your knowledge of the custom and the habit of the shirtwaist companies, doing the same kind of business, and having a factory the same size as the Triangle Waist Company rests upon those two instances alone? A. I don't quite understand that.

Q. (Question repeated by stenographer) A. Do you mean the habit of keeping their rags?

Q. Your knowledge of the habit of keeping the factory, and factories of that sort, depends solely upon these two instances? A. I only know the part where we take the rags. I don't inspect the factory.

MR. STEUER: You are examining on one subject, and the subject about which the judge gave me permission to inquire

was quite a different one. It is not on the general custom of keeping any factory.

Mr. BOSTWICK: You continue your examination, Mr. Steuer.

BY MR. STEUER:

Q. In the shirtwaist factories you visit whether they are of the same size, or whether they are a little smaller or larger, but in those shirtwaist factories that you visit, are the arrangements made for the keeping of the cuttings or the offings that come from the cutting tables, substantially the same as they are in the place of business of Harris and Blanck?

MR. BOSTWICK: I have no objection to that if it is limited to the physical conditions
~~ the receiving.

Q. The receiving? A. They were about the same.

BY THE COURT:

Q. That is to say, the character of the bins, location of bins, presence of material inside or outside of bins, position of bins with respect to tables, and so on ~ A. Yes.

BY MR. STEUER:

Q. Now, did you get the Judge's question? A. I did.

Q. Now, instead of answering the question you take all that the Judge just added to it and answer that question then. Is the arrangement with respect to all the matters that the Judge just mentioned substantially the same in the other factories as it is in the factory of Harris and Blanck? A. About the same.

THE COURT: I think that that question ought really be made as of the date of March 25th.

BY THE COURT:

Q. You will consider that question being asked you with the addition, during the month of March, 1911. Do you understand that? We are not talking about what maybe or may not be to-day, but we are talking about what you observed with respect to the conditions in the factory of these defendants as you visited it before March 25th, 1911, and what you observed respecting similar conditions and similar matters in other factories. You understand that, do you? A. I do.

MR. STEUER: All right.

BY MR. STEUER:

Q. And your answer remains the same? A. It does.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you again the diagram of the eighth floor (marked People's Exhibit 1); this is the Washington place — represents the Washington place elevators and door and that (indicating on diagram) the Greene street elevators and door, and the fire-escape on the north wall here. Were the machines on the eighth floor as indicated on this diagram? A. This I couldn't say. I only went over to the cutting tables.

Q. Well, on this side of the room were there machines? A. There are machines in the same floor where the cutting tables are.

Q. And they were on the westerly side away from the Greene

street windows? A. On the westerly side all the cutting tables.

Q. And the cutting tables were near the Greene street windows? A. They were.

Q. And there were more cutting tables over by the fire-escape? A. Yes.

Q. There were two cutting tables by the fire-escape, were there not? A. There was.

Q. And can you state to the best of your recollection –

MR. STEUER: When you say by the fire-escape, you mean by the fire-escape side?

Q. On the fire-escape side of the building. I correct that to read that way. And what is your best recollection as to the number of cutting tables near the Greene street windows? A. I believe there were six tables there.

Q. And what length would you say those tables were? A. Well, about twenty-five feet.

Q. Assume that ruler (laying a ruler on the diagram) to indicate 48 feet, what would you say the length of the tables to be? A. The ruler to indicate 48 feet? I believe there was about 25 feet, within a few feet.

Q. This ruler, the distance from there to there on this diagram represents 48 feet, because it is drawn on the scale of a foot for every one-quarter inch, or four feet for every inch, do you see? A. I do.

Q. Every inch on that diagram represents four feet. Now, this is a ruler fifteen inches long, you see. Therefore, the

distance from one end of that ruler to the other is 60 feet (not 48), do you see that? A. I do.

Q. Now, if the length of that ruler represents 60 feet, how long would you say the tables were compared to that? Were they as long as the ruler? A. They were not.

Q. Well, give us your best estimate of how long you think the tables were, now that you know that ruler represents 60 feet? A. About half the size of the ruler. Q. Or about thirty feet? A. About that.

Q. And the tables on the side of the loft nearest the fire~ escape, how long would you say they were? A. About twenty feet.

BY THE COURT:

Q. How wide were the tables, do you know what I mean by that? A. I do.

BY MR. BOSTWICK:

Q. Were they as wide as that table there (indicating District Attorney's table in court room)? A. About the width of that.

Q. Just about the width of this table? A. Three feet.

Mr. BOSTWICK: (Turning to Mr. Steuer) Three feet?

MR. STEUER: Three feet two inches, Mr. Bostwick.

Q. I ask you to look at this material and state whether you see there material which was like that which you found — any of it like that which you found underneath the cutters' tables?

MR. STEUER: Do you mean in the bins?

Q. In the bins. A. There was some like it.

How long were you with Mr. Blanck last night? A. Just the time that it took to go up to Mr. Steuer's office.

Q. And did you go to Mr. Steuer's office? A. I did.

Q. How long in all were you with Mr. Blanck last night? What time did you first see him? A. It must have been before six and I left him about — well, it must have taken an hour all around, the time when I first saw him and after I left him.

Q. Pick out some that was as much like what was in the bins as the exhibits that you have already produced (referring to Defendants' Exhibits for identification A and B)?

MR. STEUER: I don't want it to appear as if the witness produced any exhibits; he didn't, we produced those; those came from our factory this morning.

THE COURT: As much like those Exhibits for identification shown you by defendants' counsel.

MR. STEUER: Yes.

MR. BOSTWICK: I ask that this be marked for identification.

Marked for identification People's Exhibit 26, (being the material produced by Mr. Bostwick and shown the witness).

Q. I show you defendants' Exhibits A and B for identification and I ask you whether many of the pieces that you got from underneath the bins were nothing but narrow strips of that same kind of material? A. There were some strips.

Q. And that is also true of the other exhibit (showings witness Defendants' Exhibit B for identification)? A. There might have been some strips.

Q. Since court adjourned last night have you had any conversation with Mr. Harris or Mr. Blanck? A. With Mr. Blanck.

Q. Where did you see Mr. Blanck? A. At his office.

Q. What part of the City? A. Knickerbocker building, Fifth avenue and 15th street.

Q. You saw him on Fifth avenue? A. Yes, in his building.

Q. Then did you and Mr. Blanck go downtown? A. I was.

Q. Did you go to Mr. Steusr's office? A. I did.

Q. How long did you remain in Mr. Steuer's office? A. About five minutes.

Q. Only five minutes? A. That is about all.

Q. Did you go back to Mr. Steuer's office? A. I didn't go back.

Q. Were you only five minutes in all in Mr. Steuer's office? A. That is about all.

Q. Did you go uptown with Mr. Blanck? A. As far as 14th street.

Q. Did you produce your books for Mr. Blanck last night? A. I did.

Q. Do you remember making a statement to me at my office, November 23rd, in regard to the ninth floor, in which you said that "I presume they were taken from the eighth floor, I can't say positively the last time I took rags from the ninth floor ~ it might have been the same day"; speaking of January 17, 1911? Do you remember making that statement? A. A statement of what?

Q. Do you reiaember saying to me, "I can't say positively the last time I took rags from the ninth floor, it might have been the same day".

MR. STEUER: Ninth floor, you say?

MR. BOSTWICK: Yes.

Q. You don't recall making that statement to me on November 23rd, 1911? A. Not exactly, Mr. Bostwick.

BY MR. STEUER:

Q. There were no cutting tables on the ninth floor were there, Mr. Levy, at any time?

A. Not that I know of.

BY MR. BOSTWICK:

Q. Do you remember signing this statement? A. I would like to see the testimony, Mr. Bostwick, I would like to see the testimony where you --

MR. STEUER: If you say he signed or said that, that is sufficient for me.

MR. BOSTWICK: I want to see if it refreshes his memory.

A. I really don't know how the ninth floor got in here, unless I overlooked that.

Q. Don't you remember reading that statement and my asking you to read that statement very carefully before you signed it? Do you remember my saying that to you? A. I do,

Q. And didn't you read it over very carefully? A. (No answer.)

Q. Never mind. A. I must have been mistaken about the floors.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. Is there any doubt in your mind that there was, in January, 1911, or for six months prior to that time, or since

these people have had the tenth floor, any cutting table on the ninth floor? A. Not that I know of.

Q. Well, now, you know? You were in that building? A. I never removed any rags from that floor.

Q. From the ninth floor? A. From the ninth floor.

Q. And you never saw any cutting table on the ninth floor?

MR. BOSTWICK: I don't think there were any cutting tables on the ninth floor.

Q. The District Attorney has asked you whether you were at my office yesterday evening. Up to yesterday did you ever see me in your life? A. I did not.

Q. Did you ever have any conversation of any kind? A. Never saw you before.

Q. Yesterday evening, over the telephone, did you receive a communication that I would like to see your books? A. I did.

Q. Did you bring them down? A. I did.

Q. Other than to ask you to give me the dates in 1910, the two times that you took away offings from Harris & Blanck's place, prior to January 15, 1911, did I ask you a single question? A. Nothing at all, just the dates and the weight.

Q. And the weight. And did I ask you whether in each instance when you took offings away from Harris & Blanck's place prior to January 15, 1911, whether the weight that you took away was larger or smaller? A. You did.

Q. And did I ask you any other question of any kind at that time, or any time in my life? A. You did not.

Q. Now, you had the record of those two occurrences when you took away the weights, did you not? A. I did.

Q. Will you tell the jury what those weights were?

MR. BOSTWICK: On what dates are these?

MR. STEUER: I don't know. My recollection is August.

MR. BOSTWICK: I don't think we want to encumber this record as of last August.

MR. STEUER: All right, but I didn't want you to make it appear before this jury that I was stealing thunder or taking witnesses, or anything of that sort.

THE COURT: Now, that ends that.

MR. STEUER: If it ends the incident, I am perfectly satisfied. The defendants, though, have as much right to see a witness as the prosecution.

MEYER COHEN, called as a witness on behalf of the People, being first duly sworn, testifies as follows (through Interpreter Rosenthal):

(The witness states that he resides at 24 Ludlow street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Are you one of the five employees of Louis Levy, the rag man? A. Yes.

Q. And do you remember going to the building, corner of Washington place and Greene street, to the factory of the Triangle Waist Company, to pick up rags? A. Yes, once I was

there.

Q. Were you sent there by Mr Levy? A. Yes.

Q. Were there four other men? A. Yes.

Q. Did you pick rags? A. Yes.

MR. BOSTWICK: If you object as leading, Mr. Steuer?

Q. Did you clean about five tables? A. Yes.

Q. About how long before the fire was that that you went there, the fire being in the end of March? A. I was there about six months before the fire, but after I was there he sent others.

THE COURT: I think I will strike out "after I was there he sent others".

MR. STEUER: That would indicate that six months before the fire was the last time that Levy sent there, and even the prosecution doesn't claim that.

THE COURT: Not but so far as this witness is concerned, all he can testify to is as to his knowledge at the time he was there.

MR. BOSTWICK: I consent that the whole answer be stricken out. I think the witness is confused, anyhow, from the statement.

Q. Do you remember going there about January 14th or 15th with Mr. Levy and four other men? That was after Christmas and after the first of the year? A. I don't know for sure whether I was there then, but I know I was there six months before the fire, and that after fire he sent other people to get

rag.

MR. BOSTWICK: I move to strike it out, and I withdraw the witness.

THE COURT: Strike it out.

HARRY FINGERHERTH, called as a witness on behalf of the People, being first duly sworn, testifies as follows (through Official Interpreter Rosenthal):

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that he resides at 19 Essex street.)

Q. Were you in the employ in January of Levy, the rag man? A. Yes.

Q. And have been in their employ for six years? A. Yes, going on seven years.

Q. Did you go to the building corner of Greene street and Washington place, to the factory of the Triangle Waist Company, at various times? A. Yes, I was.

Q. Do you remember going there about the middle of January with Mr. Levy? A. I can't say when it was, but I did go there. My boss has made a note of it in his book.

Q. Do you know about how long it was before the fire? A. I can't say how long before.

Q. Do you remember who was with you that last time you went there? A. Yes.

Q. Who? A. Mr. Goldberg.

Q. Anybody else? A. Nobody else, the last time I mean.

Q. And the last time you were there you were with Goldberg? A. Yes.

Q. Was Sam Angleman there? A. No, sir.

BY THE COURT:

Q. What season of the year was it when you were there last? A. I can't remember.

MR. STEUER: If Mr. Bostwick says this man was there on the 14th of January, I won't make any point of his not remembering the time.

MR. BOSTWICK: That is what he told me only ten minutes ago.

BY MR. BOSTWICK:

Q. Were you there two months before the fire? A. I think about that time I was there.

Q. You think it was about two months before the fire? A. I think about that time.

Q. And that was the last time you were there? A. Yes.

HARRY GOLDBERG, called as a witness on behalf of the People, being first duly sworn, testifies as follows (through Official Interpreter Rosenthal):

(The witness states that he resides at 149 Norfolk street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Is your name Aaron or Harry? A. At home in the Old

Country my name was Aaron, but here I am being called Harry.

Q. Were you employed by Levy Bros., the rag men? A. Yes.

Q. And have you been with them for the past three years? A. Yes.

Q. Do you remember going to the building at the corner of Greene street and Washington place, to the factory of the Triangle Waist Company? A. Yes.

Q. And do you know about how many months it was before the fire that you were there for the last time? A. About two months.

Q. And were you with Mr. Levy? A. No.

Q. Was Fingerherth there? A. Yes.

Q. That was the last time you were there? A. Yes, with Fingerherth.

Q. Was anybody else there? A. I don't know. I know I was there with Fingerherth.

Q. Was Sam Angleman there? A. I don't know.

Q. Would you know if he was there? A. (No answer.)

Q. I mean at the same time that Fingerherth was there, about two months before the fire? A. I don't understand the question.

Q. The last time that you were there, about two months before the fire, picking rags, who was there besides Fingerherth, if anybody, who works for Levy? A. I don't know.

THE COURT: Repeat the question and interpret it again.

Q. (Question repeated). A. We were there, I don't know who else was there.

CROSS-EXAMINATION BY MR. STEUER:

Q. From Levy Bros., the men that picked the rags, was there anybody but you and Fingerherth? A. I was there with Fingerherth, I don't know about the others.

BY THE COURT:

Q. When you say you don't know about the others, do you mean that you don't remember whether there were or were not others there? A. We went home, he didn't allow us to pack up -- since that time I was not there.

THE COURT: That is not responsive. I think that is conceded, isn't it? He has not answered what I asked him. Strike out the answer.

Q. (Question repeated.) A. I don't remember. It is two months ago, I don't remember.

BY MR. STEUER:

Q. When you went there, you were asked about picking rags; you said packing rags ~ you didn't say anything about picking rags, did you? A. It makes no difference to me whether you call it packing or picking. I was to pack it into bags. Picking is something else. I mean packing the rags into bags.

Q. And you took the rags from the boxes under the cutting table, didn't you? A. Yes, from under the table.

SAM ANDELMAN, called as a witness on behalf of the

People, being first duly sworn, testifies as follows (through Official Interpreter Rosenthal):

(The witness states that he lives at 217 East 4th street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You have worked for Mr. Levy, the rag man, about a year and a half? A. Yes.

Q. Do you remember going to the building at the corner of Washington place and Greene street to pick rags about two months before the fire? A. Yes.

MR. STEUER: I object to that question.

MR. BOSTWICK: Question withdrawn.

THE COURT: Pack rags.

Q. Do you remember going to the building at Washington place and Greene street to pick rags at any time?

MR. STEUER: I object to that.

THE COURT: I will allow him to answer. A. Yes, I was there once to take the rags.

Q. Did you take the rags from under the tables? A. Yes.

Q. Did you put them in bags? A. Yes, sir.

Q. Is that what you mean by picking rags? A. No, we didn't pick the rags; we took them in bunches and put them into bags.

Q. Was that about January 15th? A. I don't remember that.

Q. Was it about two months before the fire? A. Yes, about two months, I think.

Q. And was that the last time you were there? A. I don't

remember that.

BY THE COURT:

Q. When were you there last before the fire? A. I remember it was about two months, up to nine weeks, before the fire that I was there.

BY MR. BOSTWICK:

Q. That was the last time you were there? A. I was only once there, I don't know whether others were sent after that.

SAM RAPPAPORT, called as a witness on behalf of the People, being first duly sworn, testifies as follows (through Official Interpreter Rosenthal):

(The witness states that he resides at 76 Mangin street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You work for Mr. Levy, the rag dealer? A. Yes, sir.

Q. And do you remember going with some of Mr. Levy's men to the building at the corner of Washington place and Greene street, the Triangle factory? A. Yes.

Q. About how long was that before the fire? A. About eight weeks.

Q. Is that the last time you were there? A. Yes. (No cross-examination.)

SAMUEL FEIBES, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(The witness was sworn by Official Interpreter Rosenthal.)

(The witness states that he resides at 237 East 115th street.)

(The witness now proceeds to testify without the use of the Official Interpreter.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You were employed by the Triangle Waist Company on March 25th, 1911? A.

Yes.

Q. On what floor? A. On the eighth floor. Q. As a cutter? A.

Yes.

Q. About what time was it when the fire first started? A. I would rather speak

Yiddish.

MR. STEUER: He speaks English all right, there is no reason why he should speak through the Interpreter.

THE COURT: I suppose there is a certain timidity on the part of this witness --

MR. STEUER: It makes a great deal of difference, your Honor. I think he should speak in English if he can.

BY THE COURT:

Q. Every time that a question is asked you, I want you to listen to it, do you understand that? A. I understand.

Q. And if you understand the question I want you to answer it, do you understand that? A. I can't answer it in English.

Q. And I want you to answer it in a tone that is loud enough for the Juryman who sits the furthest away from you to hear you easily; do you understand that? A. No.

Q. How long have you been in America? A. A year and a

half.

THE COURT: I will allow him to speak through an Interpreter.

(The following questions are put and the answers
given thereto through Official Interpreter Rosenthal.)

BY MR. BOSTWICK:

Q. About what time was it when the fire first started? A. A quarter to five, when the bell rang for us to stop working,

Q. Had you punched your card? A. I was about to punch my card.

Q. Where did you first see the fire? A. At first I saw the fire on the Greene street side of the corner of the table.

THE COURT: Locate this witness at the time he first saw the fire.

Q. About how many feet were you from the fire when you first saw it? A. About eight feet.

Q. (Showing witness People's Exhibit No. 1) These are the Greene street windows, and the cutting tables are in here? A. Yes.

Q. Do you remember how many cutting tables there were? A. There were five this side and two on the other side.

Q. There were two on the side of the building where the fire escape is, were there not? A. Yes.

Q. And there were five in here (indicating the blank space marked "Cutting tables")? A. Yes.

Q. And the fire, you say, took place near the Greene street

side? A. The Greene street side, on the corner of the table.

Q. Was that near the first or the second cutter's table? A. Near the first table, it was at the wall.

Q. Was it at the end nearest the freight elevators, or the end nearest Washington place? A. It was the corner where the elevators come up from Greene street.

Q. And near the end of the first cutter's table and near the Greene street side? A. On the Greene street side near the wall.

Q. There were rows of machines on the other side of the room, were there not? A. Yes.

Q. As shown on this picture? A. Yes, it was so.

THE COURT: By "picture", you mean the diagram?

MR. BOSTWICK: Yes, referring to the diagram.

Q. What did you do as soon as you saw the fire? A. As soon as I saw the fire, which was very small, and I was about to take my card to be punched, I ran to the Greene street side and took a pail of water.

BY THE COURT:

Q. Where did you find the pail? A. The pail was standing in a place where they usually stand in a shop — red pails.

Q. How far from where you were was the pail that you went to? A. About three feet.

Q. When you got to the pail, was there anything in it? A. Water was in there.

Q. When you first noticed the fire, were you sitting or

standing or walking? A. When I saw the fire I was standing at a place where the cards are being punched.

Q. Where is the place that cards were punched? Show us on that diagram (People's Exhibit 1) — BY MR. BOSTWICK:

Q. There are the freight elevators, Greene street; there is the stairway, then three windows, then the fire escape windows, then two more windows, cutting tables, you see, right here? A. Yes.

Q. Where was the place you punched your card? A. At the end of the cutting table there was a little wooden wall and there the cards were punched.

THE COURT: Make a mark on that diagram at the place where you say you were to have your card punched. A. (Witness continuing) Assuming that the number of tables were standing here, at the end of the table there was a wooden wall where a box was hanging for the tickets.

THE COURT: Make a mark now on that diagram.

A. (Witness continuing) Here was the end of the table and there towards the wall was the place.

THE COURT: Will you please make a mark on that diagram where you say the punching machine was, and put your initials there.

(Witness marks as directed.)

Q. In the middle of these long tables which had machines on, there was a place to put the finished work, was there not?

A. What do you mean? Baskets were standing there.

Q. Wasn't there a trough in the middle of each table, where something was put? A. Yes, while the machines were going there was something like a canal, a deepening in the table, in the middle of the table.

MR. STEUER: He said there was a canal in the center where the garments fell from the machine.

THE COURT: Very well.

Q. Was there a place under the cutting tables to put cuttings? A. (In English) Sure, there was rags under the cutting tables.

Q. How long before the fire had they been taken away? A. About two or three months.

BY THE COURT: (Through Interpreter)

Q. Are you able to tell me about how many persons were on that eighth loft at the time when you saw the fire? A. I was very much excited and I can't tell.

Q. What kind of work were you doing there that day? A. Cutting. I was a cutter.

Q. And at which one of the cutting tables did you work on that day? A. I had a steady place there; the table was near the yard on the Greene street side.

Q. Were you working at the table that was nearest the fire escape, yes or no? A. Yes.

Q. And were you working at that end of the table that was nearest to the fire escape?
A. It made no difference, I

was on one side and the other side — wherever the work required.

Q. Your work was done standing up or sitting down? A. Standing up.

Q. And that was true, was it, of the work done by all the cutters, so far as you know, on that floor? A. All worked standing up.

Q. Do you know how many cutters were working on that floor at the time when you first saw the fire? A. A lot of them, but I didn't know all of them.

Q. How many cutters other than yourself worked at the same table, if you know, on that day? A. Four.

Q. Do you know how many cutters were working at the table next to yourself on that day? A. Four cutters at both tables.

Q. You mean to say there were two cutters at each table, four altogether, or four at each? A. Four cutters worked at both tables.

Q. You mean there were four man who did cutting work, and they worked at two tables? A. Yes, worked at two tables.

Q. And those were the cutting tables that were on or near thf fire escape side of the buildingf is that so? A. Yes, those were the two cutting tables that were near the fire escape of the building.

Q. Were the cutters men? A. Men.

Q. On that same floor that afternoon, were there any women

working? A. Yes, sir.

Q. And the women, did they do their work, if you know, sitting or standing? A.

Sitting at the machines.

Q. On chairs? A. On chairs, yes.

Q. If you know, how close together were those sitting on the same side of a table? A. I didn't observe that and I don't remember.

Q. Do you know how many women were working at any one of the tables on the eighth floor At the time when you saw the fire? A. A many as there were machines, just as many girls were working at the machines.

Q. Do you know how many machines, as you call them, there were upon that floor at the time when you first saw the fire? A. No.

Q. How long had you worked on that floor before the fire? A. Three or four months.

Q. Do you remember seeing on the afternoon of the fire in that loft a young man by the name of William Bernstein? A. Yes.

Q. Did you see him at the time that you saw the fire? A. It may be he was there, but I didn't see him; I was surprised.

MR. STEUER: I submit that that is not what the witness said.

THE COURT: Repeat the question.

(Question repeated by stenographer.)

THE COURT: Translate it to him.

A. Maybe he was there, but I was surprised and I didn't look.

CROSS-EXAMINATION BY MR. STEUER:

Q. I want you to talk out loud and tell the Judge and the Jury what you said in answer to the Judge's last question? A. What question?

Q. (Question repeated by stenographer as follows:) "Did you see him at the time that you saw the fire"? A. What Bernstein?

THE COURT: Well, we will let it go at that.

Q. Do you work for Harris and Blanck? A. You mean now?

Q. Yes? A. No.

Q. Have you worked for them since the fire? A. Two days I worked.

Q. I am asking you whether you worked for Harris and Blanck at any time after the fire?

A. I said already that I worked about two or three days.

THE COURT: You say to this witness, Mr. Interpreter, that he is talking so low that I can't hear him, and that he must answer every question in a tone that is loud enough for every one of the Jury to hear him. Tell him that I won't tell him that again.

MR. STEUER: Well, let him go.

MR. BOSTWICK: That's all.

ISIDORE ABRAMOWITZ, called as a witness en be-

half of the people, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I want you to speak loud enough for that gentleman over there to hear you, and a little louder than I am talking. A. Yes, sir.

Q. On the 25th day of March, 1911, were you working for the Triangle Waist company on the eighth floor as a cutter? A. Yes, sir.

Q. Now, about what time did the bell ring on that Saturday? A. Quarter of five.

Q. And had the bell rung? A. Yes, sir.

Q. Where did you have your clothes? A. At the beginning of the table on the Greene street side, the first table.

Q. That was the first cutter's table? A. Yes, sir.

Q. Near the Greene street windows? A. Yes, sir.

Q. Do you know how many tables there were — cutter's tables, running parallel to Greene street? A. I can tell you about — about five tables.

Q. And there were how many over on the side of the loft where the fire escape was? A. Two tables.

Q. Two cutter's tables? A. Yes, sir.

Q. Are you very good at drawing? A. No, sir.

Q. Do you think you could draw a picture of where those tables were? A. Which?

Q. The five cutter's tables and the two cutter's tables?

I can draw lines, that's all, one after the other. That is the Greene street side (indicating), one, two, three, four, five. And those two on this side, one, two.

Q. About how long were those cutter's tables? A. I don't know; about twelve yards, I guess, or twenty, either one.

BY THE COURT:

Q. How long do you say? A. About twelve yards. I don't know; I am not sure about the length of them.

BY MR. BOSTWICK:

Q. Were they as long as this room is wide? A. Oh, twice as much.

Q. Showing you People's Exhibit 1, diagram of the eighth floor, that is the Greene street side of the building and these openings are windows along there, and this is the Washington place side of the building, and there are the passenger elevators, the Washington place passenger elevators, and there is the stairway to go downstairs, and there is the dressing room, and there is a toilet room, and there is a toilet room, and here is a table with machines on it, and another on which -and another and another, five in all; the fire escape is here? A. Yes, sir.

Q. There were two cutting tables, you say, on the side there? A. Yes, sir.

Q. And there are the freight elevators and the stairway nsxt to the freight elevators? A. Yes, sir,

Q. And there was a partition, was there not, in front of

the freight elevators, as indicated there? A. Yes, sir.

Q. And these tables were here as indicated, were they not? A. Yes.

Q. Now, that ruler represents 60 feet; in other words, from there to there is 60 feet. Were the tables as long as that, would you say? A. The tables were from the partition here down to the Washington place side.

Q. The tables ran almost from the partition down to the Washington place side? A. Yes, sir.

BY THE COURT:

Q. How much room was there between the end of the table that was nearest to the partition and the partition itself? A. About two yards.

Q. About six feet? A. Yes, sir.

Q. About how much room was there between the Washington place end of the table and the Washington place wall? A. The same space.

Q. About six feet? A. Yes, sir.

Q. And was that one table running the entire distance from a point six feet away from the Washington place wall to a point six feet away from the partition? A. Yes, sir.

Q. So that there were in here five tables (indicating the blank space marked "Cutting tables"), and over here (indicating place near fire escape), two cutter's tables? A. Yes, sir.

Q. Where did the fire start? A. The fire started at the end of the table near the freight elevators.

Q. Near the end of the cutter's table near the fireight elevators? A. Near the partition.

Q. Near the partition, near the Greene street window? A. Yes

Q. As soon as you saw the fire, what did you do? A. (No answer.)

BY MR. BOSTWICK:

Q. How near were you to the fire when you first saw it? A. At the end of the table there; I was at the end of the table.

BY THE COURT:

Q. You mean at the end of that separate table? A. Yes, sir, on which the fire caught the first time.

Q. Were you at the end of that table which first caught on fire? A. Yes, sir.

Q. Is that so? A. Yes, sir.

Q. And you were at the end of that table nearest to the fire at the time that the fire started, is that so? A. Yes, sir.

Q. And were you on the side of the table nearest the Greene street windows, or were you on the opposite side? A. I was near the window.

Q. In other words, you were betwesn the Greene street windows and the first table, is that so? A. Yes, sir.

Q. At the end of that table nearest the partition? A. Yes.

Q. And that you say was the point where the fire started? A. Yes, sir.

Q. And you will say that you were there at the time that the fire did start, is that so? A. Yes, sir.

Q. What was the first thing you did when you saw the fire? A. I spilled a pail of water on it.

Q. And where did you find the pail? A. Right near the table there was a small partition with three pails of water on the top.

Q. Those pails stood on the partition? A. Yes, sir.

Q. Did they stand on a shelf? A. On a shelf.

Q. There was a shelf? A. Yes, sir.

Q. And was that shelf fastened to the partition that was opposite the freight elevators? A. No, sir; it was fastened to the wall.

Q. There was a shelf fastened to the wall; what wall, Greene street wall? A. Yes, sir.

Q. And on that shelf were how many pails? A. Three pails.

Q. Did you get to the place where there was a pail? A. I stood right there; the shelf and the pails was near the table.

Q. How far did you have to go from where you were at the moment when you first noticed the fire to the place where the pail was? A. I didn't have to go any place, it was right there. Our clothes hung over that corner of the table, and the same place the pails were there, too.

Q. You just turned around, is that all? A. That's all.

Q. From where you were standing could you reach a pail? A. Yes, sir.

Q. Did you reach a pail? A. Yes, sir.

Q. When you reached it was there anything in it? A. Yes.

Q. What was in it? A. I suppose water.

Q. What did you do with it? A. I put it on the fire under the table.

Q. Did you at the time when you first saw the fire see a young man by the name of Bernstein? A. I don't remember.

Q. Do you know a young man by the name of Bernstein? A. William Bernstein, I do.

Q. Did you know a William Bernstein on the 25th of March last? A. Yes, sir.

Q. Did you see him on that day? A. Yes, sir.

Q. Did you see him on the afternoon of that day? A. I don't remember.

Q. Did you see him at about the time that you saw the fire? A. I don't remember it from that time.

Q. How many cutters were employed on that floor on the afternoon of the fire? A. About twenty.

Q. They were all men, men or boys? A. Both.

Q. And the work of the cutters, was it done standing or sitting? A. Standing.

Q. About how many cutters to a table? A. It just depends on what work is worked on a table. If there is special work they put more cutters on the table.

Q. That is to say, there as no special position for any particular cutter, but he was called upon to do work from time

to time at different cutting tables, is that so? A. No, sir. Everybody had this table, but if there was any special work they took them away from one table until they finished out the specials, and then he went back to his position.

Q. How many people, if you remember, were working at the table at which you were working on the afternoon of the fire? A. About four.

Q. And how many were working at the cutting table that was next to them? That is, the second table from the Greene street side? A. I was working on both of these tables with a few assistants -- a few helpers; we were about four in all.

Q. About four in all at the two tables nearest to the Greene street side, is that so? A. Yes, sir.

Q. How many were working at the three tables farthest away from Greene street but running in the same direction as the tables that you were working on, on the afternoon of the fire? A. I don't remember exactly how many.

Q. Were there any women working on that floor on the afternoon of the fire? A. Yes, sir.

Q. What kind of work, if you know, were they doing? A. I don't know what kind of work -- by the machines or so.

Q. Did the women do the work sitting or standing? A. Sitting.

Q. On chairs? A. Yes, sir.

Q. And at tables? A. By the machines, not at tables.

Q. Can you tell me how many women were there on that floor at the time that you saw the fire? A. About two hundred.

Q. On that floor? A. No, sir.

Q. Who was it on that floor that did the punching on that afternoon? What was the name of that person, or isn't it done by a person? A. No, sir; it is done by everybody himself.

Q. In other words, you go to a machine that does it, is that so? A. I go to a place where the card is and I take it out and punch it myself and then put it back in its place.

Q. At the moment when you saw the fire, do you recollect whether the women were still seated and working at their machines, or whether the work at that moment had stopped? A. At that moment the work had stopped; they all went to the dressing rooms.

Q. In other words, before you saw the fire, the women on the eighth floor had left their machines, is that so? A. Yes, sir. Just started to go to the dressing rooms.

Q. So you mean by that that they were coming from and moving from their different seats to the dressing room? A. Yes.

Q. Walking out, is that so? A. Yes, sir.

Q. At the time when you first saw the fire, had your card already been punched? A. No, sir.

Q. Did the women on that floor, if you know, have cards punched at the end of the day? A. Yes, sir.

Q. Were the cards that were used by the women on that day, if you know, already punched at the time when you first saw the fire? A. No, sir.

Q. And by "No, sir", what do you mean? That you don't know or that they had not been punched? A. I mean that some girls before they go to the dressing room punch the cards, and some punch them after they go out of the dressing room, after they go down.

Q. So that you don't know, as a matter of fact, whether all the cards of the women had been punched that day or not? A. No, sir.

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Q. You are given a card, is that so? You have a card? A. I don't keep it with me — there is a place where I put it in.

Q. You go to a place where there is a card? A. Yes, sir.

Q. And by putting it into a certain machine it is punched? A. I got to press a handle to punch it.

Q. The time that you saw the fire had you already gotten your hat and coat to go? A. I had it in my hands, but I didn't put it on yet; I hadn't it on yet.

BY MR. BOSTWICK:

Q. How many feet or inches were there between the Greene street wall and the side of the table?

THE COURT: Referring to the table nearest the Greene street wall? A. You mean the wall or partition?

Q. I mean the wall. There is the Greene street wall (indicating); what was the distance between the wall and the table that stood there? A. About a yard, no more.

Q. That is three feet? A. Yes, sir.

Q. That is about that much, isn't it (indicating the width of District Attorney's table in court room)? A. Yes, sir.

Q. Now, if this diagram is drawn to a scale, so that every quarter of an inch represents one foot, it would be just about three quarters of an inch, wouldn't it? A. Yes, sir.

Q. Now, measure three quarters of an inch from the wall there and make a mark, will you? A. (Witness marks on diagram).

Q. Now, you say that that was about where the first side

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of the table was? A. That is the space between the first side of the table --

Q. Between the wall and the side of the table? A. Yes.

Q. How wide was the cutter's table this way (indicating the width of a table)? A.

About a yard wide.

MR. BOSTWICK: How much did we say before?

MR. STEUER: Three feet two inches.

Q. About a yard. Well, now, according to the same scale that would be about three quarters of an inch, wouldn't it? make another mark. Now, these tables run parallel to the wall, do they not? They run the same way as the wall? A. Yes, sir.

Q. Where did this corner of the table commence? How far from the partition? A. I said about two yards before.

Q. That would correspond to about an inch and a half, would it not?

THE COURT: I think upon the basis of the testimony of this witness a diagram can be prepared by somebody which will indicate the location of the tables and the space occupied by them. Not necessarily on the basis of the testimony of this witness, but on the basis of such testimony as there may be in the case on the subject.

MR. BOSTWICK: All right.

BY MR. STEUER:

Q. You are not working for Harris and Blanck now, are you?

A. No, sir.

SAM BERNSTEIN, called as a witness on behalf of the People, being first duly sworn, testified as follows:

(Through Official Interpreter Rosenthal)

(The witness states that he resides at 25Q. East 4th street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, were you an employee of the Triangle Waist Company, and in the ninth floor of the building at Washington place and Greene streets? A. Yes.

Q. And what was your business -- what did you do? A. An operator, working as an operator.

Q. Do you remember about quarter of five in the afternoon of that day --

THE COURT: Pardon me a moment.

BY THE COURT:

Q. What do you mean by an operator? A. Working at a machine.

Q. Doing what? A. I was making the fronts of the waists, the front part.

Q. You worked at a machine? A. Yes.

BY MR. BOSTWICK:

Q. Now, at 4:45 had the bell sounded? A. Yes.

Q. And were you dressed? A. Yes.

Q. And what first attracted your attention to the fact that there was a fire? A. When I heard the outcry "Fire!" I was standing at my place, and I turned around and I saw the

smoke.

BY THE COURT:

Q. When you say “dressed” do you mean you had the clothing on with which you intended to go into the street? A. Yes.

THE COURT: Now, locate his place.

BY MR. BOSTWICK:

Q. You say you were standing by your machine, do you not? A. I was standing near my machine and was preparing my clothes.

Q. And where was your machine? A. My machine was at the first table, near the Greene street door.

Q. I show you People’s Exhibit 2, and ask you to look at that diagram (diagram of ninth floor). This is Greene street, this is Washington place, this is the Washington place stair way, these are the passenger elevators. Do you know what these are (indicating on diagram)? A. That is the elevators to Greene street.

Q. Those are the freight elevators? A. Yes.

Q. Don’t you speak English? A. No.

Q. Do you know what that is (indicating)? A. The stairway.

Q. Is that called the Greene street stairs? A. Yes.

Q. When you go out from those stairs you go into Greene street? A. Yes, sir.

Q. And when you go down these stairs you go out Washington place? A. Yes.

Q. And you say you worked at the first row of machines near the Greene street side? A. Yes.

Q. And the fire-escape was on this side of the building, (indicating where the fire-escape is on diagram) is? A. Yes.

Q. And were there examining tables near the fire-escape side? A. Yes.

Q. And also near the open court? A. Yes.

Q. And next to the Washington place stairway were there two dressing rooms as shown on this diagram? A. Yes.

Q. And was there a toilet room as indicated on this diagram? A. Yes.

Q. And another toilet room? A. Yes.

Q. Which of these toilet rooms was used by the men? A. The first one for the men.

Q. This one (indicating)? A. Yes.

Q. The one marked "A" in pencil? A. Yes.

Q. And the other one was the women's toilet? A. Yes.

Q. Now were there rows of tables upon which there were machines, as shown upon this diagram? A. Yes.

THE COURT: Let him indicate where his machine was.

Q. Indicate by a mark where your machine was.

THE COURT: Make a mark where you were standing at the time when you first saw the fire? A. I was facing the windows going out into Greene street.

THE COURT: Now, you put initials where you have made the mark.

(Witness places his initials on diagram next his mark, as directed.)

BY THE COURT:

Q. That mark shows where your machine was and where you were standing at the time when you first noticed the fire, is that so? A. Yes, sir.

Q. And you say, as I understand you, that at that moment you were looking toward the Greene street windows, is that so? A. At that time I was occupied in brushing off my coat, and I didn't look at the window.

Q. Where was the fire when you first noticed it? A. Towards Greene street.

BY MR BOSTWICK:

Q. Well, at the very first you heard that there was a fire? A. Yes, I heard an outcry.

Q. And that was before you saw any fire? A. Yes.

Q. When you heard the cry of fire where did you go? A. I was about to go towards the Greene street door, but there was a crowd of people, and one was falling on top of the other.

Q. So where did you go? A. Then I started to go towards the Washington place ---

Q. Did you go over the tables, or did you go around them? A. Over the tables.

Q. Where did you say you went toward? A. Toward Washington place.

Q. Did you go towards the Washington place door? A. Yes.

Q. And when you got to the Washington place door, what did you do? A. I went up to the door and tried to open it.

Q. How did you try to open it? Show us? A. I tried with both hands to open it. (Witness indicating)

BY THE COURT:

Q. What did you take hold of? A. The handle of the door, the knob.

Q. What did you do with the handle? A. I turned it, trying to open it.

BY MR. BOSTWICK:

Q. Was the door locked or unlocked? A. (No answer)

BY THE COURT:

Q. Pardon me. After you turned the handle, what if anything did you do? A. I wanted to open it.

Q. But after you had turned the handle what was the next thing you did with the door? A. I tried to open it either in one direction or the other direction.

Q. When you say you tried to open it, what do you mean? A. I tried to open it, not knowing whether it was open or locked.

Q. Did you open it? A. No.

BY MR. BOSTWICK:

Q. Why couldn't you open that door.

MR. STEUER: I object to that as being his conclusion.

THE COURT: Objection sustained.

BY THE COURT:

Q. Did you look at the door at the time? A. Yes.

Q. What parts of the door did you look at? A. There where the lock was, I wanted to tear it open.

Q. Did you see the lock? A. The handle of the lock I saw.

BY MR. BOSTWICK:

Q. Now, after you tried that door and found that you couldn't open it where did you go? A. Then I went towards the window that leads out into Washington place.

BY THE COURT:

Q. Do you know whether or not that door was locked at the time that you got to it?

MR. STEUER: I object to that as calling for a conclusion of the witness and as incompetent.

THE COURT: I will allow him to answer yes or no.

MR. STEUER: I respectfully except.

A. When I tried it it was closed and I couldn't open it.

BY MR. BOSTWICK:

Q. After you couldn't open it you went to the window? A. Yes.

BY THE COURT:

Q. At the time you got to the door did you see whether or not there was any key in the lock?

MR. STEUER: I respectfully object to that question, and I object to the number of questions that the Court is interposing on this trial.

THE COURT: Yes. The objection is overruled.

MR. STEUER: On the ground that it indicates, or

may indicate — well, I don't like to state any grounds. I just object to it on the ground stated, and I except.

A. No.

Q. When you say "No", what do you mean?

MR. STEUER: I repeat the same objection.

Objection overruled. Exception.

A. I didn't see a key there.

BY MR. BOSTWICK:

Q. Was there any key in the door when you tried it? A. No.

Q. Now, after you tried the door and found it would not open, you went to the Washington place window; then where did you go? A. I saw the fire and the engines had arrived, and I looked down; than they put on a ladder, and I thought I might be able to get down on the ladder.

Q. And then after that where did you go? A. There I couldn't get out, I ran around in the shop.

BY THE COURT:

Q. When you say the shop, you mean the ninth floor? A. The ninth floor.

BY MR. BOSTWICK:

Q. How did you finally get out? A. When I was running around I saw other people over towards the Washington place elevator, and I was pushed in together with them.

MR. STEUER: May I ask for the completion of the answer he made? Pushed in where? He stated it.

THE COURT: We will get it by the next question.

Q. Showing witness diagram (People's Exhibit 2). This door leading on the ninth floor to the Washington place stairs is the same door shown in People's Exhibit 13. I should say this doorway or place for a door. Now, this is the door that you went to? A. Yes.

Q. And this is the door you couldn't get out? A. I didn't.

Q. And this is the Washington place stairway door? A. Yes.

Q. And immediately after that you went to the windows on the Washington place side? A. Yes, the corner.

Q. And then you came back towards the elevator? A. Then I run around about here, and then I ran back again, and other people got there and I was driven into the elevator.

Q. So you know whether you went down the elevator nearest the Washington place or those furthest away from Washington place? A. This I can't know.

BY THE COURT:

Q. But you did go down in one of those elevators? A. Yes.

BY MR. BOSTWICK:

Q. How long have you worked for the Triangle Waist Company? A. About four years.

Q. Did you see any other people go to that Washington place door? A. At that time when I went to the door I didn't see any other person there.

Q. When did you see anybody go to the Washington place door? A. I saw plenty, I didn't notice who they were; whether

they tried the door or not, I don't know.

Q. At night you went out which door, which stairway? A. Greene street stairway.

Q. Do you know Nathan Zollet? A. You mean perhaps Benny Slaver?

Q. Now, at night, when you went out was there any man standing near the Greene street door? A. Yes.

Q. And as the employees went out what would they have to do? A. At the door towards the Greene street exit there was standing a man and he made the girls show their pocketbooks.

MR. STEUER: I protest against this. He did not say anything about anybody making him do anything of the sort. We cannot go on this way, for each time it happens there is an error on only one side.

THE COURT: The protest is overruled. I heard the answer. Proceed.

MR. STEUER: I except.

Q. Are you related to the manager of Harris and Blanck's factory? A. Yes.

THE COURT: I want you to take extra pains, Mr. Interpreter, in the interpretation, both in translating questions and in making answers.

THE INTERPRETER: I am very careful, your Honor.

CROSS EXAMINATION BY MR. STEUER:

Q. How long are you in this country?

MR. STEUER: May I have that answered without the Interpreter?

THE COURT: If he can, yes.

Q. How long are you in this country? A. (Witness answers in Yiddish).

THE INTERPRETER: (Translating) Six years, going on seven.

Q. Where do you live? A. (Witness answers in Yiddish).

Q. Tell me in English? A. (Through Interpreter) I can't speak English; I understand a few words, but I don't talk.

(The following questions are put and answers given through Interpreter Rosenthal.)

Q. Are you a member of the Union, Mr. Bernstein? A. Yes.

Q. How many times have you been to the District Attorney's office? A. I can't remember how many times, but I was there every time I was called.

Q. Well, give us an idea of how many times you were called? A. You mean up to this week?

Q. Yes. A. I think about four or five times; perhaps once more.

Q. The union that you belong to, have they got a lawyer? A. No. I have nothing to do with their lawyer. I have no cases with him.

Q. You are quite sure you had nothing to do with the Union lawyer about this case? A. Nothing at all. I was not at his place once, not even once about this case.

Q. I didn't ask you whether you were at his place, I asked you whether you saw him? A. Yes, I did see him. It happens that at a meeting he is there, but I didn't speak to him.

Q. Well, you held quite a number of meetings, didn't you, at the Union at which the lawyer was present and when this fire was talked about? A. I didn't attend all the meetings. I was there a couple of times at the meetings.

Q. You know everybody got letters, that all the people that worked on the ninth floor got letters to come to see the lawyer, and each person was told exactly what to say about the door on the ninth floor, isn't that so? A. I didn't receive any such letter, and nobody can prove whether I received any letter or had any conversation with him about it.

Q. Will you say letters were not sent out to the girls that worked on the ninth floor by the Union to come there and meet the lawyer?

Objected to. Objection sustained. Exception.

Q. Have you worked for Harris and Blanck since the fire?

A. No.

Q. You were not injured in the fire, were you? A. I left back only my coat and my overcoat; my coat and my overcoat I left behind.

Q. You said you were related to Mr. Blanck, did you not? A. I am related?

THE COURT: To the foreman, I think he said.

MR. BOSTWICK: He said he was related to Mr. Bernstein who is the superintendent and manager for Messrs. Harris and Blanck.

MR. STEUER: I beg your pardon.

Q. The fact is, you are a relative of Mrs. Blanck?

THE INTERPRETER: He said just now "I am related to Mrs. Blanck".

Q. And despite the fact that you are related to Mrs. Blanck you never went back to work for Harris and Blanck after the fire? A. No.

Q. You called at their place of business several times after the fire, did you not? A. No.

Q. You called at their place of business, did you not, several times after the fire? A. I was there that week when I got my wages; after that I didn't go there.

Q. You claim that you were only there once? A. You mean in the shop?

Q. Did you call to see Mr. Blanck on more than one occasion after the fire? A. I didn't see Mr. Blanck more than once after the fire.

Q. Did you see Mr. Blanck and ask Mr. Blanck for five thousand dollars?

MR. STEUER: May I have a direct answer?

THE COURT: Yes, and if he has any explanations they can be made on re-direct. A. Yes, for my father.

Q. You say that you didn't ask it for yourself, but you did ask five thousand dollars for your father, is that right? A. Yes.

Q. You lost a brother in that fire, did you not? A. Yes.

Q. And you told Blanck that if he did not give you five thousand dollars that you would be an important witness against him, did you not? A. About being a witness at the trial I didn't say anything.

Q. You only went there to ask him to give you five thousand dollars, is that right? A. For my father, but I didn't demand it for myself.

Q. Well, you wanted five thousand dollars for your father then, is that right? A. Yes.

Q. Now, when you asked for the five thousand dollars you didn't say anything as to what you would do if he did not give it to you? A. I didn't talk anything about a trial, about anything.

Q. Did you at that time say to Blanck, in the presence of three people, on two different occasions, that if you did not get the five thousand dollars that you would be an important witness against him, and would state that the door on the ninth floor was closed or locked?

THE COURT: Yes, or no to that. A. No.

Q. Did you see a Pinkerton's detective in Blanck's place on one occasion when you were there? A. I didn't go to the place.

Q. I want to ask you particularly now, did you go to the University place loft that Harris and Blanck had after this first happened?

THE COURT: Yes or no?

A. No.

THE SEVENTH JUROR: University place or Washington place?

THE WITNESS: University place, no.

Q. You say you never were in the University place loft of Harris and Blanck after the fire?

THE COURT: Yes or no to that?

A. Only when I went there to get my wages.

Q. Where was it that you asked Blanck for the five thousand dollars for your father? A. That was that time on a Saturday in University place.

Q. How on that occasion didn't you say that you would give Blanck several days to make up his mind, and you would come again to find out whether he would give you the money? A. No.

Q. Did you never come back to get the five thousand dollars? A. No, I didn't come — I didn't ask —

Q. Then do you want the jury to understand that having asked for the five thousand dollars at one time that you dropped the matter entirely?

Objected to. Objection sustained. Exception.

THE COURT: You may leave out "Do you want the jury to understand."

MR. STEUER: Oh, all right, then. All right, your Honor, then I don't except.

Q. Is it the fact, then that after you asked for the five thousand dollars that one Saturday, that you never paid any more attention to it? A. I got my wages and I didn't go near the place any more.

Q. Well, did you get the five thousand dollars? A. No.

Q. Did you never come again about that? A. No.

Q. What did Blanck say when you asked him for five thousand dollars? A. He didn't answer me; he told me to get down, and I did go down.

Q. Isn't it the fact that on one occasion you came there— not the first time — to ask for the five thousand dollars, that Blanck took you to either a Pinkerton man, or to Captain Dominic Henry and told him that you were insisting upon getting five thousand dollars or you would be a witness against him, and that he then told you never to come again, or he would have you arrested? A. No, never.

THE COURT: We will take a recess now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you; you are not to talk to anybody about it or let anybody talk to you about it. Recess till 2 p.m.

(Recess till 2 o'clock p. m.)

After Recess, Trial Resumed.

SAM BERNSTEIN resumes the stand and further testifies.

CROSS EXAMINATION BY MR. STEUER: (Continued)

Q. On the occasion when you came to the factory at University place did you come alone? A. Yes, sir.

Q. On the occasion when you got your wages were you alone? A. Alone; there were other people there, but I came there alone.

Q. And did you go away alone? A. There were other people going away, men and girls. We all together went away.

Q. Now, isn't it a fact that on one of the occasions when you came to ask for the five thousand dollars that you brought a brother of yours along?

MR. BOSTWICK: I object to that on the ground that —

THE COURT: Objection sustained, assuming something not in evidence.

MR. STEUER: I except.

Q. Did you bring your brother along at any time when you came to the place at University place? A. No.

Q. Have you got a brother? A. I have two brothers.

Q. Have you got a brother by the name of Hyman? A. Yes.

Q. Didn't your brother Hyman come along when you asked for the five thousand dollars? A. No.

Q. Isn't Hyman the one that sued for five thousand dollars? A. Yes.

Q. But Hyman was not along when the money was asked for? A. No.

Q. And on no occasion was Hyman with you up at the University place factory of Harris and Blanck? A. No.

Q. When you asked Blanck for five thousand dollars you said, did you not, that he ordered you down? A. Yes.

Q. How many flights did you go down that time? A. I went down stairs.

Q. How many flights of stairs, do you remember? A. Four floors, I believe so.

Q. At any rate you know that it was some floors up, don't you? A. I didn't go up higher; I was in the shop where they were working.

THE COURT: He didn't understand the question.

When you went up to the shop where they were working ~-

and we are speaking of University place --- you went up

some flights above the ground, did you not? A. Yes.

Q. Isn't it a fact that on the occasion when you went to get your salary that you went to the loft on the ground floor, and that is where the salaries are re paid? A. Yes, the wages I got downstairs, not upstairs.

Q. Did you ask for the five thousand dollars before or after you got the wages? A. Before, but on the same day.

Q. Before you got your wages you asked for the five thousand dollars. A. Yes.

Q. Do you know a girl by the name of Dinah Lipschitz? A. Do you mean the bookkeeper?

Q. Yes. A. Yes, I know her.

Q. Was she there on the occasion when you asked for the five thousand dollars? A. I didn't notice.

Q. Do you know a man by the name of Fletcher? A. Yes, sir.

Q. Was Fletcher there when you asked for the five thousand dollars? A. No; Mr. Bernstein was there.

Q. Which Mr. Bernstein was there? A. My cousin.

Q. What is his first name? A. Sam.

Q. Is he the superintendent? A. Yes, sir.

Q. He was also there when you asked for the five thousand dollars, was he? A. Yes; he was there.

Q. Do you remember anybody else that was there? A. No.

Q. Did you know Mr. Alter? A. Yes; I know him.

Q. Was he there when you asked for the five thousand dollars? A. No. He may have been in the place but he was not near me.

Q. Do you remember the day of the week it was when you asked for the five thousand dollars? A. It was the next Saturday.

BY THE COURT:

Q. When you say the next Saturday, you mean the Saturday after the fire? A. Yes, after the fire, because that week I had not gone out anywhere.

BY MR. STEUER:

Q. When your brother started the suit against Harris and

Blanck? A. We went together.

Q. Where did you go? A. It was several weeks later.

Q. Several weeks after you asked Blanck for the five thousand dollars? A.

Yes.

Q. Where do you mean that you went after you asked Blanck for the five thousand dollars, together with your brother? A. To a lawyer in East Broadway. We went to a lawyer to give him the case.

Q. And that you say was about two weeks after you asked for the five thousand dollars? A. Not two weeks, more, several weeks.

Q. Well, I want you to state to the Jury the largest number of weeks that you mean by "several"? A. The largest number of weeks may be about two months, because I had heard that other people had commenced suit, and we went there to have talks, and we went for our lawyer.

Q. Don't you know that your suit was not started ~ or your brother's suit, to be technically accurate -- until November 1911? A. I don't know. I was at the lawyer's, and he told me to be patient, and I didn't go there any more.

Q. You say that your machine was right near to Greene street, don't you? A.

Yes, at the first table.

Q. (Showing diagram of ninth floor to witness) You put your name there, or rather, the initials of your name to indicate where you were at the time when you saw the fire? A. yes. (witness indicating).

Q. Between you and the door of the Washington place entrance there were at least seven tables, weren't there? A. Yes.

Q. And at each of these seven tables there were girls working, were there not? A. At that time no one was working there.

Q. Then there was not a single girl working at that time is that right? A. No, the power had stopped.

Q. How long had the power stopped before you knew there was a fire? A. About two minutes, I believe.

Q. Well, now, were there any girls at all between where you were and the Washington street entrance, at the time when you knew there was a fire? A. While I was running no one was in my way.

Q. I didn't ask you whether there was anybody —

THE COURT: Mr. Steuer, whenever you consider an answer as not responsive I will strike it out.

MR. STEUER: No, it doesn't matter, Judge.

Q. I don't ask you whether there was anybody in your way, but I want you to tell those twelve gentlemen and the Judge, whether there were not girls between the space where you marked that you were and the Washington place entrance?

THE COURT: At the moment when you saw the fire?

A. They were on both sides, but not in the way where I was running, no one was in my way, no one touched me.

Q. Were there girls when you saw that fire, or knew there was a fire that were nearer to the Washington place door than you?

THE COURT: Yes or no?

A. I didn't look over there then whether there were any; they were running towards the fire-escape and I was running in that direction.

Q. Now, your answer to the question that I put was that at the fire escape they were very much packed and also at the door at Greene street, wasn't it? A. Yes.

Q. At the very instant when you knew there was a fire there was already a crowd packed together at the fire escape and at the Greene street entrance? A. Yes.

Q. Was there a great deal of excitement in the loft at the very instant that you knew there was a fire? A. Yes, outcries.

BY THE COURT:

Q. I want to ask you again substantially the same question that Mr. Steuer asked you a moment ago. At the time when you first knew that there was a fire, did you see any girl nearer to the Washington place door than you were? And I want a yes or no, or you don't remember? A. Near the entrance there I met a girl — Becky is her name, I don't know the family name.

BY MR. STEUER:

Q. Was this girl Becky the only girl that was nearer to the Washington place entrance more than you were at the instant when you knew that there was a fire? A. No, she was also working at the same table I was working, only on the other side, nearer to Greene street.

BY THE COURT:

Q. Will you pay attention again? At the moment when you first knew that there was a fire, did you observe or see any

girls on that loft who were nearer to the Washington place door than you were? A. No.

BY MR. STEUER:

Q. Do you say that there were no girls that were nearer to the Washington place entrance door than you, at the instant when you knew there was a fire? A. From the other side nearer to the entrance there may have been, but from the place where I was I didn't see any.

Q. Are you able to tell this jury that it is not the fact that after there was the cry of fire on the ninth floor, that a girl opened the door on the ninth floor, saw the flame and shut the door, and then that the girls started to run for the fire escape? A. I don't know.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. How are you related to any of the Blanck family?

A. My father and the father of Mrs. Blanck were brothers.

Q. How are you related to Mr. Bernstein? A. The same.

Q. You were telling of your conversation that you had with Mr. Blanck about the \$5,000 and you started to say something in your own language about "life". What did you say to Mr. Blanck about your father's life or your brother's life or your own life, when you were interrupted?

MR. STEUER: I have no recollection of any interruption, and I object to the question solely on that ground.

THE COURT: I won't say that he was interrupted. But he was on the point of making some explanation, and

I suggested that that would be brought out on re-direct examination.

MR. BOSTWICK: I withdraw the question.

Q. Tell the jury what you said to Mr. Blanck as to why you wanted. \$5,000, and whom you wanted it for? A. I demanded it for my old father and my old mother, because the brother who perished, he was a single man, he could send them much money, while we other brothers could not.

BY THE COURT:

Q. What brother as that? A. The one who was burned.

BY MR. BOSTWICK:

Q. That is your dead brother? A. Yes.

Q. What was his name? A. Morris Bernstein.

Q. And this is what you told Mr. Blanck? A. Yes.

Q. You had gone there for your pay had you not? A. Yes, and at that time I did, when they sent me in the daytime.

Q. And it was the same time you went for your pay that you had this conversation with Mr. Blanck? A. Yes. This was at twelve o'clock, and at four o'clock I was paid, and after that I didn't go there any more.

Q. Did your brother contribute to that support of your father and mother?

MR. STEUER: I object to that as immaterial.

THE COURT: The examination bore on the question of the bias of the witness; I think it bears upon the explanation that he may make. I allow it.

MR. STEUER: I except.

A. Yes.

Q. And he lost his life at that fire? A. Yes.

Q. You didn't come to the District Attorney voluntarily, did you?

MR. STEUER: I object. How could he come any other way? How is it possible he got there any other way?

MR. BOSTWICK: I will withdraw the question.

Q. How did you happen to come to the District Attorney's office the first time that you went there? A. They brought me a paper that I should come to the District Attorney's office.

Q. And did you get a paper every time you came to the District Attorney's office? A. Yes. Whenever I was called I went; otherwise I didn't.

Q. And was it the same kind of a paper? A. No, it was another colored paper than this kind.

Q. Well, it was either brown or pink, was it not? A. (No answer.)

BY MR. STEUER:

Q. Have you gotten of your invitations to call?

MR. STEUER: Put it in, and then we can see it. A. This was the one I received last week when I was called (witness producing a paper).

BY MR. BOSTWICK:

Q. Was it because of your receipt of this piece of paper,

or papers like this, that you called upon the District Attorney's office? A. Yes, whenever I received one I went.

THE COURT: That may be marked for identification. (Marked for Identification Defendant's Exhibit C.) Q. Did you see your brother at or near the Washington place door at the time of the fire? A. No.

Q. Did you see him at all at the time of the fire? A. No. Downstairs I was asking for him but I didn't see him upstairs.

MR. STEUER: May the jury be informed that the papers of this kind (referring to Defendant's Exhibit C for Identification) and similar ones, are nothing but a letter of invitation to the witness to call to see the District Attorney.

MR. BOSTWICK: I object. It being further stated that they are known as "brown" subpoenas.

MR. STEUER: They are not subpoenas at all.

THE COURT: The wording upon the paper may be made to appear; whatever is contained upon the paper in words may be made to appear ~

MR. BOSTWICK: I offer it in evidence.

MR. STEUER: I have no objection to it.

(Received in evidence and marked People's Exhibit 27.)

MARY BUCELLI, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(Through Official Interpreter Moustacki).

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that she resides at No. 309 West 42nd street, City and County of New York.)

Q. What is your present name? A. Mary Cisco.

Q. How long were you employed by the Triangle Waist Company? A. Two years — nearly two years.

Q. And were you in their employ and in their factory on the ninth floor at Washington place and Greene streets on March 25th, 1911? A. Yes.

Q. And that is in the County of New York? A. Yes.

Q. Now, after you had finished your work did you go to the dressing room? A. Yes.

Q. And after you had come from the dressing room, where did you go? A. Then I came out and I went to the dressing room to get my dress and hat, and when I came out of the dressing room I was near the machine where they attach the buttons -- the button machines on the Washington place side.

Q. Is that near the first row of tables? A. (In English) Yes — no, the second.

Q. And how did you know there was a fire? What was the first thing that called your attention to that fact? A. I didn't see any fire, but I saw a certain quantity of girls accumulating at the elevator, and they were shouting and screaming, and I dropped everything and went —

BY THE COURT:

Q. When you say the elevator, what elevator do you mean?

A. The front elevator.

BY MR. BOSTWICK:

Q. That is the passenger elevator, is it not? A. I saw them screaming, and going away from the elevator in front.

BY THE COURT:

Q. What do you mean by "in front"? A. The elevator on the Washington place side.

BY MR. BOSTWICK:

Q. Did you go anywhere near the Washington place door? A. Yes.

Q. When you got to the Washington place door, what did you do to the door, if anything? A. I tried to open it, but I couldn't.

Q. Was that door locked or unlocked?

MR. STEUER: I object to that as calling for a conclusion of the witness, and as incompetent.

THE COURT: I think I will sustain the objection.

She may describe what she saw and what she did.

Q. Could you get out that door?

(Objected to. Question withdrawn.)

Q. Did you try to get out that door? A. I tried to open it but I couldn't.

Q. What did you do to try to open it? A. I took hold of the handle and I turned it and pulled it towards me.

Q. Did the door open? A. No.

Q. After you failed to get out of that door that you tried

to open, and couldn't open, where did you go? A. Then I went to the rear and followed where the other girls went to, and when I saw them all going toward that direction I said to myself, if they will go there then I can't go there, because we will get killed, and I came back and jumped on a table, broke a window and went out of that window, on the fire escape.

Q. Did you have to get onto the table to get to the fire escape?

(Objected to as incompetent. Objection sustained.)

Q. When you went to that door that you could not open, did you see any key in it? A. There was no key, I saw no key.

Q. Now, every night when you ceased to work and went out, you went out by what door? A. On the Greene street side.

Q. Was there a watchman standing there as you went out?

MR. STEUER: I object to that.

THE COURT: That is leading, objection sustained.

MR. BOSTWICK: I withdraw the question.

Q. As you went out was there anyone standing by that Greene street door? A. Yes.

Q. And what did you do as you went past him? A. He would examine the pocketbook.

Q. And was there any other way to get out, so far as you know, excepting that Greene street passageway?

MR. STEUER: I object to that as calling for the conclusion of the witness, and as incompetent.

THE COURT: I will sustain it. You may ask her if she ever did go out any other door except that.

Q. Did you ever go out any way at night except by that Greene street door? A.

Always from Greene street. Sometimes from the elevator from the Washington place side.

Q. (Showing witness People's Exhibit 2) This is the Washington place side of the building? A. Yes.

Q. And this is the Greene street side of the building? A. Yes.

Q. Here are the Washington place elevators. And this is the Washington place door that you say you tried and couldn't get out? A. Yes.

Q. And there is the stairway on the other side of that right door on Washington place, and there is the dressing room next to it, and there is another dressing room right next to that, and here are the ladies' toilets? A. Yes.

Q. And there are the men's toilets? A. Yes.

Q. And there is the sink? A. Yes.

Q. And near there were examining tables, were there not? A. Yes.

Q. And more examining tables near the fire escape? A. Yes, and a table for the bookkeeper ~~

Q. And there is the fire escape? A. Yes.

Q. What did you jump on to get to that fire escape?

MR. STEUER: I object to that as immaterial.

(Objection overruled. Exception.)

A. All the tables where all the waists were on.

Q. And were they in front of that fire escape? A. Yes.

MR. STEUER: I object to that.

THE COURT: Yes. You may ask where they were.

MR. STEUER: I move to strike the answer out.

MR. BOSTWICK: Consented to.

Q. Show us with a pencil where those tables were that you did get on to get to that fire escape?

THE INTERPRETER: The witness would like to know where the window is.

Q. That is one window, that is another window? A. This window (witness indicating on diagram).

Q. Put your initials there? A. (Witness marks on diagram as requested.)

Q. Now, show us that the Greene street end of the building —

MR. STEUER: Do not point to where you want to be shown, Mr. Bostwick.

Q. This represents the Greene street end of the building, does it not? A. Yes.

Q. There are the freight elevators? A. Yes.

Q. And next to the freight elevators were the stairs? A. Yes.

Q. And in front of the freight elevators was a clothes closet, was there not?

MR. STEUER: I object to that as leading and sugges-

tive.

MR. BOSTWICK: The diagram is in evidence as a correct representation of the floor and the place ~~

MR. STEUER: If it is, then it speaks for itself. Why, we will understand there wasn't any entrance to that building at all, that you had to scale fences to get out of that loft, if Mr. Bostwick is permitted to put it that way.

THE COURT: No; they are entitled to show by this witness what the condition was.

MR. STEUER: Unquestionably, your Honor, but not by Mr. Bostwick, unsworn, or in any other way. I have not heard the witness say anything — Mr. Bostwick tells her and she says yes.

THE COURT: Objection sustained.

Q. Was there any clothes closet on the Greene street side of the building? A. I don't remember.

Q. Was there anything on front of the Greene street elevators? A. I don't remember.

Q. Was there any partition? A. There was a partition immediately as you enter from the door.

Q. When you got out of the freight elevator, could you see the whole of the loft, or did you see a partition?

MR. STEUER: I object to that as incompetent immaterial and irrelevant.

THE COURT: Objection sustained.

BY THE COURT;

Q. In stepping out of the flight elevator, what did you see? What could be seen by a person stepping out of the freight elevator? A. (No answer.)

Q. Suppose your back were to the body of the elevator and you were looking in the direction of Washington place, now, what would you see? A. Immediately you come out from the elevator door you see a kind of wooden partition there. It was placed there, I was told — well, I don't know why it was placed there. That partition has not been there a long time.

BY MR. BOSTWICK:

Q. In order to get to the Greene street elevators from the Greene street stairway, did you pass through a door? A. Yes, there is a door there.

Q. And did the person whom you say examined those pocket-books stand inside the loft or outside that door? A. Inside the factory near the partition, the new wooden partition.

Q. Can you point on that diagram, or can you not, to the door which led to the stairway end the freight elevator, Greene street side? A. I don't understand which door you mean.

Q. At the time you went to the Washington place door and found that you could not open it, did you see any other girls near that Washington place door? A. They were there, but with the confusion I don't know who they were.

Q. Were you injured in the fire? A. Yes.

Q. Have you brought a suit against these defendants? A. Yes.

BY MR. STEUER:

Q. You brought two separate suits, didn't you, against these defendants — one in which you want \$5,000 and another one in which your mother wants \$10,000? A. No, one — \$1,000 is the suit by my mother against these defendants, and another one of my own suit — \$5,000.

Q. How did you get downstairs? By way of the fire escape? A. Yes, the fire escape.

Q. When you got to the Washington Place door were there other girls there before you? A. I can't remember, because I was nearly blind there for the excitement.

Q. And smoke, too? A. Yes, a little smoke.

Q. Didn't I understand you to say to Mr. Bostwick — or am I mistaken -- that you did see other girls at the door, but that you could not tell who they were? A. Yes, that is true.

Q. And the fact is that there was a great crowd of girls around the door, isn't it? A. Yes, screaming and crying.

Q. And the fact is that there was a great crowd of girls in front of you, isn't it? A. I couldn't tell whether they were in front or back of me, but there were so many all around.

Q. Well, there was great excitement there at the time, wasn't there? A. Yes, screaming and crying and shouting.

Q. I want you to take plenty of time before you answer the question, I have asked it of you twice, and I want to ask it once more. In front of you — not paying attention to how many girls there might have been in the back of you, but tell these twelve men whether in front of you it is not a fact that there were a great many girls -- in front of you — while you were trying to get to the Washington place side door? A. I didn't count them.

Q. Well, I don't mean that you did count them at all, but I mean you should tell the jury ~ isn't it a fact that there were a lot of girls there in front of you as you were trying to get to the Washington place side door? A. I can't tell you because I gave so many pushes and kicks.

Q. Because you gave so many pushes, or received? Both? A. I gave and I received.

Q. Well, now, of course when you gave the pushes it was on girls that were in front of you, wasn't it? A. I didn't say they were exactly in front of the door, because I would meet them all around me.

Q. Well, they were in front of you, no matter where you went, and they were also in back of you no matter where you went? A. I was throwing them down whenever I met them, no matter whether they were in front or the back. I was pushing them down, I only was looking for my own life.

Q. And that is what the others were doing, too, wasn't it? A. Certainly. I was only looking for a particular friend

of mine, but I couldn't see her.

Q. And the reason why you couldn't see your particular friend was because the excitement was so great, because the girls were running around and because the smoke was getting thicker all the time; isn't that so? A. No, she was not there. There was not so much smoke, but the girl I was looking for was not there, and she was looking also for me and she couldn't find me.

Q. You couldn't see her and she couldn't see you? A. No.

Q. You lost each other? A. Yes. First we were together.

Q. Tell the jury what was the smallest number of girls that was in front of you when you were trying to get to the Washington place door? A. I can't remember that.

Q. Well, isn't it a fact that there was no time when you were trying to get to that Washington place door when there were not at least twenty girls in front of you? A. At a moment like that, there is a big confusion and you must understand that you cannot see anything. You see a multitude of things, but you don't distinguish anything; with the confusion and the fright that you take, you can't distinguish anything.

Q. Are you able to tell this jury whether at any time while you were trying to fight your way toward the Washington place door there were less than ten girls in front of you? A. I told you before that while I was at that door I saw a multitude of girls there, but I couldn't tell you how many there were, at a moment like that. I even cannot tell you

whether they were men or women. I saw a mass of flesh there, but I couldn't tell you what they were.

Q. Was there a single instant while you were trying to make your way to the Washington place door when there was not a mass of flesh so that you could not distinguish men or women, in front of you? A. I couldn't see anything. I saw many persons, but I couldn't tell. If I should tell you now that I saw one party I would tell you a lie, for I couldn't see anything.

Q. You mean if I ask you to give a name, that you couldn't give any name, and I am not asking you to? A. I only saw a mass of flesh there, and I felt like fainting and I couldn't see any more.

Q. You said that when you went downstairs evenings, or when you went home evenings, you went home by the Greene street entrance? A. Yes.

Q. That is, you mean that you went on the elevators? A. Yes. The stairs were too high.

Q. You didn't mean to say that you walked downstairs? You took the elevators on the Greene street side? A. Not with the elevator. Sometimes when we used to work late, we had to work overtime, then the elevator was closed and we had to walk down the stairs.

Q. But ordinarily, when you did not work overtime, you went downstairs with the Greene street elevators? A. Yes.

Q. And you said sometimes you went down by the Washington

street elevators? A. We used at first to go with the Washington place side, but then when they get some new rules out, that only the employes must go through the Greene street side.

BY THE COURT:

Q. When were those rules first made or announced to you? A. After eight months I worked there, the orders were given out.

Q. And you began to work there when? A. It is nearly two years or more.

BY MR. STEUER:

Q. In the last year that you worked there, did you never use the Washington place elevators? A. No, never. I always used to take the Greene street.

Q. Well, now, before you started to go down, only the Greene street elevators, and while you said you sometimes used the Washington place elevators, was there a watchman at the Washington place elevators to look at your pocketbook?

MR. BOSTWICK: What did she just say, Mr. Interpreter?

THE INTERPRETER: She said something about the forelady.

THE COURT: It was not responsive.

A. No, only in Greene street.

Q. You spoke of somebody looking at your pocketbook. Did you mean that if you had a pocketbook in your hand that you opened that to show the man? A. It was compulsory. He wouldn't let us pass unless we did so.

Q. If you had an ordinary pocketbook in which you kept money — A. No.

Q. You mean if a girl had a handbag or a parcel? A. I had a large pocketbook — I don't know about the others — but I had always to open that book.

Q. As you went by the man you opened it and showed him you were not taking any goods or embroidery or lace? A. Yes.

Q. Who was it that gave you the orders that you should not use the front elevator? A. All the girls said that they got orders not to go to that elevator.

MR. STEUER: I move to strike out the testimony elicited by your Honor, that there were any such orders given, and also the testimony that there was any such order given.

MR. BOSTWICK: I would like to have the record read to see whether counsel for the defence did not himself bring that out.

MR. STEUER: You will see that I did not ask a question about it, but it is quite true that the witness made the voluntary statement that there were orders given and—

THE COURT: I should be disposed to strike it out. Appropriate questions may be addressed to this witness for the purpose of ascertaining whether she knows whether such orders were or were not given. But, as the matter stands now, I will strike it out.

MR. STEUER: I will take the risk of asking that my-

self, on your Honor's suggestion, to show you that I am perfectly willing to elicit anything that will aid the trial.

BY MR. STEUER:

Q. Did you ever hear Mr. Blanck or Mr. Harris give any order to any girl in the place on any floor, eighth, ninth or tenth, that they should not use the front elevator? A. No, but everyone told me.

MR. STEUER: Now, I move to strike that out.

THE COURT: I will strike it out.

Q. Did you ever hear Sam Bernstein give an order to any girl that she could not go down by the Washington place elevator? A. No.

BY THE COURT:

Q. Did you ever see any notice posted up on the walls regarding what elevators were to be used? A. No.

BY MR. STEUER:

Q. Do you know a man by the name of Sam Bernstein that worked at a machine on the ninth floor? A. No. I never used to talk with the men there.

Q. As you came into the courtroom this afternoon, just before you went on the chair, did you see a man walking out that had been on the chair?

THE COURT: He can be brought back if you want, for the purposes of identification.

MR. RUBIN: He has gone back to work, your Honor.

A. No, because at that time I was talking with somebody when I was called in.

Q. Were you in the same room upstairs with anybody by the name of Bernstein this morning, do you know? In the room where the witnesses are? A. No, I was not, and I don't know any person by the name of Bernstein.

Q. You have already said that of the people that were in front of you when you were trying to get to the Washington place door, you could not distinguish any man or woman and could not say whether any particular person was there; have you not?

MR. BOSTWICK: I object to the question.

THE COURT: I think it is the substance of what she testified to; I will allow it.

A. No, I could not.

Q. When you were at work where did you sit? A. The last time, you mean?

Q. Yes. A. Fourth row, towards Greene street, near the window.

Q. When you say fourth row, do you mean the fourth table? A. Yes.

Q. And beginning to count the tables which way? A. From the window on the Greene street side.

THE COURT: Just take a pencil and make a mark.

MR. STEUER: I do not think it would be clear to her yet, your Honor.

THE COURT: Very well.

Q. (Indicating on diagram) That is Greene street and that is first table, second, third and fourth? A. I think this side (indicating).

BY THE COURT:

Q. When you were at work, did you sit so as to face the Greene street windows, or was your back to those windows? A. I had it, facing Greene street.

BY MR. STEUER:

Q. And you fix that you were working then — put a mark anywhere you fix?

(Witness marks on diagram.)

THE COURT: That is the machine that she customarily worked at?

MR. STEUER: Yes.

THE COURT: I do not think her testimony is that she was at her machine at the time of the fire.

MR. STEUER: No, I just wanted to get her located.

BY MR. STEUER:

Q. You had stopped work before you knew anything about a fire, had you not? A. No, no; we didn't know anything about the fire when we ceased work.

Q. There rings a bell when the power is shut off and then one stop work, isn't that it?

A. Yes, sir.

Q. When the bell rang and you stopped work, what did you do then, do you remember? A. I went to the coat room and took

my hat and coat and came out and I went near the table where they attached the buttons ~~ called the button table.

Q. Where was the coat room to which you went? A. On the Washington place side.

Q. Well, they have got some rooms over here (indicating) marked "dressing rooms"? A. The one near the toilet I went to.

Q. Well, both of them, according to this diagram, seem to be — A. Not the one near the elevator, but the next one.

Q. Well, then, that would be —

THE COURT: She larger room, isn't it?

MR. STEUER: It looks a little larger.

THE COURT: Well, the one nearer the fire escape.

MR. STEUER: Yes, sir.

Q. And did you get your hat and your coat? A. Yes.

Q. Do you remember whether you put them on or not? A. On my arm, I didn't put it on yet.

Q. And where did you go from the dressing room? A. At the table where they sew the buttons on.

BY THE COURT:

Q. And where is that table? A. That is this one (indicating).

THE COURT: Make a mark there and put your initials there.

A. Just right here (witness marking as directed).

BY MR. STEUER:

Q. Did all the girls get up and go to the dressing room

when the bell rang to stop? A. We all got up to go and get dressed.

THE COURT: The witness has indicated as the position of the button table the end of the second table nearest the fire escapet the end furthest away from the Washington place side of the second table.

Q. Was the button table a separate table? A. No, there is one end where I have marked here, where they make the buttons, four machines for the buttons; further down is where they make the button-holes and so on.

Q. When you were over here at the button table where you have marked on this diagram, the first thing that you heard was shouting and screaming that attracted your attention? A. Yes.

Q. Where did the shouting and screaming come from? A. (Witness points at the passenger elevator on diagram Exhibit No. 2.)

Q. And that is right alongside of the Washington place staircase? A. No, they were standing in front of the elevator, screaming.

Q. The people were in front of the elevator at that time? A. Some of them.

Q. Well, now, from that moment on did the excitement begin? A. Yes.

Q. And then the people began to run all around? A. Yes.

Q. And scream? A. And cry.

Q. And you were running into each other and throwing each other out of the way? A.

Yes.

Q. From there at the end of the button table, when you heard the screaming, did you get excited yourself? A. Sure.

Q. And you got mixed up, did you? A. Yes.

Q. And you ran around, too, did you, like the rest? A. No. My first idea was to find out what it was. I went right in front of the door.

Q. How many girls did you run into between the time that you were at the button table and while you were going over to the Washington place door? A. I didn't count them.

Q. And you can't tell? A. I can't tell.

Q. You have no idea? A. No.

Q. And at this time the smoke was coming from every direction, was it not?

A. Yes.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. When you had your hand on that door and trying to open it and it wouldn't open, were you running around the room?

MR. STEUER: I object to the question. In the first place it includes an absurdity, and, in the second place it assumes a fact which is in great doubt in this case. She certainly would have been a marvel if she had her hand on that door knob and could then be running around the room.

MR. BOSTWICK: This witness has testified, in no unmistakable language, that she took hold of that door.

THE COURT: No one questions it. This witness has testified as to what her movements were, and she has testified, as I recollect the evidence, that she did go to that door and as to certain things she did while at the door; she has testified as to doing certain other things. I will sustain the objection to the question on the ground that it is manifest that when the witness stated that she was running around she was not referring to the time, as she has testified, that she was at the door.

Q. When you had your hand on the knob of that door, as you have testified, and pulled it and it wouldn't open, were you mixed up?

MR. STEUER: I object to that on the ground that it bases a second hypothesis on a former that is in no way connected.

(Objection overruled. Exception.)

A. Certainly. I took a terrible fright.

Q. And is that what you mean by "mixed up"? A. Sure.

Q. How did the foreladies go out of that floor? A. How do I know?

Q. Do you know what elevator they went down by? A. I don't know, because I couldn't go through the elevator myself so I don't know.

MR. STEUER: She is evidently thinking of the time of the fire. Do you mean to ask her on other occasions? I think she really had reference to the time of the fire.

Q. I am speaking now of every day? A. I couldn't tell, because we used to go home ahead of the foreladies.

Q. When you had your hand on the knob of that Washington place door and pulled it and it wouldn't open, were any girls in front of you at that moment?

MR. STEUER: Objected to as leading and suggestive.

(Objection overruled. Exception.)

A. They were all over.

BY THE COURT:

Q. Were there any at that moment between you and the door itself? A. Once I had my hand on that door knob no one could take it away, I was there alone, but all around me there were people.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. And at the time when you got your hand on the door knob, these girls or men, or whoever they were, behind you, were crowding on top of you, weren't they? A. Yes, they used to push me and rush and knock me about.

Q. From every direction? A. Every way.

Q. And when you said that you were mixed up and excited, you mean that you didn't know what you were doing? A. I was half crazy, I didn't know myself what I was doing.

BY MR. BOSTWICK:

Q. Have you now any doubt in your own mind about the movements that you have testified to here to-day?

MR. STEUER: Objected to as being simply asking a witness to corroborate herself.

THE COURT: Objection sustained.

JOSEPH BRENMAN, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(Through Official Interpreter Rosenthal.)

(The witness states that he resides at 607 Morris Street, Philadelphia.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Were you in the employ of the defendants, Harris and Blanck on March 25th, 1911?

A. Yes.

Q. And did you work on the ninth floor of the building at the corner of Washington place and Greene street? A. Yes.

Q. Where were you when the fire broke out? A. I was at the machine.

Q. Did you have any sisters at work there? A. Yes, two sisters.

Q. As soon as you knew that there was fire in the building what did you do? A. Before the fire broke out I told my younger sister to go downstairs, she should go and dress herself.

Q. How did you first know that the place was afire? A. At the second table there was a passage way towards Greene street and I was standing there; there was a lot of people standing near me -- Jake Klein was there, and his cousin, and the forelady Fannie was there; they didn't stay near me, and I looked around where I was, when I saw from the direction of Greene street flames come up near the dressing room. When I ran over there to take my coat to the dressing room there was fixed a piece of wall — it was only fixed up lately — and I

wanted to run out to the Greene street side with the steps; I remembered that my sisters imre there and I ran towards the door of Washington place. At the side where the examining tables were there were a lot of people, they were standing on the tables. Then I ran to the door and I found a crowd there at the Washington place side ~—

MR. STEUER: Now, wait a minute. I object to what the people were saying, or anything like that.

THE COURT: Yes; don't say what was said; what did you do?

A. (Witness continuing) I pushed through the crowd which was near the door, and I tried the door to go out to Washington place; I couldn't go out there.

Q. What did you do in your effort or your trial to get out the Washington place door? A. I took hold of the handle, and I was pulling it.

Q. When you say handle do you mean the door knob? A. Yes, the handle of the door knob.

Q. Look this way, Mr. Witness. Do you mean this part of the door here (indicating door knob on door in court room) A. Yes.

Q. And did you take hold of that? A. Yes.

Q. Jnd did you turn it? A. Yes.

Q. Did you try to pull it? A. Sure, yes, and I tried to pull it, then I heard the elevator coming up, then I pushed myself into the crowd and into the car of the elevator.

Q. Did either of your sisters get out?

Objected to. Question withdrawn.

MR. STEUER: Objection withdrawn. It doesn't make any different.

Q. Did you see anybody near that Washington place door that you knew? A. Yes, I did.

Q. Who? A. Jake Selzer was standing at the door, he couldn't come in; and there was another one who came in, Charles Gorsky is his name; he is alive.

Q. Is Jake Selzer alive? A. No.

Q. How long have you worked for the Triangle Waist Company?

A. About two years and a half or three years. I don't remember exactly.

MR. BOSTWICK: Counsel for the defendants said he objects to this or any witness stating what was said by bystanders under these circumstances. Would your Honor like to hear me upon that proposition? I have strong feelings about it and have given the matter most careful earnest consideration for a couple of months, and I should not like, knowing that this our last court of appeals ~~ we have no exception, we have no appeal — I should like to be heard before the final ruling is made upon that very important matter.

THE COURT: I think you may submit a memorandum and I examine it between this and Monday.

MR. BOSTWICK: All right. I will refrain asking this

witness any questions at this time on that point, so it will be reserved.

THE COURT: You may likewise, Mr. Steuer, submit a memorandum on that proposition, if you care to. It will be understood, Mr. Bostwick, that in the event that I conclude that you have the right to ask the questions, you may resume your examination of the witness.

MR. BOSTWICK: Unfortunately this witness returns to Philadelphia to-night and I will lose that opportunity, but I will —

THE COURT: Have you got your authorities here now?

(Authorities handed to the Court by Mr. Bostwick.)

THE COURT: Have you any New York case on the point?

MR. BOSTWICK. It never has been decided in the State of New York, sir, as far as I know. And the particular cases the New York Court of Appeals passed upon were statements made after the accident and not at the time.

THE COURT: Have you any authority on the point, Mr. Steuer?

MR. STEUER: No, may it please your honor, I have not. I have not considered the possible propriety of testimony of this kind.

THE COURT: I do not care to hear you orally now, but I may afterwards.

MR. BOSTWICK: I do not ask your Honor to make a ruling in the case of this witness, because there will

be several other witnesses from whom the matter can be equally well brought out.

THE COURT: Under those circumstances I will take it under Advisement.

CROSS EXAMINATION BY MR. STEUER:

Q. After you heard the bell to stop work you spoke to one of your sisters? A. No, the sisters weren't there.

THE COURT: On the direct examination of this witness I don't think his exact location at the time he heard the cry of "Fire" was marked out on the diagram.

MR. STEUER: I will go into that in a moment, your Honor.

Q. Didn't you say before that you told your little sister, your younger sister first to go downstairs, and then after you changed it that she should put her clothes on? A. No, I told her she should dress herself and come back.

Q. Well, that was after the bell rang to stop work, wasn't it? A. No. I told her that while we were still working. I always used to do that because she was working near me and I told her that.

Q. Told her to go and get dressed before the bell rang? A. Yes.

Q. Did she go to get dressed before the bell rang? A. Yes.

Q. Is it not a fact that they were not allowed to stop working until the bell rang? A.

Some of the working men were working by the week for the boss, but she was working for me.

under me.

Q. So that you could tell her to stop or go whenever you liked? A. Yes.

Q. Did you stop when you heard the bell? A. Yes.

Q. And did you stop before you knew there was a fire or after you knew there was a fire? A. I knew it after the bell had rung.

Q. Where did you sit in that loft, or in that shop? A. At the third table; my number was 85.

Q. The third table from where? A. (In English) From Greene street.

Q. And about where on the third table did you sit? A. Towards Washington place, the number was 85.

Q. Tell us again -- the third table from Greene street? A. Yes.

Q. Well, there is the first table from Greene street, (indicating), then this would be the third? A. It was the passageway on the second that I mentioned before. I was sitting about here.

THE COURT: Mark it and put your initial. there.

(Witness marks diagram as directed by the Court.)

BY THE COURT:

Q. When seated at work was your back to Greene street? A. Yes.

Q. And your face to the Washington place stairway? A. Towards the elevator, Washington place.

BY MR. STEUER:

Q. When you got up when you heard the bell rung where did you go? A. I went through the passageway (indicating an opening at the second table).

Q. And that is where you were standing? A. Yes, and here I was standing (indicating).

MR. STEUER: Indicating the point at which the second table begins its second division, nearest the north wall of the building, is that correct, your Honor?

THE COURT: That is right.

Q. Did you stand there all the time, or did you go anywhere from that point before you started for the Washington place door? A. I was standing here and the others I have mentioned were standing here also.

Q. You mean by the others Jake Klein? A. Yes.

Q. And his cousin? A. Yes.

Q. And Fannie? A. Yes.

Q. Whom you said was a forelady? A. Yes.

Q. When you were standing there, is that the point at which you first learned there was a fire? A. While I was here the others left me and I went towards the dressing room. Before I had reached that place I saw fire already in the windows on the Greene street side.

THE COURT: The witness indicated on the diagram that he moved along a passageway between the first and second tables in the direction of the Greene street freight

elevators.

MR. STEUER: He was moving in that direction, Your Honor, intending to go to the dressing room on that side.

THE COURT: Intending to go to the dressing room on that side.

Q. After you saw that there was fire did you go to the dressing room at all? A. Yes, and I went down to the dressing room to take my coat.

Q. And to get your coat? A. Yes.

Q. Have you got the same coat still? A. The same coat here.

Q. You then started to go down to the Greene street court did you not? A. Here is the dressing room and I went along the dressing room.

THE COURT: The witness indicates that he moved along the loft side of the partition separating the dressing room from the hall and stairwell on the Greene street side.

A. (Witness continuing) After I had taken the coat out of the dressing room I came over to a place where there was a partition. There was no fire as yet. There was a passage to go through to the freight elevator.

THE COURT: Indicating the door on the Greene street side, leading out of the loft to the stair-well.

A. (Witness continuing) Then I remembered my sister, then I ran up.

Q. I want you to please the the jury how far you got towards the elevator on the Greene street side? A. I didn't get to the elevator; I came to the point where I have indicated and then my sister came to my mind and I ran for her.

THE COURT: And the point indicated is the doorway leading out to the stairs on the Greene street side.

Q. As you were standing, or as you were walking, or when you got to that point that you have just indicated, your sisters came to your mind? A. Yes.

Q. And when you thought of your sisters then your object was to find your sisters? A. Yes.

Q. Did you cry out for your sisters then? A. Yes.

Q. You ran around and called out your sisters' names? A. I called my younger sister, because the older sister was sitting far away.

Q. Was sitting a distance away? A. Yes.

Q. You were calling out your younger sister's name, is that right? A. "Sarah! Where is Sarah?" "Surka", I called her, in Yiddish, and "Sarah".

Q. You were calling out your sister's first name and saying "Sarah", or "Surka," "Where is Surka Brenman?" A. I said, "Surka, where are you?"

Q. And then did you keep running around to try to find her?

THE COURT: Witness indicates with his finger on diagram.

A. When they came to my mind I started to run towards in the direction of the examining tables, and a lot of people were standing on the tables (indicating a point about opposite the fire-escape).

Q. Go ahead and tell what you did? A. On the tables were standing a lot of people, and I didn't see my sister there, and then I ran towards the Washington place door.

THE COURT: Indicating with his hand, running about around the row of columns nearest to the Washington place dressing room side.

Q. And then you say that you pushed your way through the girls? A. Yes, and I ran up to the door.

BY THE COURT:

Q. When you say the door, what door do you mean? A. The door leading out to Washington place.

BY MR. STEUER:

Q. Didn't you meet a man there by the name of Sam Bernstein? A. I didn't look at the particular man — there were lots of men.

Q. Didn't a man by the name of Sam Bernstein have hold of the door knob? A. I didn't look exactly at him, as he was holding a door.

Q. Well, did you see a man that had hold of the door knob? A. I saw a lot of girls and boys and I pushed some aside and I myself tried the door.

Q. Did you see a girl standing there by the name of Bucelli,

who was holding her hand on the door knob? A. I don't know them by name.

Q. Well, did you see a girl there that had her hand on the door knob and held onto it and was trying the door? A. I don't remember it.

Q. While you were running around coming from the Greene street dressing room, the dressing room on the Greene street side, near the freight elevators, all the way over to the Washington place door, did you run into girls? A. I don't remember, I don't know.

Q. Do you know whether any girls or men ran into you? A. I can't remember it.

Q. Were you thinking of the flames at all at that time that had come in through Greene street? A. Yes.

Q. Wasn't the place getting all full of smoke and flames from everywhere? A. When I got to the elevator, then the smoke and flames came from different sides.

Q. Did you get excited at all? A. A little.

Q. Very little? A. Not very little, but more than a little.

A. Isn't it a fact that you were all excited and didn't know what you were doing? A. I had in my mind my sisters, and I couldn't look at things around me.

Q. Well, in order to find your sisters you were looking at the people that you were running into, weren't you? A. I only looked at the hats, because she was dressed already, and didn't

look at the faces.

Q. Did you look at the hats of the girls? A. Yes.

Q. Did you see your sister? A. If I would have seen her I would have taken her along.

Q. Then you didn't go all around to see where she was? A. At the tables the people were all near the fire-escape and the elevator, none of them were near the tables.

Q. The girls were either massed over here by the fire-escapes, or they were bunched together over on this side (indicating the Washington place elevator)? A. Yes.

Q. Didn't the girls run right over to the ninth floor windows and begin to jump? A. At this side, near the elevator.

Q. Well, there weren't any windows on the elevator side, were there? A. I mean the Washington place side.

Q. The girls ran over to these windows and began to jump? A. Not near Greene street, but nearer the Washington place entrance.

Q. I am speaking of the Washington place side. That is you saw them run and jump?

MR. BOSTWICK: He says near the Washington place entrance as distinguished from the Washington place side. It is all on the Washington place side, but he says it is near the Washington place entrance rather than the Greene street end.

MR. STEUER: Well, we understand that much. We both had our fingers in the excitement right near the spot (on

the diagram). You seem to be terribly afraid somebody is taking advantage of you, Mr. Bostwick.

THE COURT: The witness indicates a point on the diagram at the third window, starting from the side furthest from Greene street on the Washington place side.

MR. RUBIN: Washington place end.

Q. Was there a great deal of screaming? A. Yes.

Q. Which elevator did you get into and go down? A. The second elevator from Washington place.

THE COURT: Indicating the one furthest from the Washington place wall of the building.

Q. While you were there you tried the door knob, did you? A. What? Which?

Q. Did you try any door knob at all? A. Yes; the door from the Washington place side I did.

Q. Did you try any other door knob? A. There is no other door to go out.

Q. Did you see any other people try that same door knob? A. I didn't see them. I pushed them away, I didn't find them at the door.

Q. Do you mean to say there was not a big crowd wherever you went, behind you all the time? A. Everywhere I say there were people they were.

Q. The people at the Washington place door allowed you to crush through them and you threw them all onside, did you? A. I pushed through by force.

Q. Weren't they pushing with all their force? A. They were girls who felt faint and they couldn't withstand my force.

Q. Well, were there any men there that could withstand your force? A. I can't remember.

Q. Do you belong to the Union? A. No.

Q. Didn't you ever get a letter to come down to see the lawyer of the Union? A. No.

Q. Who is your lawyer that brought the suit against Harris and Blanck? A. I didn't make a complaint, my brother, my older brother did.

Q. Do you know how much your brother sued them for? A. No, I don't know.

Q. Your brother wants \$75,000 in one case, doesn't he?

Objected to. Objection sustained. Exception.

MR. STEUER: Is it on the ground that he has no knowledge?

THE COURT: He says he has no knowledge.

MR. BOSTWICK: I ask that it be stricken out.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Do you know Fannie Lausner? A. I don't know the second name.

Q. Lanser? A. Lanser, some thing like it; it is the forelady.

Q. Where did you see her last? A. She was near me where I pointed out at the second table.

Q. Is that the last time you saw her? A. Yes.

THE COURT: Gentlemen of the jury you are admonished not to converse among yourselves on any subject connected with the trial, or to form or express any opinion thereon, until the same is submitted to you. You will not talk with any one about the case or allow any one to talk with you about the case, you will not visit the premises referred to in the testimony, and you will not read any newspaper account relating to the trial.

(The Court now directs an adjournment to Monday, December 11, 1911, at
10:30 a. m.)

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New York, December 11, 1911.

TRIAL RESUMED.

ANNA GULLO, called as a witness on behalf of the People, being first duly sworn,
testifies as follows:

(The witness states that she resides at 437 East 12th street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, were you in the employ of the Triangle Waist
Company? A. Yes, sir.

Q. How old are you? A. I am twenty.

Q. Where were you born? A. I was born in Italy.

Q. How many years have you been in this country? A. I am here about twelve years.

Q. How long have you been in the employ of the Triangle Waist Company? A. About
two years and a half.

Q. And were you employed on the ninth floor? A. Yes, sir.

Q. In what capacity? What did you do, what was your work? A. I was an operator.

Q. Operator at a machine? A. On a machine.

Q. Now, where were you when the fire broke out? A. I was standing near Mary, the
bookkeeper's desk.

BY THE COURT:

Q. Whereabouts was that? Where was that desk? A. It was near the Greene street
side door.

Q. That is to say near the door going out from the ninth loft onto the Greene street
side? A. Yes, sir.

BY MR. BOSTWICK:

Q. Was it anywhere near the fire-escape? A. No, sir.

Q. What is the first thing that attracted your attention or made you believe that there was a fire there? A. Somebody hollered fire, and we couldn't believe it.

Q. Where were you at that moment? A. Right by Mary's desk, Mary the bookkeeper's desk.

Q. What did you do and where did you go immediately that you heard the cry of fire? A. I ran through to the Washington place side.

Q. And when you got to the Washington place door what did you do? A. I tried the door and the door was locked.

Q. You turned the knob? A. Yes, sir.

Q. You pulled the door? A. Yes, sir.

Q. It wouldn't open? A. It wouldn't open.

Q. Then where did you go? A. I went to the elevator.

Q. And after that? A. I thought it was no hopes for ae to be saved. I went to the fourth window of Washington place, I broke the window, and I threw a pail of water and the flames came up higher; then I crossed — I done the sign of the Cross, I thought I would jump out of the window but I couldn't -- I had no courage to do it.

MR. STEUER: I submit, your Honor, that that is incompetent, and I move to strike it out and I ask you to tell the jury to disregard it.

THE COURT: How much do you want stricken out?

MR. STEUER: I think the whole of it is incompetent, Your Honor.

THE COURT: By "the whole" you mean what?

MR. STEUER: Right after she said she went to the window.

THE COURT: Starting with the words "I thought it was no hopes for me" and what follows, is stricken out.

MR. BOSTWICK: I would like to have it read.

MR. STEUER: I would rather have it stay in than to have it repeated so often.

(The stenographer now reads in an undertone to Mr. Bostwick the answer which Mr. Steuer moves to strike outt following which the stenographer then reads in an undertone the same answer to his Honor.)

THE COURT: I will allow to stay in the record "I went to the fourth window of Washington place, I broke the window and I threw a pail of water;" the balance is stricken out, that is to say, the balance of that particular answer except the part that I have allowed in is stricken out.

Q. Did you break the window? A. I broke the window, yes.

Q. And after you nsnt to the window and broke the window where did you go?

A. Well, then I turned back and while I was saving myself I seen a girl that says to me, "Anna, what shall I do?", and she fell right near the Washington place side door suffocated.

Q. Do you know who that girl was? A. Her name was Biddie Deer, Bessie Bernstein's friend.

Q. Then where did you go after that? A. Well, I put my skirt around my hair, put my handkerchief on my mouth, and I stooped down until I come to the Greene street side door, and I went down the stairway, and the flames were something terrible to the Greene street side.

THE COURT: Strike out "and the flames were something terrible", and the jury will disregard it.

Q. As you got to the Greene street door were there any flames there? A. Yes, sir.

Q. And what did you do, if anything to protect yourself from being burned by the flame? A. What would I do?

Q. What did you do? A. That is a question that I can't answer.

Q. Well, did you put anything over your head or not? A. I put my skirt around my hair.

Q. Around your head? A. Yes, sir.

Q. And then went through the Greene street stairway door? A. Yes, sir.

Q. And went down the Greene street stairs? A. Yes, sir.

Q. To the street? A. Yes, sir.

Q. When it came quitting time at night, how would the operators go home — by what door? A. Greene street side door.

Q. And when you went out at the Greene street side door was there a watchman there?
A. Yes, sir.

Q. And as you went out past the watchman what would you do? A. You had to open your pocketbook and show what you had in there.

Q. When you say pocket book do you mean handbag also? A. Yes, sir.

Q. And you all went out by the Greene street door? A. Yes.

BY THE COURT:

Q. On the 25th of March, 1911, whereabouts were you living? A. (No answer).

Q. Where was your home on the 25th of March 1911? A. 437 East 12th street.

Q. That is the same place that you live in now? A. Yes, sir.

Q. And you had been living there at that time for about how long? A. Well, I lived there about five years.

Q. And 437 East 12th street is between what avenues? A. Between Avenue A and First.

BY MR. BOSTWICK:

Q. Did you ever use the Washington place door to the stairway? A. No, sir.

Q. Did you ever see it used? A. No, sir.

Q. Did you ever during the period that you were employed there have any fire drills in that factory? A. No, sir.

MR. STEUER: Objected to as incompetent, irrelevant and immaterial.

THE COURT: I think it is competent, under the first count in the indictment.

MR. STEUER: Merely because the failure to use them is charged in the indictment surely does not make it competent, your Honor. You might just as well charge in an indictment then that the defendants failed to supply a thousand other things that they did not supply, but if they were not requirements that the law imposed upon them, what difference would the failure to supply them make?

THE COURT: Well, Mr. Steuer, you have put a question to me, and I take it that you would like to have an answer?

MR. STEUER: Well, if your Honor feels that it should not be answered, I am perfectly willing to content myself with an exception. My purpose in putting the question was rather to suggest a line of thought; it probably did occur to you, but of course we cannot tell what occurs to your Honor and what does not.

THE COURT: The reason that I have allowed it is that I conceive that the liability of these defendants may conceivably be predicated not exclusively upon the omission to perform an alleged statutory duty, but upon a failure to supply a reasonably safe and proper place in which their employees were to work. Or, in other words, upon the theory of the presence of criminal negligence on their part in a failure to discharge obligations existing irrespective of any statutory duty. And, in that con-

nection, while the omission of one particular thing might not be significant, it is conceivable that a contention might be made that where a number of matters which might be regarded as precautionary were omitted, it bore upon the presence or absence of that care required by the defendants. That is what was in my mind.

MR. STEUER: Well, I respectfully except, first, may it please your Honor, on the ground that there is absolutely no statutory duty; second, that there is absolutely no precedent with relation to any commonlaw duty, and, third, that if such testimony were admissible at all at least a foundation should be shown for it by showing that there was a single factory anywhere in the United States where that custom was pursued. I do not want to have any further argument about it, but the line of thought I suggest is that you cannot single out these defendants and say that because a catastrophe happened that was not anticipated —

THE COURT: I do not want you to misunderstand me, Mr. Steuer. I am entirely open to conviction on the subject one way or the other. As far as I can I want my ruling to be in harmony with what is required by the law.

MR. STEUER: Then in line with that may I suggest to your Honor that we all realise, of course, that hindsight is much better than foresight, and that whenever a catastrophe occurs it is followed by remedial legislation, and

by the introduction of methods that will obviate the possibility of its reoccurrence —

THE COURT: Your last suggestion goes rather, does it not, to the order of proof? In other words, would make this competent subject to being connected with other facts?

MR. STEUER: Well, it is a significant circumstance, and I hardly think, while your Honor, of course, has a wide discretion in the reception of evidence on the theory that it might be connected, it seems to me that it would be rather dangerous.

THE COURT: I ought not to receive it except as a matter of great convenience. In other words, if the prosecution were prepared to show, for example, that it was customary in factories of this kind to have fire drills, and then they should show by this witness, if you please, that in this particular factory they did not have them, that would be an item to be considered by the jury.

MR. STEUER: Oh, yes, that is what I said.

THE COURT: The reception of this evidence at this time —

MR. BOSTWICK: (Interposing) There are several cases in which the Court of Appeals and the Old General Term have said that the knowledge brought home to the employees as to the matter of egress was important (McArdle case, 67 Hun), and whether these people had any fire drills and knew how to get out, goes right to the substance of their

ability to use those methods of egress which had been provided by their employer. And in the cases that have gone to the Court of Appeals that has been emphasized by the Court in one or two cases, and I call attention to the case of Arnold against the National Starch Company, and also the Bisanto case and the McArdle case in 67 Hun. It bears upon the question of whether they were culpably negligent.

THE COURT: I will allow my ruling to stand, Mr. Steuer.

MR. STEUER: And I respectfully except.

Q. Were there any members of your family in the employ of the Triangle Waist Company at the time of the fire? A. Yes.

Q. Did you see any other person before you went to the door and tried it and couldn't open it, try the door? A. No, sir.

Q. Did you see anybody try the door after you tried it? A. After I went away there was quite a few girls standing there by it, trying the door.

MR. STEUER: I object to that as being her conclusion, and as incompetent, and I move to strike it out.

MR. BOSTWICK: I withdraw the question.

Q. State what you saw them do.

THE COURT: The answer is stricken out, and the jury will disregard it.

A. I saw them trying that door.

BY MR. STEUER: CROSS EXAMINATION:

Q. What did you say your name was? A. Well, at first I

gave my name Anna Weller, that was my mother's name.

Q. And now you use your father's name? A. Yes, Anna Gullo.

Q. There was a long time when you didn't use your father's name, is that it? A. Yes, sir.

Q. A. period of about twenty years? A. Well, the first time I went to school they couldn't pronounce my name, so they put me as Anna. Weller; it was easy for them.

Q. You mean to tell these twelve men that it was easier to put Weller than it was Gullo, and that is why your name was Weller?

MR. BOSTWICK: I object to the question, as to its form.

THE COURT: Well, leave you out "you mean to tell these twelve men", and I will allow it. You may ask her if that was the reason.

Q. Is that the reason? A. Well, not the reason —

Q. No, I don't care. There is no unpleasantness sought to be brought out here, but that was not the reason, was it? A. No.

Q. I understood you to say to the jury that you were near to the Greene street door? A. No, by Mary's desk, Mary the bookkeeper's desk.

Q. Didn't you tell the judge in answer to a question put by him that Mary's desk was near the Greene street door? A. Yes, sir.

Q. And you were by Mary's desk? A. Yes.

Q. Well, then, when you first heard "Fire", you were

near the Greene street door, were you? A. Well, I thought I couldn't go out through Greene street.

THE COURT: Strike that out. You simply pay attention and answer it.

(Question repeated.)

A. Yes, sir.

Q. And you had worked for two years in that place, and had always used the Greene street door? A. Yes, sir.

Q. You tell this jury you never saw anybody use the Washington place door? A. No.

Q. And the Washington place door was quite a distance away from the Greene street door, wasn't it? A. Yes.

Q. But when you heard the cry of fire the first thing you did was to go for the door that you never had used in all the two years you had worked there, isn't that so? A. Yes.

Q. What? A. Yes.

Q. Well, now, right near where you stood by Mary's desk were the two Greene street elevators, weren't they? A. No, I didn't see the elevators.

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

Q. Well, you had seen them for two years every day, hadn't you? A. Well, I know the elevators were there.

Q. You had gone up and down in those elevators for two years every day, hadn't you? A. Yes.

Q. So you knew very well where they were, didn't you? A. Yes.

Q. But you didn't go near those elevators, although you were right by them, when you heard the cry of fire, isn't that so? A. Well, I couldn't go because the fire started on Greene street side.

Q. Well, there was nothing between Mary's desk and the Greene street elevators at that time, in the nature of fire, was there? A. (No answer).

Q. (Showing People's Exhibit 2) You show the jury where Mary's desk was. Down where you are sitting, that is Greene street, ever here is Washington place, all the way down, see? A. Yes.

Q. Over here where my finger is now, that is the Washington place staircase, do you see it? A. I see.

Q. And there is the Washington place door, do you see that? A. Yes.

Q. Over here are the two Washington place elevators? A. Yes, I see them.

Q. Now, right over here in this corner are the Greene street elevators, and here is the Greene street door; is that right? A. Yes, sir.

Q. Now, where was Mary's desk? A. There was the door from the Greene street side, and here where Mary's desk was standing, about that far away (indicating on diagram).

Q. Let us get that right. You see, here is the first of the tables? A. Yes, on the Greene street side. Q. Nearest the Greene street side? A. Yes.

Q. Do you mean to say that Mary's desk was between the first and second table on the Greene street side? A. No.

Q. Then when you said it was over here that was because you did not understand the diagram, or this drawing. Now, you remember there was a clothes closet on the Greene street side? A. Yes, sir.

Q. That clothes closet — A. Is right here (indicating).

Q. Yes; show the jury again where Mary's desk was? A. Well, Mary's desk was right near the dressing room, it was the fourth table from the machine.

Q. What is that? A. The fourth table from the machines. It comes Greene street — there was one row of machines — second, third and fourth, right there (indicating and pointing on diagram.)

Q. Then you would put Mary's desk over here (indicating on diagram)? A. Yes.

Q. Tell the jury how near to the wall where the fire-escape was, that Mary's desk was?
A. It was about three windows away from there.

Q. Which way, three windows away? A. From the Greene street side.

Q. From the Greene street side? A. Yes.

Q. And how far out into the loft from the wall where the fire escape was was Mary's desk? A. Well, it was not far away from the fire escape.

Q. Do I make myself clear to you? Do you understand me

entirely? A. (No answer).

BY THE COURT:

Q. How far was it from the nearest window? A. How far was it from the nearest window?

Q. How far was Mary's desk from the window that was nearest to the desk? A. Well, this is Mary's desk (indicating). Well, it was about that far (indicating).

Q. No, how far was Mary's desk from the window that was back of the desk? A. It was not far.

Q. Can you show us in this room? A. Well, like from a point right over to that window, right over there (indicating).

Q. Suppose you are sitting at Mary's desk, how far away was the nearest window? A. Well, for instance, this is Mary's desk (indicating the diagram and the end of diagram resting on lap of the witness); and the windows are right over there, over by that window there, the first window.

Q. You mean the one at the end of the jury box? A. Yes.

THE COURT: That is a distance of about fifteen feet.

Q. The window that you are speaking of is a window that is in the hall on the side of the fire-escape? A. Yes, sir.

Q. Don't say yes unless you understand me. Mary's desk was fifteen feet away from a window? A. Yes.

Q. And that window was a window in the same wall that the window was that you went out to the fire-escape on? A. Yes, there was a fire-escape on.

Q. In other words, Mary's desk was about fifteen feet

inside of the loft in a straight line from the window nearest to it? A. Yes, sir.

Q. And that window was a window in the same wall as the window opening out on to the fire-escape; is that so? A. Yes, sir.

BY MR. STEUER:

Q. Was Mary's desk near any wall? A. No.

Q. What was Mary? A. A bookkeeper.

Q. On the ninth floor? A. Yes.

BY THE COURT:

Q. What was Mary's last name? A. Mary Luventhal.

BY MR. STEUER:

Q. How far was this door which went from the loft to the door that went to the stairway on the Greene street side? A. I don't understand.

Q. (Continuing) Was Mary's desk? How far from this door here? A. There is Mary's desk, and about here is the door.

THE COURT: Make a mark where you say Mary's desk was.

A. Right here.

THE COURT: Mark it.

Q. Near the fourth table? A. Near the fourth table.

Q. How far from the fourth table was Mary's desk? About how far? Tell the Jury. A. Well, here stands the table, and that far was Mary's desk from the table (indicating).

Suppose there is the machines —

Q. No, - suppose that wall there (indicating east wall of court room) is the end of the fourth table nearest to the fire-escape wall. A. Yes.

Q. You see? A. Yes.

Q. How far from the end of that table, or how far from that wall over toward the fire-escape was Mary's desk? A. Well, here comes the fire-escape and here comes the table (indicating)

Q. Well, I have not made myself clear –

BY THE COURT:

Q. There was a row of tables upon which machines stood; do you understand that?

A. Yes.

Q. There was one along by the Greene street wall, that is Table 1? A. 1.

Q. With machines on it? A. Yes.

Q. There was another one after that? A. Yes, 2, 3 and 4 (indicating).

Q. You put your finger there on the fourth table, and you put your finger on the end of that table which is nearest to the fire-escape wall; do you see that? A. Yes.

Q. You have done that. Now, how far from the end of that table was the beginning of Mary's desk? Suppose you stood at the end of that table? A. Well, Mary's desk was about that far away from the machine (indicating).

MR. BOSTWICK: The wall ends there. It couldn't be out in the street.

THE WITNESS: Well, I don't understand this (diagram)

at all.

BY MR. STEUER:

Q. You know what a yard is, don't you? A. Yes, I do know.

Q. You know when you measure cloth with a yard stick? A

Yes.

Q. Have you got in your mind about what distance is covered by a yard? A.

Yes.

Q. You have seen a yard stick yourself a great many times over on the cutting tables where they lay the cloth out? A. Yes.

Q. Tell the judge and the jury, from the fourth table — you see? A. Yes.

Q. You have got a yard stick in your hand? A. Well, from the machine Mary's table would measure about seven yards.

Q. About as such as seven yards? A. Yes.

Q. You thought it was seven yards away, did you? A. Yes.

Q. That is the nearest you can come to it? A. Yes.

Q. Of course you don't know much about distances? A. No.

Q. And we are not holding you down to that, but what I want you to understand is this: Before, when you were down somewhere near the fourth table — A. Yes.

Q. And by Mary's desk, which was some where near the fourth table and nearer to the wall than the fourth table, then you heard a cry of fire? A. Yes.

Q. And as soon as you heard the cry of fire you started to come away over here at the Washington place door? A. Yes.

Q. That was nine flights up that you were, wasn't it? A. Yes.

Q. You didn't go near the elevator to ring the elevator bell, so the elevator should come up and take you down, did you? A. No.

Q. And you didn't go over to the Greene street side to ring the same elevator that you had been going up and down in, for two years, did you? A. No.

Q. And you didn't go over to the Greene street stairs where you had been for two years before? A. I couldn't go.

THE COURT: Yes or no to that.

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

Q. The only thing you did was to go to the one door that you had never used in your life in that place, isn't that so? A. Yes.

Q. And then when you tried that door, and that door did not open, then you did not ring the elevator bell, did you? A. No.

Q. And you never went near the elevator? A. I did went near the elevator.

Q. Not to try the elevator? A. Well, there was so many crowded there I couldn't get near the elevator.

Q. But you left the Washington place door and you went over to the fourth window on the Washington place side? A. Yes, sir.

Q. And you took a pail and you broke the window? A. Yes.

Q. It took you some time to come from where you were at Mary's table over to the Washington place door, didn't it? A. Yes.

Q. And then you looked over toward the elevator and you saw a crowd of girls there? A. Yes.

Q. When you were at the Washington place door nobody crowded near you? A. Yes.

Q. Oh, did they? A. Yes.

Q. A big crowd of girls crowded you there? A. Yes.

Q. Before you did you see any other girl try that door? A. No, I was the first on.

Q. And did you see any other man try that door? A. Well, I left a much crowd —

Q. I didn't ask you that. I asked you whether you with your eyes saw any man try that door while you were there? A. Well, it was Willie, the machinist, that tried the door.

Q. Willie the machinist? A. Yes.

Q. And when you say Willie the machinist, you mean Willie Greenspan? A. I don't know his second name.

Q. Anyhow, it was Willie the machinist on the ninth floor? A. Yes.

Q. Now, there is no question that you saw with your own eyes Willie the machinist go over to that door? A. Yes, tried that door with me.

Q. Don't you know that Willie the machinist opened the door, that the smoke came through in great volume, and almost knocked

him down? A. If Willie, the machinist, had opened the door, he would go up the stairway, but he went through the roof.

Q. When Willie the machinist saw the smoke and the flames, didn't he, while you were standing there jam that door shut? A. He did not. He tried that door and he ran up from the roof. He didn't even say a word to us.

Q. Well, anyway, you saw Willie the machinist at the door? A. Yes, I seen him.

Q. And you saw Willie with his hand — A. Trying that door.

THE COURT: One at a time.

Q. You know Sam Bernstein, don't you? A. Yes, I do.

Q. Did you see Sam Bernstein? A. No.

Q. Did Sam Bernstein come and push you away and get hold of the door knob? A. Well, maybe I didn't see him.

Q. Did you see Sam Bernstein at all at that time? A. No.

Q. Did any girl push you away and take hold of the doorknob? A. Well, I left the door myself and some other girls were trying this door.

Q. I am asking you whether a girl pushed you away and took hold of the doorknob? A. No, nobody pushed me.

Q. The only person, that you can tell this jury, that you saw take hold of that door knob was Willie the machinist, on the ninth floor, is that right? A. Well, yes.

Q. You went away and you say you broke a window on the ninth floor? A. Yes.

Q. You took a pail of water? A. Yes.

Q. And with that pail of water smashed in the window? A. I threw it.

Q. You mean threw the water ? A. Yes.

Q. Was it the water that broke the window? A. No; I broke the window myself, and then I threw a pail of water and the flames came up higher.

Q. What did you break the window with? A. With my hand.

Q. You smashed the fourth window on the ninth floor with your hand? A. Yes.

Q. And then you grabbed a pail of water to throw it? A. Yes.

Q. And that was because you saw flames? A. Yes.

Q. And you thought that by taking the pail of water — A. I thought I could help myself.

Q. You thought by taking the pail of water and throwing it on the flames, the flames would go out? A. That is what I thought.

Q. And what you intended to do was to get out of that window and stop on the cornice, the same as you saw other girls do, isn't that so? A. I don't know what you mean.

Q. Do you recognise that at all (showing witness People's Exhibit 18)? A. Yes, I do.

Q. That is a picture of the building (referring to People's Exhibit 18). Between the eight and the ninth floor, and just below the ninth floor, there was a sort of a place that

came out from the wall where you saw some girls standing? A. I didn't see any girls standing there.

Q. Is that where you tried to get? A. Well, there wasn't any on the ninth floor.

BY THE COURT:

Q. Did you try to get out of the window and stand on the part of the building that was outside of the window? A. No, sir, I didn't try to get out from the window.

BY MR. STEUER:

Q. What did you throw the water on the flame for? A. Well, I thought I could save some other girls. You know, the girls were on the eight floor hollering too.

Q. Do you mean to tell the jury —

MR. BOSTWICK: I object to the form of the question.

Q. Well, do you mean to testify —

MR. BOSTWICK: I object to that form of question.

THE COURT: Just ask her a question.

Q. When you had gone to the door end couldn't get out — A. No.

Q. And you went over —

THE COURT: Will you please listen? You wait until the question is finished before you say a word.

Q. And you went over to the Washington place side and broke the window with your hand? A. Yes.

Q. Did you do that to try and save girls on the eighth floor that were screaming?

A. No.

Q. What did you break the window with your hand for? A. Well, I couldn't help it. I couldn't open it.

Q. What did you do it for? A. I did it because I was trying to holler for some helps.

Q. Then it was to holler for help that you broke the window? A. Yes.

Q. Not to save anybody or help anybody on the eighth floor? A. No.

Q. Then after you broke a window you took a pail? A. Yes.

Q. This pail of water? A. Yes.

Q. And you spilt it out of the window that you broke? A. Yes.

Q. What did you do that for? A. Well, I don't know, I done it, but I don't know what I done it for.

Q. You said a moment ago you did this to save some girls on the eighth floor. Did you mean that? A. No, I didn't mean that.

Q. Whatever you did at that time, you either didn't know why you did it or you were doing it because you thought it would help you, isn't that so? A. Yes.

Q. When you were there and had broken that window did the flames shoot up in front of you? A. Yes.

Q. And did you grab that pail in the belief that if you spilt that water on the flame, the flame would go out.

Q. What did you do with the pail? A. I threw it on the floor.

Q. After you had spilt the water? A. Yes.

Q. Then you stood there and saw that instead of the flame going out the flame was getting bigger and stronger? A. Then I went away from the window.

Q. Then you dropped the pail and went away? A. Yes.

Q. After you went away from the fourth window you then turned around? A. Yes.

Q. And what did you do? A. I turned around, I put my handkerchief around my mouth, and my skirt around my hair, and I stooped down to the floor, to get out the Greene street side door.

Q. Here is window No. 1, No. 2, No. 3, No. 4 (indicating on diagram, People's Exhibit 2), do you see? A. Yes.

Q. And this is where you are (indicating)? A. Yes.

Q. In front of a window? A. Yes.

Q. At that time, the fourth window from the Washington place side, beginning to count near the Washington place elevators, that is right, isn't it? A. Yes.

Q. When you see the flame here, and after you have already put the pail down, you take your handkerchief and you put it in your mouth, is that right? A. I put it around my mouth.

Q. You put the handkerchief around your mouth because at that time the smoke was already beginning to choke you? A. Oh, the smoke was terrible.

Q. It was terrible at that time? A. Yes, sir.

Q. The smoke was coming in big volumes? A. Yes.

Q. Do you know what volumes are? A. No.

Q. I mean much. A. Very much.

Q. Yes, at one time, and it was puffing in? A. Yes.

Q. And the smoke was affecting you? A. Yes.

Q. And so you turned around that way, and then this smoke was coming in in big volumes, you saw a girl that fell down that was already suffocated with smoke? A. Yes.

Q. And then when you had your handkerchief around your mouth, you thought it would help to keep the smoke out of your mouth? A. Yes.

Q. That is what you put it there for? A. Yes.

Q. Then you put your skirt over your head? A. Yes.

Q. And you got down and you began to crawl all the way over here to the Greene street door? A. Yes.

Q. And you got to the Greene street door so that you could get through safely, and still went down the Greene street steps? A. Yes.

Q. When you saw Willie at the door — the machinist ~ didn't you follow Willie when he left the door? A. No.

BY THE COURT:

Q. What did you see Willie do at the door (referring to the machinist)? A. Trying that door.

Q. Who passed away from that door first, you or Willie? A. Well, I passed away.

Q. You left the door before Willie left it, is that so? A. Yes, sir.

Q. That is to say, at the time that you went away from the Washington place door Willie the machinist was at that door, is that so? A. Yes, sir.

Q. Did you see what, if anything, Willie the machinist did at that door? A. No, sir.

Q. Was Willie, the machinist at that door before you came to it? A. No, sir.

Q. Did he get to that door while you were at it? A. Well, after I went away.

Q. You had already left the door when Willie got to the door? A. Yes, sir.

Q. How far were you from the door when Willie reached the door? A. Right near the elevator.

Q. And when you say the elevator, what elevator do you mean? A. Washington place.

Q. You were near the Washington place elevators when Willie the machinist reached the Washington place door? A. Yes.

Q. Was Willie the machinist alone when he got to that door? A. Well, there was a crowd after him, there were other girls standing there trying that door.

Q. Did you see what, if anything, Willie the machinist did to that door? A. He tried that door.

Q. When you say tried that door what do you mean? A. Well, he was trying to open that door.

Q. What did he do? A. He see he couldn't open the door —

Q. No, what did you see him do? A. Just tried the door to

see if he could open it.

Q. When you say tried the door what do you mean? A. He was trying to see if he could open the door.

Q. What did he do with his hand? A. On the handle and tried to push that door and it didn't open, so he went away from there.

Q. Did you see him going away? A. Well, I didn't see him going away, but he claimed —

Q. The last you saw of him he was at that door, is that so? A. Yes.

BY MR. STEUER:

Q. Will you please tell the jury when you were working when you worked? A. On the first table machine, on the Greene street side.

Q. That would be down here (indicating)? A. Right here.

Q. Will you tell the jury, on that table, where you worked? A. Where I worked?

Q. Yes, just tell the jury when you sat at the table which way were your eyes? Did you face the windows on Greene street, or was your back to them? A. Back to the windows.

Q. So that you were sitting on this side of the table (indicating)? A. On this side, yes.

THE COURT: Her answer, Mr. Steuer, indicates that she was sitting on the other side.

Q. Oh, then you were sitting on that side of the table (indicating)? A. Yes.

Q. That is, you were sitting nearest to the Greene street windows, with your eyes away from the Greene street window? A. Yes.

Q. Commencing with the clothes closet on this side of the table, show us where you were sitting? A. Well, I was sitting about as far away, from here, like that.

Q. How many machines? A. Well, I was No. 15.

Q. How many machines? A. Well, I was fifteen machines away from the —

Q. Fifteen machines from the clothes closet? A. That's right.

Q. Then you must have been the eighth machine on this side (indicating on diagram)? A. No, I was No. 15.

Q. Wouldn't that make you No. 15 if you were the eighth machine? Did you begin your numbers at this side, do you know? A. Where?

Q. Where was No. 1? A. No. 1 was at the Washington side.

BY THE COURT:

Q. Which window was immediately back of you, the window nearest to the clothes closet, or beyond that? A. The second window.

Q. Was that behind you? A. Yes, sir.

Q. Directly behind you? A. Yes, sir, that was the first window and that was the second window (indicating on diagram).

BY MR. STEUER:

Q. And that is where you start? A. Just right there.

Q. Did you ever go over to the Washington place door before that time? A. No, sir.

Q. Did you ever look at the Washington place door before that time? A. Did I ever look at the door?

Q. Yes. A. Well, I ever looked at the door.

Q. How? A. I did look at the door.

Q. When, do you remember? A. Well, I don't remember.

Q. Did you see the key that was in that door? A. There was never a key there.

Q. So that you don't remember looking at it, but you tell the jury when you testify now that there never was a key in door? A. There never was a key in that door.

MR. RUBIN: She said she did look at the door.

THE WITNESS: You asked me if I remembered —

Q. How often did you look at it? A. I don't know how often; that is a thing I couldn't tell you.

Q. You say that the key wasn't in the door? A. There was never a key in the door, not that I know.

Q. Not that you know? A. No.

Q. Which member of your family is it that brought this case against Harris and Blanck? A. Mary Gullo.

Q. Then you must have a case against them too, haven't you? Because there is more than one. Who is Annie? A. I am Annie.

Q. You are Annie? A. Yes.

Q. Is that the name which you gave here? A. Yes, Anna

Gullo.

Q. Then you are suing them. And is it your mother that is suing? A. I have no mother, we are not suing him for anything.

Q. What do you mean, you are not suing? Don't you know that Anna Gullo has brought a suit against Harris and Blanck? Didn't you go to a lawyer? A. Never did. Oh, yes, I don't know what he (Mr. Steuer) is talking about.

Q. What? A. I don't know what you are talking about.

Q. You don't know what I am talking about? A. No.

Q. Well, you know that after the fire you didn't work for Harris and Blanck? A. No.

Q. And after the fire you went to the Italian Consul's office? A. Yes.

Q. And told the Italian Consul whatever you told him? A. Yes.

Q. And then the Italian Consul made the claim for you against Harris and Blaack? A. Yes.

Q. And also after that turned it over to a lawyer to attend to it for you? A. Yes.

Q. Do you know how much you are suing them for? A. No.

Q. Do you know that you got two cases, one where you asked to be paid for something that happened to you, and another where you ask to be paid because a member of your family was lost in the fire?

MR. BOSTWICK: Just a minute. First state whether

you know.

MR. STEUER: I am asking her if she knows.

MR. BOSTWICK: Don't state if you don't know. State if you know, and if you don't know you may say so?

A. I don't know what you are saying.

Q. How old did you say you are? A. I am twenty.

MR. STEUER: I don't know whether it would be quite fair on my part to ask her whether she makes any claim, because I wouldn't use it against her at any other time, if I did.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. After this fire you went to see the Italian Consul, didn't you? A. Yes.

Q. And whatever has happened in regard to the result of that visit to the Italian Consul, you don't know? A. No.

IDA NELSON, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(Through Official Interpreter Rosenthal).

(The witness states that she resides at 296 Cherry street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, at the time of the fire were you employed by the Triangle Waist Company? A. Yes.

Q. How old are you? A. Eighteen years.

Q. And where were you born? A. In Russia.

Q. How long have you been in this country? A. Three years.

Q. On what floor were you working? A. (Without interpreter) On the ninth.

Q. What did you do — were you an operator? A. Yes.

Q. In the afternoon of that day did you hear a cry of "Fire"? A. Yes.

Q. Tell this jury, after you heard the cry of fire what did you do and where did you go?

A. As soon as I heard the outcry of fire I ran with Fanny Lizner to the Washington place door.

Q. Lausuer, L-a-u-s-n-e-r? A. The forelady, Lizner. I have tried to open the door and I couldn't.

Q. Do you know the part of the door called the handle? A. No, I don't know.

Q. Look at this door (indicating on door in court room) was there a handle like that on the door? A. Well, I can't remember because I was so excited.

Q. Do you know what a handle is? A. I know.

Q. Well, did you put your hand on the handle or knob? A. Yes, I did, I tried.

Q. And what did you do to the handle? A. I tried to open it and I couldn't.

Q. Did you try to pull the door open? A. Yes, I pushed it and I couldn't open it.

Q. Did you pull it? A. I can't remember that, but I tried it one way and the other, when I was excited.

Q. Was any one with you at that door? A. I was there with Fannie Lisner and Katie Weiner.

Q. Did either Fannie or Katie try that door? A. I can't say that.

Q. After you tried the door where did you go? A. I went to the fire-escape and I couldn't get out because the flames were too thick.

Q. And then where did you go? A. I ran towards the Washington place windows and I tried to get out and I couldn't.

Q. You went to the windows on the Washington place side? A. I looked around, whether I could find a place to get out, but I couldn't find it.

Q. And then where did you go? A. Then I went towards the (Greene street door, and I called Fannie Lizner with me, but she didn't care to go. I went towards the Greene street door, and then I went out through the roof, and my hands were burned.

BY THE COURT:

Q. That is to say, you went up the Greene street stairs from the ninth floor to the tenth floor, and then up to the roof; is that so? A. No, I was taken up then.

Q. What do you mean by you were taken up? A. I went up to the tenth floor and I didn't know how to get out, and then a college boy came out from the college, and the college boy put something on to the pail to get up.

Q. You are talking now about what you did after you got to the roof, isn't that so? A. Yes. Then I was taken to the

second building, and with the elevator I was taken down.

Q. Where were you living on the 25th of March, 1911? A. 258 Division street, with my parents.

Q. And that is between what street? A. It is the corner of Montgomery street.

CROSS: EXAMINATION BY MR. STEUER:

Q. You are suing Harris and Blanck too, aren't you? A. Yes, because I was sick.

Q. And your mother also brought a separate case against Harris and Blanck? A. Yes.

Q. How long did you work for Harris and Blanck? A. Six months.

Q. When you worked where did you sit? A. On the first line from Greene street.

BY THE COURT:

Q. What was the number of your machine? A. 31.

Q. Then you sat right near the Washington place windows on the first table, did you not? A. No, towards Greene street.

BY MR. STEUER:

Q. Which way were your eyes, when you were working — towards the Greene street side or the Washington place side? A. Towards Greene street.

Q. So that at the time the fire took place had you heard the bell for the power to stop? A. Yes, I heard the bell.

Q. Had you gone to your dressing room? A. My hat I had

with me and the coat was in the dressing room.

Q. Did you go to the dressing room? A. I was about to go to the dressing room and then I heard "Fire" shouted.

BY THE COURT:

Q. Had you started for the dressing room when you heard the cry of "Fire"? A. Yes, I was going then with Fannie the forelady.

BY MR. STEUER:

Q. Then you were right near the Greene street elevators, weren't you? A. Yes, of course I had to pass by the elevators.

Q. But at the time when you were going towards the clothing closet and when you heard the cry of Fire, you were right near the Greene street elevators, weren't you? A. Yes, certainly I was near to the door, because I have to pass it.

Q. You have to pass the Greene street elevators?

THE COURT: Indicate with the diagram just where she walked.

BY THE COURT:

Q. Put your finger on the spot on that diagram, after you have looked at it, at which you were when you first heard there was fire? A. (No answer.)

BY MR. STEUER:

Q. Over here is Greene street, do you understand that? A. Yes.

Q. Here is Washington place? A. Yes.

Q. This here is the wall where the fire escape was? A. Yes.

Q. Here is the clothes closet on the Greene street side? A. Yes.

Q. Here are the stairs on the Greene street side? A. Yes.

Q. There are the elevators on the Greene street side? A. I understand.

Q. These are the elevators on the Washington place side? A. I understand that.

THE COURT: Now, you put your finger on the spot where you were at the time that you heard of the fire.

THE WITNESS: I was standing at the machine.

BY THE COURT:

Q. What machine? A. Right near my machine, and I just was putting on my hat.

BY MR. STEUER:

Q. Where was your machine? A. Will you explain what these lines are?

Q. Yes. This here is the first table with machines on it. A. Yes.

Q. This is the second table with machines on it, beginning at Greene street. A. Yes.

THE COURT: Put your finger on it.

THE WITNESS: Well, there are no numbers here.

BY THE COURT:

Q. Well, what window was nearest you on the Greene street side? Start at Washington place? A. My number was 31, and I figure it must have been about in the middle of the table.

Q. Which was nearer to the Greene street clothes closet, machine 15 or machine 31? A. I can't say exactly where the numbers start, in which direction.

Q. Did you sit with your back to the windows on the Greene street side facing Washington place, or the other way? A. With my back I was sitting towards Washington side.

BY MR. STEUER:

Q. Now, this would be the side of the table that you were sitting on? A. Yes, I was facing Greene street side.

Q. How many girls sat on this side of the table, the same

side that you sat on, nearer to the clothes closet than you? A. I can't tell that.

Q. When you heard the cry of Fire, did you start to walk from where you sat at the table over toward the clothes closet? A. Yes.

Q. Now, tell us exactly what you did from the time that you heard the cry of fire, and show it on the diagram, just where you went?

MR. BOSTWICK: Can you do that?

THE WITNESS: No, I can't tell everything, I can tell the story, but I can't show it.

Q. Well, how many times did you go to the District Attorney's office? A. I don't know.

Q. Can't you give the jury an idea of how many times? A. I was many times, but I can't remember how many times.

Q. How many times did you see Mr. Koenig?

MR. STEUER: I withdraw the question.

Q. How many times did you make a statement to the District Attorney? A. Really I don't know how many times.

Q. Was it so many times you went down that you can't remember them? A. I can't remember how many times.

Q. Can you tell us which way you got to the Washington place door?

THE COURT: Show us.

A. I can't do it on a paper, but I will tell you the story.

THE COURT: Well, tell it.

A. (Witness continuing) As soon as I heard the fire I took my hat which was with me, and with Fanny I went towards the Greene street side clothes closet.

MR. STEUER: (Addressing Interpreter) Didn't she say "We passed by the" —

THE WITNESS: (Through Interpreter after the question was repeated) Yes, we passed. Then I passed the door, the Greene street door, and I ran toward the Washington door.

Q. So that you came about here, the Greene street door?

MR. BOSTWICK: Wait a minute, I don't think that she said that.

(Last answer of witness read by the stenographer.)

Q. Now, will you tell the jury, please, which Greene street door it was that you passed by? Which door do you mean? A. The door that we used to go out all the time when going from work.

Q. After you passed by that door, where did you then go? A. I went to the closet with the intention to take my clothes.

BY THE COURT:

Q. In other words, your cloak was in the dressing room and you wanted to get your cloak before you left the building, is that it? A. Yes.

BY MR. STEUER:

Q. Now, did you get your coat? A. No.

Q. Then you went by the Greene street door, and I want you

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to tell us if you can just where you went after you went by the Greene street door? A. I went to the closet to take my clothes.

Q. But you have already said you didn't go into the closet —

THE COURT: Pardon me. When you got to the closet what did you do?

Q. When you got to the closet what did you do? A. I didn't go into the closet because they were hollering "Fire", and I went with Fanny Lizner to the door.

BY THE COURT:

Q. When you say to the door, what door do you mean? A. To Washington.

BY MR. STEUER:

Q. Wasn't there another girl with you? A. Yes.

Q. Were there three of you running together? A. I was running with Fanny, that's all.

Q. What became of Katie? A. I don't know where she remained.

Q. Are you sure her name was Katie? A. Yes, sure.

Q. Wasn't her name Annie? A. No; Katie.

Q. It is Fanny Lizner that you are talking about? A. Fanny Lizner.

Q. Wasn't the girl's name there Anna Gullo or Anna Weller that was with you two, and wasn't it you that was supposed to be Katie? A. Perhaps they saw me, I didn't see them.

THE COURT: No, she does not understand the question. Give us the names of the girls, if any, who ran with you.

THE WITNESS: Fanny Lizner.

THE COURT: Anybody else?

THE WITNESS: Katie Weiner. Katie Weiner didn't run. I was only running with Fanny.

Q. Did you and Fanny go over to the door together?

THE COURT: Referring to the Washington place door.

Q. The Washington place door? A. Yes.

Q. Do you know Anna Gullo? A. I don't know their names; if I see them —

BY THE COURT:

Q. Do you know the young woman who sat in that chair before you this morning (witness Gullo)?

MR. STEUER: Put it to her that she was dressed in mourning. A. Annie.

BY MR. STEUER:

Q. Yes. A. Yes, I know her.

Q. Did Annie run with you? A. No.

Q. You say that you know Annie. Do you remember where Annie used to sit?

THE COURT: We are referring now to the young woman who was a witness right before you (witness Gullo). A. She was sitting near the dressing room.

Q. She sat on the other side of the table from you, but

nearer to the dressing room? A. She was sitting facing towards Washington place and nearer to the dressing room.

Q. And sitting at the same table where you were sitting? A. Yes.

BY THE COURT:

Q. We are talking of the time when both you and she worked at the table? A. Yes.

Q. We are not talking about the moment when you heard the fire, but when both you and the last witness were at work at the table she sat at the same table that you did, but nearer to the dressing room and facing Washington place? A. Yes.

Q. When you first knew that there was a fire, did you see Samuel Bernstein? A. I did not.

Q. Do you know Samuel Bernstein? A. Yes.

Q. Did he work at the same table that you worked at? A. Yes.

Q. And was his seat on the same side of that table as your seat? A. The same side, facing Greene street.

Q. Was his feet nearer to Washington place than yours? A. No, nearer towards the dressing room.

Q. How many machines were there, if you know, between your machine and the machine that Sam Bernstein worked at? A. I don't know.

Q. How close did he sit to you when working at the table, talking now of Sam Bernstein? A. Either three or four machines apart.

Q. Did you see Sam Bernstein when you and Fanny Lizner

were going over to the Washington place door? A. No.

Q. Did you see Sam Bernstein at all from the time that heard the cry of Fire up to the time that you got out of the building? A. No.

BY MR. STEUER:

Q. When you got to the Washington place door, did anybody have his or her hand on the door-knob? A. No.

Q. So that it was perfectly easy for you to go right up to the Washington place door, there was nobody in your way? A. Yes, it was easy.

Q. Nobody crowded the way at all? A. No,

Q. So that none of the girls who sat seven tables nearer to the Washington place door than you did got to the Washington place door before you? A. Perhaps they had been there already.

Q. But at that time there was nobody near that door? A. When I got to the door no one was there .

BY THE COURT:

Q. Do you know a man by the name of Willie, the machinist? A. Yes.

Q. Did you see him at any time after you heard or saw fire? A. No.

BY MR. STEUER:

Q. After you left your table, which was the first table, can you tell the jury whether you went to the Washington place door around by the Washington place side, or whether you went around by the side where the fire escape was? A. (No answer.)

BY THE COURT:

Q. In other words, when you left your seat, did you walk towards the coat room or away from it, or towards Washington place? A. Towards the clothes closet.

BY MR. STEUER:

Q. Then you must have come around on the fire escape side in order to get to the Washington place door, did you not? A. Yes, of course I went that way.

THE COURT: I think it is pretty plain that this young woman made no attempt to escape until she had left the dressing room. She went for her coat.

MR. STEUER: I understand that, but she didn't wait to get her coat, and her proximity to the Greene street door is perfectly apparent.

THE COURT: Yes.

Q. When you had been coming to work, you used to come by the Greene street elevator, didn't you? A. Yes, with the Greene street elevator.

Q. And when you went home from your work you went down by the Greene street elevator? A. Yes.

Q. You never went to the Washington place door in your life before that day, did you? A. I used to push myself in sometimes.

Q. What do you mean, you used to push yourself in? A. When the foreladies and others used to go up, I used to go along with them.

Q. Do you mean that you used to go into the Washington place elevators sometimes?

A. Yes. If I could push myself through, and when I was with Fanny Lizner, who was a forelady and a good friend of mine, I could go up those elevators.

BY THE COURT:

Q. Did you ever walk up the stairs on the Washington place side? Yes or no? A. No.

Q. Did you ever go down the stairs on the Washington place side from the ninth loft?

A. No.

Q. Did you ever go out of the Washington place door? That is, the door on the ninth floor leading to the stairs on the ninth floor? A. Never.

BY MR. STEUER:

Q. But you did go up and down sometimes by the Washington place elevator?

MR. BOSTWICK: The word "down" was not in the former question.

MR. STEUER: I beg your pardon, it was both. But it doesn't make any difference whether it was or not, I have a right to ask her, haven't I?

THE COURT: I will allow it, she may answer.

A. Go up, yes, but never go down.

Q. You never used the Washington place stairs door to go up or down, did you? A.

Never.

Q. When you heard the cry of fire, you wanted to get out of the building as quickly as possible, didn't you? A. Yes.

Q. You knew that there were elevators right near where you were sitting, didn't you? A. Yes, I knew from the street side.

Q. And you knew there was a Greene street door right near where you were, didn't you? A. Yes.

Q. You knew that there were elevators on the Washington place side, didn't you? A. Yes.

Q. You didn't try to get out by the Greene street door, you didn't try to get down by the Greene street elevators, but the minute you heard the cry of Fire, you didn't try to get out by the Washington place elevators, but you ran right to the door that you had never used in your life, didn't you? A. I was trying to get my coat first, and it was nearer for me to go to the Washington place side.

Q. But will you please tell me — you didn't try any elevator, did you? A. No, I didn't try.

Q. And the only door that you did try was the Washington place side door? A. Yes, I tried that door.

Q. After you tried that door, what did you do? A. Then I ran towards the fire escape.

Q. So you ran all the way from the Washington place door back to the fire escape? A. Yes, I ran.

Q. Although the Washington place elevators, if you were at the Washington place side door, were right near you, weren't they? A. Well?

Q. But you didn't try the Washington place side elevators?

A. But I knew that I never used them before, only for the bosses and the foreladies.

Q. But even at that time, when you wanted to get out of the building, you didn't try them, did you? A. No.

Q. Then when you got over to the fire escape side, the flames on the fire escape were very big, weren't they? A. Very big.

Q. And then there was time enough for you to go to the Greene street door and you got up stairs by the Greene street door, and you say you burned your hands? A. The flames were very big, but I pushed through and I had goods on me to cover me.

Q. You had goods on you and the goods didn't catch fire and nothing happened except that your hands were scorched? A. Yes, the goods were burned.

Q. What goods? A. Plain white goods.

Q. You mean you grabbed goods from the table and put goods around you? A. I grabbed it from the bookkeeper's desk, I found there a piece of goods, and I covered myself with it.

Q. While you were running from the Washington place door to the fire escape, did you pick up any goods then? A. When I ran towards the fire escape I thought I would be able to get out from the fire escape without doing anything else.

Q. So up to that time you had not taken any goods and had not covered yourself? A. No.

Q. But after you saw these big flames at the fire escape

and you were going towards the Greene street door, then you took time to pick up a piece of goods and put it around you and go out of the Greene street door, is that right? A. I grabbed it and I flew through to Greene street.

Q. You grabbed these white goods out of which they made waists? A. Yes.

Q. That very thin goods? A. Yes.

Q. And with that around you you ran through the Greene street door, is that right?

A. Yes.

Q. Do you know Eddie Markowitz? A. I don't know the name.

Q. Do you know the shipping clerk — a sort of a tall, thin young man? A. Perhaps I know him, but I don't know him by name.

Q. Wasn't he standing at the Greene street door entrance, and wasn't he the one that passed you girls up from the ninth floor to the tenth floor? A. No.

Q. Didn't he call you to that door? A. No.

Q. Did I understand you correctly to say that you got those goods that you put around you at the bookkeeper's desk? A. The bookkeeper's desk and the forelady's desk; they come out as though together.

Q. And the goods were on the desk, were they? A. No, under somewhere in a basket.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Did you keep your clothes in the Greene street dressing room or the Washington place dressing room? A. Washington side dressing room.

Q. And that was right next to the door leading to the stairs? A. Yes.

THE COURT: Referring to the Washington place stairs.

Q. And that is where you were when you first heard the cry of Fire, weren't you?

MR. STEUER: What?

Q. You were by the dressing room when you first heard the cry of Fire, weren't you? A.

No, then I was standing at the machine when I heard the cry of Fire.

THE COURT: She was at her machine, No. 31, when she heard "Fire". She has been all over that.

MR. STEUER: She was at the first table on the off side, near the Greene street elevator.

YETTA LUBITZ, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

(The witness states that she resides at 19 east 119th street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March the 25th, 1911, the day of the fire, you were employed by Harris and Blanck at the Triangle Waist Company, were you not? A. Yes, sir.

Q. And you had been employed there for about how long? A. For seven weeks.

Q. And you were employed on the ninth floor? A. Yes, sir.

Q. Were you an operator? A. Yes, sir.

Q. At a machine? A. Yes, sir.

Q. You worked at the third table, did you not? A. Yes, sir.

Q. And which way did you face, Greene street? A. Greene street.

BY THE COURT:

Q. When you say the third table, do you mean the third table counting from Greene street? A. No, from Washington place.

Q. That is to say, there were tables that ran from Greene street toward the Washington place side, or rather, towards the elevators on the Washington place side. What do you mean by the third table from the Washington place door? A. (No answer.)

BY MR. BOSTWICK:

Q. I show you diagram, People's Exhibit 2, and that over there where you have your finger is Greene street? A. Yes.

Q. And this is Washington place along here? A. Yes.

Q. Now, in one corner are the passenger elevators? A. Yes.

Q. And in the other corner are the freight elevators? A. Yes, that is Greene street. We went always by this elevator. (Indicating.)

THE COURT: Just answer the questions.

Q. There was next to the passenger elevators a stair? A. Yes.

Q. And next to that is the dressing room? A. Yes.

Q. And the toilet rooms are here? A. Yes.

Q. There were rows of machines, tables? A. Yes.

Q. Seven rows? A. This is the Washington place side where I work.

Q. At the third table and the fifth machine? A. Yes.

Q. There were examining tables here? A. There were, yes.

THE COURT: The third table is the third table from the dressing room.

Q. And there were examining tables here near the toilet rooms? A. Yes, sir.

BY THE COURT:

Q. Did you work facing Greene street or facing the dressing room? A. No, facing Greene street.

BY MR. BOSTWICK:

Q. You worked facing Greene street? A. Yes.

Q. You remember about quarter of five when the fire broke out? A. Yes, sir.

Q. Do you know where the clock was? A. There were two clocks, one right near the fire escape and one near the dressing rooms.

Q. You were at or near one of these clocks, were you not? A. Yes, sir.

Q. Which clock were you nearest? A. I was nearest, near the dressing room.

Q. Nearest the dressing room clock? A. Yes, sir.

Q. And what were you about to do when you heard the cry of Fire? What were you in the act of doing? A. I went out from the dressing room and I didn't know anything what happen-

ed; I saw a crowd of girls run right towards the Greene street door, but I didn't know what happened. I took out my card and I punched the card — and I went to punch the card and then I heard —

Q. Was that in the clock in the Washington place dressing room? A. Yes, sir.

Q. Right in the dressing room? A. Yes, sir.

Q. And you were about to punch your card? A. Yes.

Q. Tell us what happened then just as you were about to punch your card? A. So when I put the card in the clock I heard a cry of Fire, I started to run. So a girl, an examiner, came right over to me, and she ran to the fire escape and I followed her and I ran to the fire escape too, and then a whole crowd of girls came over right to us, they came from the Greene street door, they came to us; so many girls they ran to the window, to the fire escape, but I got scared, and all the floors were with flames, and I remained on the floor; then right where we were standing a young, dark fellow, he was standing near me ~ he was an operator on the machine — he said — I don't know his name — so we were running toward the Washington place door; when we came over there he came over to the door and he tried the door, and I was standing right near him and he said, "Oh, the door is locked, the door is locked."

MR. STEUER: I object to that, and move to strike it out.

MR. BOSTWICK: If your Honor please, in the Arnold case against the national Starch Company, which was one of the most hotly contested litigations that we have had in some years, and which was tried three times, Judge Diefendorf, when the question was presented to him on the third trial, the words used there were ~ one of them said "And the door was jammed," and similar cries — "For God's sake, get out of here. Break the window."

THE COURT: Let we see your records.

MR. BOSTWICK: The record is replete with those things, and I think it is sufficient authority, and that case was —

THE COURT: For the purpose of the record, Mr. Steuer, just enumerate the grounds of your objection. You have objected, now you object on certain grounds which you are about to state.

MR. STEUER: In a case of this kind, your Honor, I do not think it is necessary to state the grounds of objection, but if you require them, I object to it on the ground that it is incompetent, immaterial and irrelevant, and on the ground that it is pure hearsay, and on the ground that it is the conclusion of the witness that makes the exclamation, and that there is nothing in the record which shows that it is made upon knowledge. I don't know the Diefendorf case, but at your Honor's suggestion I did look up the question of what are called involuntary excla-

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mations, and the subject is completely involved in what others see fit to call the res adjudicata gestae. Upon no possible theory of any res adjudicata gestae is this testimony admissible, because the res adjudicata to make it competent would have to be part of the transaction in which the person named in the indictment was involved. Upon the question of involuntary exclamation, I think the only case in the Court of Appeals that has given any direct utterance upon that subject will be found, if my recollection serves me, in 152; the opinion starts at page 339, and you will find the significant portion of such as has any relevancy upon the subject of inquiry here, at pages 342 and 343 of that opinion. And I think you will find that the better rule, as applicable in this state, that involuntary exclamations are not competent.

If you will examine the section in Wigmore, in the third volume, section 175, page 2260, you will find that the objection pointed out to evidence of this kind — one of the grounds of objection that I made — is that it does not appear that it is made upon the knowledge of the person making the declaration; and, of course, that is at the foundation of all testimony. Testimony that would not be admissible if the person is making the declaration upon the witness-stand surely could not become competent or admissible if the person who is making it is not upon the witness-stand. In other words, if a person makes an out-

cry In the course of an occurrence, if a person could not testify to that outcry if he were on the witness-stand, if the testimony would then be incompetent, surely another person just hearing him make the outcry does not make it competent. And Wigmore instances as apt illustrations of that character exclamations of this kind, "The engineer did not reverse the lever!" "The conductor did not read the train dispatcher's orders!" It is perfectly apparent those are good illustrations, that the person could not have had competent knowledge upon that subject at the time of the exclamation. As to whether or not a door is locked is a matter of conclusion, pure and simple, and your Honor, I think, has sustained an objection on that score here, and has permitted the witnesses to testify that they tried the door, and what the result of the effort was. No objection is made to the testimony of this young lady as to what she claims she saw somebody do, but when it comes to somebody making an exclamation, that, in my opinion, the person if called as a witness could not testify to, it surely does not become competent because it is made by some other person.

THE COURT: In the first place, since I ruled as I did, you have permitted without objection the witness to testify that she found the door locked.

MR. STEUER: Where there is a voluntary statement — it was a voluntary statement, and I don't make motions to

strike out everything that occurs, because I ascribe to the jury sufficient intelligence to pass upon this case, and I don't dot up a record with motions and objections and exceptions if I can possibly help it. It is only when I think, your Honor, that a question would have a bearing upon the judgment of a jury or of a juror when he is deliberating upon a case has arisen, that I take the opportunity, if I am permitted, to address the Court upon any such question. The general question of involuntary exclamations in an emergency of this character is one that I consider of sufficient importance to address the Court upon and express my views upon, but I certainly will not interrupt the witnesses that testify in a case of this sort by moving to strike out every time that a witness makes some statement which comes out naturally and which is not legal or competent evidence upon the subject. But when a District Attorney asks a question feeling that he has a right to ask it, and asks it in good faith, and that opens up a subject of inquiry to which the Court's profound attention has been called, then I address the Court upon that subject for the purpose of determining-

MR. BOSTWICK: There are in Wigmore five very distinct classes of spontaneous exclamations considered, and what Mr. Steuer says about some of them is quite true.

When the truth or falsity of the fact to be proved is involved, then the question of the admissibility depends

upon whether it is an utterance having truthfulness, then what he says applies —

MR. STEUER: Oh, no, that is not the subject I was considering.

MR. BOSTWICK: Then Wigmore points out with unquestioned clearness that in cases of this character that is the one thing that has been left of the doctrine of res adjudicata gestae, which must still stand. No one has made such an attack upon res adjudicata gestae as Professor Wigmore, and he has said that that term must go for all time, because he said it was nothing but a cloak for ignorance. But then he points out and divides up what formerly had been known as res adjudicata gestae in verbal acts and spontaneous exclamations, and he says these exclamations may under such circumstances, just as these, be unquestionably admissible as part of the res gestae, and he condemns the authorities that have attempted to act otherwise, and there are none in New York.

In the case cited by Mr. Steuer, while the ruling of the Court was perfectly correct, it is foreign to this subject, it is after the transaction. Certainly it is not part of the res gestae that the brakeman did not do this or that — both of those cases — but here under this natural impulse ~-

THE COURT: Mr. Bostwick, the situation is this. Spontaneous, natural exclamations at the time, accompany-

ing the transaction, are receivable in evidence. There are certain things which conceivably persons might say upon the spur of the moment, when there is no opportunity for premeditation, where the exclamation is the result of natural excitement at the time, that the Courts will receive. An exclamation of that character made by a person under these circumstances would undoubtedly be receivable. The doubt in my mind as to whether this particular remark is or is not receivable arises from the circumstance that it may involve the expression of a conclusion reached by the person making it, rather than the statement of a fact. In other words, if I would exclude testimony given by a person on the stand in this particular case to the effect that the door was locked, as implying a conclusion of a witness rather than a mere statement of fact, why should I not upon the same ground exclude this exclamation? No, because I would believe it is not spontaneous, but because of the language of the exclamation itself.

MR. BOSTWICK: The reason of that is, if your Honor please, that these exclamations when they go to the jury will go in all probability coupled with a statement by your Honor that they are not offered as proof of the fact, but proof of the res gestae; that is the reason. There is that qualification which goes with those, whereas the direct testimony as to the question of the locked door is another proposition. These are part of the res gestae.

THE COURT: Mr. Steuer, in a record which has been handed to me, which appears to be the record in the Court of Appeals in the case of one Anna Arnold against The National Starch Company, which is reported in 194 N. Y. page 42, there appear to have been received in evidence quite a number of similar statements as these statements, made under like circumstances. Mr. Bostwick, however, in this record where those statements appear it is testimony adduced by the plaintiff and the plaintiff was the appellant, and any exceptions of the defendant to the introduction of that testimony would not appear in the record.

MR. BOSTWICK: That is true.

MR. STEUER: And would not be available on appeal for that defendant.

THE COURT: And would not be passed on by the Court of Appeals.

MR. BOSTWICK: That is quite true. In other words, it has not been directly passed upon under objection to the Court of Appeals, so far as we know.

MR. STEUER: I think it has.

MR. BOSTWICK: But the authorities all show that it has been the common practice to admit them under similar circumstances, and as I say, that case was being tried on a record for the third time, before a very eminent Justice of the Supreme Court. I think that any doubt ought to be resolved in the favor of the People.

THE COURT: If I receive it, it will be with a qualifying statement that the expression merely imports that the door was closed. I do not think that I could receive it as importing that the door was locked, in a technical sense. Persons talking in a colloquial way sometimes say that a door is locked when they mean nothing more than they made an attempt to open the door and couldn't open it. With that statement I will receive the evidence and give you an exception, Mr. Steuer.

MR. STEUER: Thank you.

THE COURT: (Addressing the jury) You will understand, gentlemen, in that connection, that I am receiving this evidence merely as an exclamation or alleged exclamation made at the time, importing only in a colloquial sense that the person making the exclamation said that the door was closed.

BY MR. BOSTWICK:

Q. At that time, where did he have his hand? A. On the knob.

Q. At the knob of the door? A. Yes, sir.

Q. What was he doing? A. He tried to open it.

Q. What was he doing? A. He tried to open it.

Q. Do you mean by that that he turned the handle one way or the other? A. Yes, sir.

Q. Did he pull or push? A. I can't tell you.

Q. Where were you just at that time? A. Right near him.

Q. Did you go to the door? A. No, sir.

Q. Where did you go immediately after that? A. After that then a very thick smoke came in and out of the room; a whole crowd of us was in the dressing room right near Washington place. There was two dressing rooms, one near the toilets and one near the dressing rooms, so we went in right near the doors, near the Washington place doors in the dressing room.

Q. And where did you go after that? A. We were standing there till the smoke came out, and then when the smoke came out we went away from the dressing room, and we were running around on the floor, and then I don't know whether anybody broke out the windows or the flames broke out the windows, and still all the flames came inside on the floor all around — on the floor came in the flames — and when the flames came in we ran again in the dressing room, and we started — we were crying and we were waiting. I don't know anything about the other people, but I was standing and crying, and I was waiting till the dressing room will get burned — till the dressing room started to burn, and I was crying terribly, I was screaming, so that young man — the same young man what he was standing there, so he went with me to the door, he was standing with me in the dressing room too, and he started to say, “Oh, keep quiet, what is the use of crying?” So I felt ashamed and I stopped it. Then when I see, well, my life is lost anyway, and I started to scream again, and I don't know, I was standing near a wall screaming, and all of a sudden I see that the girls

all started to run to the Greene street door, and I started to run too, and I saw — so they jumped over the machines and I couldn't jump over the machines, so I jumped only two lines, I jumped only two lines over the machine --

Q. Talk to the jury? A. I jumped over two lines of the machines and then I went out from the machines and I had a long coat on, so with the skirt I covered up my face and I went to the passage. Then when I went I had my coat — I had my face more in the machines — I went this way (indicating a bent-over position with the face turned away) away from the flames, and I looked at the machines, and I saw an old Italian woman, she couldn't jump over the machines too — she was a heavy woman — so when I was walking I saw the Italian woman, she was laying on the machines ~~

MR. STEUER: The question is what she did. This is one of the witnesses I don't want to interrupt too much, but incompetent testimony got in, as your Honor must see, but I was waiting for the end, for her to tell what she did. That was the only inquiry Mr. Bostwick addressed to her.

Q. Where did you go then?

THE COURT: Pardon me, I am not going to leave the record that way.

(In the long answer just given by the witness, starting after the question “And where did you go after that?” the Court strikes out the following portion:

“And then I don't know whether anybody broke out the windows or the flames broke out the windows, and still all the flames came inside on the floor all around ~ on the floor came in the flames.”

"Oh, keep quiet, what is the use of crying;”

“Then when I see, well, my life is lost anyway;”

"She couldn't jump over the machines too, she was a heavy woman. So when I was walking I saw the Italian woman, she was laying on the machines.”)

THE COURT: Gentlemen, I have stricken out parts of the answer as made by this witness. If this case should be submitted to you, you will wholly disregard any part of any answer that is stricken out. You will be told that in the charge, I tell you that now with respect to the part that I struck out.

Now, Mr. Steuer, what remains in is not strictly responsive to the question that was put by Mr. Bostwick, but it could all have been elicited by questions, and I think that it will serve no useful purpose to strike out any other part.

MR. STEUER: That has been my theory right along, your Honor, that I don't want to interrupt a witness because it would seem as if done for the purpose of breaking up the narrative.

THE COURT: (Addressing the witness) When a question is asked you, you pay attention to what is asked; do you

understand that?

THE WITNESS: Yes, sir.

THE COURT: And just say enough to answer the question and not to tell us anything that is not called for by the question; do you understand that?

THE WITNESS: Yes, sir.

THE COURT: Now, you do that. Now, proceed, Mr. Bostwick.

BY MR. BOSTWICK:

Q. When you were in the dressing room, was there an Italian woman there? A.

A. Yes, sir.

Q. Was she a large woman? A. No, she was smaller than I am.

(Objected to as immaterial. Objection sustained.)

Q. After you came out of the dressing room where did you go? A. When, the first time or the second time?

Q. No, the second time. A. I jumped over two lines of the machines.

Q. You mean the two lines of the machines nearest the dressing room side? A.

Yes, sir.

Q. And after you jumped over those two sets of machines where did you go? A. I went through the line — through the passage.

Q. Through the passage? A. Yes, sir.

Q. Toward the fire escape side of the building? A. Yes, sir.

Q. Near where the examining tables were? A. Yes, sir.

Q. Then did you go toward the Greene street entrance? A. Yes, sir.

Q. Was the building burning at this time? A. Oh, certainly, yes.

Q. And were there flames around? A. All around.

Q. And did you go toward the Greene street door? A. Yes, sir.

Q. What did you do, if anything, to try and shield your face from fire? A. I covered it up with the skirt of my coat, and I went through the passage, and I came in the wall where the Greene street was,— there was a little wall, I came in there, everybody was standing near the window.

THE COURT: No, just tell us what you did?

A. (Witness continuing) When I came in in that room I opened the door. When I opened the door I didn't think to go up to the roof, but I thought to go down, and downstairs the stairs were full of flames, so I got scared and I shut the door again. When I shut the door then a woman came over to the door and she started to cry, "Come to the roof, come to the roof." So I ran after her and a few more girls followed us, and we went on the roof. On the roof there were standing young men and on the edge of the building --

Q. And you got down safely over the other building? A. Yes, sir.

Q. Now, coming back to the time that you went to the Wash-

ington place door, A. Yes, sir.

Q. When this young man had his hand on the handle of the door, did you see anybody there that you knew?

THE COURT: Yes or no. A. A little girl, an Italian woman.

Q. Did you know the name of this little girl? A. She is here.

Q. She is in this building? A. Yes, sir.

Q. Now, the first chance that you get, will you ask her her name?

THE COURT: Do you want her identified?

MR. BOSTWICK: We have no way to identify her excepting the method I am now following, your Honor.

Q. Will you, the first time you see her, ask her her name? A. All right.

Q. Do you understand me? A. Her first name?

Q. What is her first name? A. Lena.

Q. Lena Yalla? A. No, Lieberowitz.

Q. Lena Lieberwitz? A. Yes, sir; a small girl.

(Mr. Bostwick now asks to have Lena Lieberowitz brought into the courtroom.)

Q. Do you know Lena Zwick? A. I don't know by the name.

(Mr. Bostwick now asks that Lena Zwick be brought into the courtroom.)

Q. Did you see anybody else at the door when this man was trying the handle of the door, besides this Lena Lieberowitz?

A. No, sir. There was a crowd, but I don't remember the names.

Q. You saw other people? A. Yes.

Q. But you don't know their names? A. Not the names.

Q. How long were you near that door that the man tried to open? A. Till the smoke came in. It was a few minutes, I don't know how long it was.

Q. Did you see anybody open that door? A. No, sir.

Q. How long had you been employed by these people? A. Seven weeks.

Q. During that time did you ever see anybody go in or out of that Washington place door on the ninth floor? A. No, sir.

BY THE COURT:

Q. Where did you live during the time that you were working for the defendants? A.

(No answer.)

Q. During the time that you worked for the Triangle Waist Company, whereabouts did you live? A. (No answer.)

BY MR. BOSTWICK:

Q. Where did you live at the time of the fire? A. (No answer.)

BY THE COURT:

Q. Where was your home? A. 119th street.

Q. The same place that you live in now? A. Yes, sir.

BY MR. BOSTWICK:

Q. At night when you quit work, how did you go out of the building? A. through the Greene street door.

Q. And was there a watchman there? A. Yes, sir.

Q. And what would you do as you passed the watchman at night? A. I opened my pocket book and I showed him.

Q. At the time of the fire, was there any superintendent on the ninth floor? A. No, sir.

Q. While you were there did you have any fire drills? A. No.

MR. STEUER: I make the same objection — incompetent, immaterial and irrelevant.

(Same ruling. Exception.)

Q. I show you a diagram of the ninth floor, which you have seen before? A. Yes, sir.

Q. In front of the freight elevator there was a clothes closet, was there not? A. I don't know.

Q. Well, was there a partition? A. Yes.

Q. In going to the Greene street stairway or to the Greene street elevators, did you have to pass through a door? A. Yes, sir.

Q. Where did the watchman stand? A. The watchman, he was standing not in the little room — he was standing in the factory.

Q. He was not in the enclosure, or what you call the little room, in front of the stairway and elevators, but he was in the loft, in the factory itself? A. Yes, right near the door.

Q. There is the entrance of the door on the stairway, and that is a front to the freight elevators (indicating on diagram)? A. Yes, sir.

Q. Will you make a cross where the watchman stood? A. Op-

posite the machines he was standing.

Q. Now, you put your initials there? A. (Witness marks on diagram as requested.)

Q. Next to the passenger elevators there came the Washington place door? A. Yes, I didn't know that door before.

Q. You didn't know that door before? A. No.

Q. You know the door now? A. When I went with that young man?

Q. Yes. A. Yes.

Q. And that is the door that I am pointing to, the Washington place door, that is the door that he had his hand on (indicating on diagram). It was the door to the stairway next to the dressing room, was it not? A. No, sir; to the hallway there was a door.

Q. There was a passenger elevator, was there not? A. Yes, sir.

Q. Then here was the stairway? A. Yes.

Q. In here was a stairway? A. Then it was near here (indicating on diagram).

Q. Do you know that girl (indicating Lena Zwick, who has been brought into the courtroom)? A. No, I do not.

Q. In front of the dressing rooms, there was a short row of machines, was there not?

A. Yes, sir.

Q. And then another row of machines? A. Yes, sir.

Q. Then a third row? A. Yes, sir.

Q. And a fourth row and a fifth, sixth and a seventh

and an eighth? A. Yes.

Q. Just as indicated on this diagram? A. Yes.

Q. I show you People's Exhibit No. 13; this is the stairway? A. Yes.

Q. That is the picture of this stairway (pointing to photograph People's Exhibit 13, and indicating on diagram People's Exhibit 2). You don't understand that? There are the stairs (pointing on photograph)? A. Yes.

Q. The door has been burned away? A. But this is the stairs to go up.

Q. That is the stairs there (now pointing on diagram)? A. Yes. Then I was standing right there (indicating right in front of the Washington place door).

Q. Right next to this door and stairway there was a dressing room, was there not? A. Yes, sir.

Q. And next to that there was another dressing room? A. Yes, sir.

Q. And behind that second dressing room there was a toilet? A. Yes, sir.

Q. Just as indicated on this diagram? A. Yes, sir.

THE COURT: Gentlemen of the Jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. Don't talk with anybody about the case or allow anybody to talk with you

about the case.

(Recess till 2 P. M.)

After Recess, trial resumed.

YETTA LUBITZ resumes the stand, and further testifies:

DIRECT EXAMINATION BY MR. BOSTWICK (RESUMED).

Q. Now old are you? A. Twenty-four.

Q. Now long have you been in this country? A. Eight years.

Q. About how many operators were on the ninth floor at the time of the fire? A. I don't know.

Q. About how many? A. I can't tell you, I don't know.

CROSS-EXAMINATION BY MR. STEUER:

Q. Miss Lubitz, the evening of the fire was the first time in your life that you ever saw the Washington place door, wasn't it? A. Yes, sir.

Q. You had never seen the door and you had never heard there was such a door, is that it? A. Yes, sir.

Q. But on that occasion, shortly after the cry of Fire, you got to the door that you had never seen before? A. Yes, sir.

Q. And that you had never heard of before? A. Yes, sir.

Q. And looked on while somebody was trying the door? A. Yes.

Q. Your coat was, you said, in the Washington place side dressing room? A. No. Right near the toilets was my clothes.

Q. When you went into your dressing room every day except the day of the fire and got your coat, you walked right from the dressing room over to the Greene street elevators? A.

Yes,

sir; sometimes I went down the stairways.

Q. You walked nine flights of stairs? A. Yes, sir.

Q. You didn't wait for the elevator? A. Sometimes.

Q. Well, you say sometimes you didn't wait for the elevator? A. Yes.

Q. You walked nine flights of stairs, is that right? A. Yes.

Q. Did you ever walk up the nine flights of stairs too, when you wouldn't wait for the elevator? A. Not sir.

Q. Only going down? A. Yes.

Q. So you knew where the elevators were on the Greene street side perfectly, didn't you? A. Yes, sir.

Q. And you knew where the door was on the Greene street side perfectly, didn't you?

A. Yes, sir.

Q. And that was the only door that you had ever seen or ever heard of? A. Yes.

Q. Nobody even ever told you that there was another door? A. No.

Q. And working seven weeks you never saw the door with your eyes? A. No, sir.

Q. And in going to the Washington place dressing room, night after night and at lunch every day, you never even saw the door, did you? A. No, sir; but my dressing room was not right near the door, it was right near the toilets.

Q. Don't you know that Mr. Bostwick put to you this question: "So your dressing room was right alongside of the Washington place stairs?" And you said, "Yes." Do you re-

member that? A. I don't know. My dressing room was right near the toilet.

Q. The fact is, that when he was putting those questions and saying you were here and your dressing room was here, and all that sort of thing, you were just saying "Yes" without knowing anything about it, isn't that so? A. Not everything.

Q. Well, now, how many times have you seen this diagram that Mr. Bostwick showed you? A. Two times — three times ~ I don't know how many times.

Q. You remember once Mr. Rubin showed it to you when you were a witness? A. Oh, yes, I have seen it many times.

Q. And then you remember you saw it a great many times in Mr. Bostwick's room in this building, didn't you? A. Yes, sir.

Q. And they went all over this same thing with you quite a number of time, didn't they? A. Yes, sir.

Q. And different people went over it with you quite a number of times? A. Yes, sir.

Q. So that it should be easier to remember it? A. No, sir.

Q. It was so that you should not remember that they went over it with you so many times? A. Nothing of what they told me — I know myself .

Q. But they wanted to hear you tell it to them over and over again? A. Yes.

Q. Why, they wrote it down the first time you told it to them, didn't they? A. Yes, they wrote it down.

Q. And you signed it the first time you told it to them,

didn't you? A. Yes, sir,

Q. And then you went on the witness-stand and swore to it, and they have it in typewriting, didn't they? A. Yes, sir.

Q. And you know that they asked you the same questions and you gave to them the answers, in exactly the same words, that you spoke to them on the 10th of April, more than eight months ago, don't you? A. Yes.

Q. Or, exactly eight months? A. Yes.

Q. And to-day you cannot tell exactly where you were, looking at the diagram again, can you? A. Well, I will show you all right. Here is the dressing room, and this is the dressing room that my clothes was right in, this dressing room, and right near the door I always hung my clothes so I could get my clothes right away so I would be able to come out.

THE COURT: Does she mark it?

MR. STEUER: Yes, she may mark it.

(Witness marks the diagram at place indicated.)

MR. STEUER: The witness has marked "Y.L.", standing for her own initials.

Q. There were two dressing rooms near the Washington place side, weren't there? Yes, sir.

Q. And the dressing room that you were in was the one that was furthest away from the Washington place staircase? A. (No answer.)

Q. I will make that so you can understand it. You see on this diagram, or by this diagram, this in supposed to be,

where I have got the pencil now, the stairs on the Washington place side? A. Yes.

Q. Those are the stairs that you had never seen in your life? A. No, sir.

Q. And there is the door that you never saw in your life? A. No, sir.

Q. Don't say "Yes, sir" or "No, sir" to me unless you understand exactly what I say? A. Well, certainly.

Q. And any time you don't understand, you say so and then we will change the question? A. All right.

Q. You were in the second dressing room? A. Yes.

Q. And your coat was on the wall that was furthest away from the Greene street ~

MR. BOSTWICK: No.

A. In the dressing room.

MR. STEUER; Please don't say "No", Mr. Bostwick; I have not asked you.

MR. BOSTWICK: I beg your pardon.

Q. When you said before that you went into the dressing room, and pointed to the second dressing room — A. Yes, sir.

Q. Now, that is correct, isn't it? A. Yes, sir.

Q. The second dressing room on the Washington place stairs – one, two — that's right, isn't it? A. Yes.

Q. The second dressing room from the Washington place stairs has the door on the side of the dressing room that is nearest the wall in which the fire escape was? A. Yes.

Q. That is correct? A. Yes.

Q. And you understand that, don't you? A. Yes.

Q. And it had no other door? A. No.

Q. So that, if you came from one of the tables you had to go to the side of the dressing room that was near the examining tables? A. Yes.

Q. In order to go into the dressing room? A. Yes.

Q. And when you got into the dressing room, you put your name, the two letters of your name, just a minute ago, where your coat was hanging? A. Yes.

Q. So as to make that perfectly clear to you, you have gone back now to Greene street? A. Yes.

Q. Walking back? A. Yes.

Q. And when you are looking at me you are looking toward the Washington place side? A. Yes.

Q. And if you are now with your back toward Greene street you are looking at this dressing room? A. Yes.

Q. In order to get to the dressing room you walked around and you came around to the examining tables? A. Yes.

Q. And you walked into this door? A. Yes.

Q. Where did you sit when you were walking? A. On the third table.

Q. Meaning where? Where is the first table in your mind? A. In my mind, here (indicating); here on the third line.

Q. I don't think I understand you, or you don't understand me.

THE COURT: No, you are at cross purposes.

Q. We will start over again. Which table do you call the first table? A. This is here (indicating on diagram).

Q. And when you say "This here", you are pointing to the first table nearest to the Washington place side? A. Yes, sir.

THE COURT: She is pointing to the table nearest to the Washington place elevators, because they are all equally near the Washington place side.

MR. STEUER: Oh, I get your Honor's meaning, you are right.

Q. You point to the table which is nearest, as the Judge said, to the Washington place elevators and to these dressing rooms which you are talking about? A. Yes, sir.

Q. That is the table that is nearest to these two dressing rooms? A. Yes.

Q. That is No. 1. And then of course No. 2 would be the one next to that going to Greene street, wouldn't it? A. Why, the next is already near to Washington place.

Q. But going to Greene street?

THE COURT: Nearer Greene street than the one you first showed.

Q. It is nearer Greene street than No. 1? A. This is Washington place?

Q. Yes, so it is nearer to Greene street than this? A. Yes.

Q. Do you understand me? A. Yes.

Q. That is, when you go from No. 2, you go to No. 3, and you are still going to Greene street, aren't you? A. Yes, sir.

Q. So it was at No. 3 table that you were sitting, wasn't it? A. Yes, sir.

Q. Which way was your face when you were working? A. To Greene street. I was sitting on this side (indicating on diagram).

Q. So you sat on this side of the table — that is the side which is nearer to the Washington place dressing room? A. Dressing rooms; yes, sir.

Q. And when you got up from your work, you would leave your chair? A. Yes.

Q. Put on your hat? A. Not right near the machine.

Q. Didn't you have your hat? A. In my dressing room.

Q. Oh, the hat was in the dressing room? A. Yes.

Q. With the coat? A. Yes, sir.

Q. So you would leave your chair? A. Yes.

Q. And tell us now where your chair was? A. Right on this side (indicating on diagram).

Q. About how many machines between you and the end of that table which is nearest to the fire escape? A. I think about five machines.

Q. You would leave your chair, you would walk in the passageway between the second and the third table? A. Yes.

Q. You would come out to where the examining tables were? A. Yes.

Q. And you would go around the examining tables? A. Yes.

Q. And go into the dressing room? A. The dressing room, yes, sir. But I had to go right this way (indicating on diagram.)

Q. When you pointed your finger you said you had to go this way — you mean that you came from in front of the post instead of going around the post? A. In front of the post because here cause was standing tables here — right here, the examining tables (indicating).

Q. And you mean you did not walk behind the tables to enter into the dressing rooms, but used to walk in front of the tables and then go into the dressing room that way? A. Yes.

Q. Is that right? A. Yes, sir.

Q. Is that what you did on the evening of the day when the fire took place? A. Yes, sir; the same thing.

Q. When you came out to where the examining tables were, between the second and third tables and machines, you could see the Greene street door perfectly plain, couldn't you? A. Yes.

Q. And you saw it every day when you came out? A. Yes, sir.

Q. Anybody who stood where these examining tables were and who had eyes could see that Greene street door? A. Yes, they could see, but it was all around with — (witness indicates).

Q. A. partition? A. A partition, yes.

Q. Well, the door was in the partition, wasn't it? A. Yes.

Q. And you could see the door? A. Yes, I could see the door when I stood right in the passage, then I could see the door.

Q. You could even see the door when you were standing at the dressing room, couldn't you? A. At my dressing room, yes, I could, but not this dressing room.

Q. You could see the Greene street door when you stood at that dressing room? A. Yes, sir.

Q. But you say that the men's dressing room you could not see it? A. No.

Q. Let us get that clear. The dressing room that was nearest to the stairs on the Washington place side was the men's dressing room? A. Men's? I think there was a girls'.

Q. Did you ever see a girls go in there? A. Yes, I did.

Q. You did? A. Yes.

Q. You are sure of that? A. Yes, certainly, I am sure.

Q. Do you remember the name of the girl? A. No.

Q. You didn't know it. Well, at any rate, you were in the second dressing room? A. Yes, sir.

Q. There were no men's coats or hats in that dressing room? A. Yes, there was. I remember the machinist.

Q. The machinist? A. Yes, their clothes was in our room.

Q. Are you sure about that? A. Yes, sir; I am sure.

Q. The machinists on the ninth floor? A. Yes.

Q. Was not the machinist on the ninth floor Willie? A. Willie? Yes.

Q. Didn't Willie keep his clothes together with a girl by the name of Mary and a young lady who has been a witness here this morning by the name of Anna Gullo? A. I don't know them

by name.

Q. There was a lady here this morning — she was dressed in black — who testified that her name — she gave it here as Anna Gullo? A. Yes.

Q. Now, do you say that it is not —

THE COURT: Don't answer until the question is put.

Q. Now, what I wish to ask you is, isn't it the fact — I don't know whether the word "fact" is plain to you? A. Yes.

Q. Oh, it is? Well, then, isn't it the fact that Willie and Mary — do you know whom I mean by Mary? A. Mary? No, I do not.

Q. Well, Mary was the bookkeeper; do you remember her? A. Yes, I remember.

Q. Isn't it the fact that Willie and Mary and Anna Gullo had their clothes, that is, hat and coat, hanging together? A. I don't know.

MR. STEUER: Will you permit me to say what Anna Gullo said before the Coroner on that subject?

MR. RUBIN: Well, you cannot bind this witness by what Anna Gullo said.

MR. STEUER: She said, your Honor, that Willie's clothes were in this room.

THE SEVENTH JUROR: When she said the machinist, I think she meant the men that sewed at the machines.

THE WITNESS: No,

Q. You didn't mean men who sewed? A. No.

Q. You mean the men who fix the machines? A. Yes.

Q. Your memory is -- and that is all we care about now -- your memory is that Willie's clothes were in the same room as yours? A. Yes, sir.

Q. Did you see Willie at the time of the fire? A. No, sir.

BY THE COURT:

Q. Do you know Willie's last name? A. No, sir.

MR. STEUER: Do you want it, Judge?

THE COURT: No.

BY MR. STEUER:

Q. There was only one machinist whose name was Willie, wasn't there? A. I don't know the other man.

Q. Well, it was the only Willie you knew, and that was a machinist? A. There were two machinists.

Q. There was a machinist and he had an assistant and helper? A. Oh?

Q. Was there more than one Willie that you knew of that was a machinist? A. No, I don't know.

Q. Willie was either a Jew, -- a Hebrew or an Italian, wasn't he? A. I think a Jew.

Q. Willie was a Jew, wasn't he? A. Yes.

Q. Come back to this place -- you came into this dressing room? A. Yes, sir.

Q. And didn't you put your name so as to show that your coat hung on the wall or partition, whichever it was, that was nearest to the toilet room? A. Yes, sir; on the wall.

Q. And that is where it did hang? A. Yes, sir.

Q. On the wall nearest the toilet room? A. Yes, sir.

Q. And that was the wall in the dressing room that was furthest away from where you sat? A. Yes, sir.

Q. That is perfectly plain, isn't it? A. Yes, sir.

THE COURT: Do not say "Yes" unless it is really so, or unless it is plain to you.

A. (Witness continuing) Yes, yes, yes, I understand it.

Q. So that you came in there, took your hat and coat from the wall that was furthest away from you, and you put your hat and coat on? A. Yes.

Q. And then you didn't know that there was any trouble, did you? A. Nothing.

Q. When you had walked around from where you sat in the way that you have already shown the jury, or told us rather,— got your hat and coat and you were in the dressing room and didn't know there was trouble? A. Nothing.

Q. Every day when there was no trouble you did the same thing — you went to the same room and got your hat and coat from the same place? A. Yes, sir.

Q. And then you came out of the door and you walked down here to this door, didn't you? A. Yes, but first I punched my card.

Q. First did you punch your card, after you put on your hat and coat? A. Yes, sir.

Q. Now, about your card, there was a rack — or, do you know

what a square is? A. Yes.

Q. A square is a thing that has four sides and they are all the same size? A. Yes.

Q. Do you remember that there was a square made of wood where the cards used to be put in, each girl's card? A. Yes.

Q. There were two of those, weren't there, two squares, one near one clock and one by the other clock? A. Yes.

Q. Some of the girls kept their cards in their pocketbooks, didn't they? A. Yes.

Q. What did you do with your card? A. I kept my card too in my pocketbook.

Q. You weren't one of the girls that used to put your card in the rack? A. Yes.

Q. You were not? A. No, no.

Q. So that what you used to do was, when you came in in the morning, you would go over and punch your card and put it in your pocketbook? A. Yes, sir.

Q. And when you went home you would go over and punch your card and put it in your pocketbook again? A. Yes, sir.

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

Q. You didn't go out at lunch time, then, did you? A. No.

Q. So the only times that you punched your card was in the morning when you came in, and in the evening when you went home? A. Yes.

Q. So that the jury and all of us will understand what that clock was, when you took your card there was an opening

and you put your card in that? A. Yes.

Q. And then you could press something down, the same as on a cash register? A.

Yes, sir.

Q. And when it went down that put on the hour and the minute? A. Yes.

Q. And that is all, you took that card right out and you went right away? A. Yes.

Q. That didn't take any time at all to do that, did it? A. No.

BY THE COURT:

Q. Which of the two clocks did you use on the day of the fire? A. The clock right near the dressing room.

BY MR. STEUER:

Q. Which dressing room, the Judge wants to know? A. Right here, I think; right here was the clock (indicating on diagram). I don't know when I went out, I don't know where it was, the clock, but right by this dressing room was a clock.

Q. I think the other clock was over to the fire escape, was it not? A. Yes.

MR. STEUER: The other clock was between the fire escape and that door, your Honor. What you wish to know is whether it was this clock over here or that one over there (indicating on diagram)?

THE COURT: Yes.

Q. It was at the clock that was nearest to your dressing room that you used to punch your card? A. Yes.

Q. On the morning of the fire you punched your card, but on the evening, as I understand, you did not punch your card, did you? A. No, I couldn't, it was the fire.

Q. Well, when you were in the dressing room, you learned there was trouble? A. In the dressing room? No.

Q. Well, you came out of the dressing room? A. When I came out, when I came near the clock —

Q. So you were walking straight and toward the clock? A. Yes.

Q. Your mind was to go to the clock, wasn't it? A. Yes.

Q. And then when you were coming out of the dressing room and if nothing had happened you would have gone to the clock, then something did happen and you learned there was trouble? A. Yes.

Q. What did happen so that you knew there was trouble? A. I have seen — I saw a crowd of girls went to the Greene street door, but I didn't know what at the time.

Q. Well, now, I didn't ask you for the whole story. You saw that there was a crowd of girls at the Greene street door, and you didn't know what had happened, is that right? A. Yes.

Q. What did you do when you saw there was a crowd of girls at the Greene street door and you didn't know what had happened? A. I put the card in the clock and I wanted to punch the card, but in the same time I heard a cry of Fire, and I saw flames all around the windows.

Q. Then you did go to the clock? A. Yes.

Q. And you put your card into that opening there, just to get into the cut, you say? A. Yes, sir.

Q. That is what it is, a cut made of metal which stands up, and you put the card into the cut, that is right, is it? A. Yes, sir.

Q. And you didn't punch the card? A. No, sir.

Q. Did you take the card out? A. No.

Q. Left the card right there? A. Yes, sir.

Q. That is when you heard a cry of Fire? A. Yes.

Q. Then you turned away from the clock when you heard the cry of Fire? A. Yes.

Q. You were alone at that time? A. Yes, sir.

Q. Where did you go from the clock? A. From the clock I started to run up.

Q. Where did you run? A. I wanted to run to Greene street, but girls came over to me and they ran to the fire escape.

Q. These girls and you were not running away from each other -- you were running to each other? A. Yes sir.

Q. You were coming this way (indicating)? A. Yes, sir.

Q. And the girls were coming this way (indicating)? A. Yes, sir.

THE COURT: Counsel indicated by his hand that she was running towards the Greene street elevators and the girls were running in the opposite direction, towards the fire escape.

Q. You got as far as the fire escape? A. Yes, sir.

Q. And there were girls there? A. No, I came with the girls together at the same time.

Q. Then you saw flames? A. Yes.

Q. Now, that is what stopped you from going to the fire escape? A. Yes.

Q. When you saw the flames, you say? A. Yes.

Q. Would you be good enough to tell the jury what is your idea of how much time had gone by after you had left your chair where you always worked, went over to the dressing room and got your hat and coat, came out of the dressing room and went to the clock and put your card in and started over, and got to the fire escape — how much time did that take?
A. Perhaps five minutes.

Q. Have you any idea how long you stood at the fire escape? A. About two minutes — I don't know.

MR. STEUER: It is not for me to help the People's case, but at the same time two minutes is longer than you probably think.

Q. You think you stood two minutes at the fire escape? A. Near the fire escape.

Q. And then you say that together with a young man you started for the Washington place door, is that right? A. Yes.

Q. Everything that I have asked you has been perfectly plain to you, hasn't it? A. Yes.

Q. The words were the same kind of words that you use every day when you talk, weren't they? A. Yes.

Q. When you were over here at the fire escape and you saw the flames, you know there was a fire? A. Yes, sir.

Q. And at that time it had come to your mind that you had better do something to save yourself? A. Yes.

Q. You wanted to help yourself and get out? A. Yes, sir.

Q. Up to that time the only door that you knew about was the Greene street door, wasn't it? A. Yes, sir.

Q. And even up to that time you had never heard anybody speak of any other door, had you? A. No, sir.

Q. And the door that you knew about was a door that you could see from where you were standing, wasn't it? A. Yes.

Q. And there was nothing between you and that door at that time, was there? A. No, sir.

Q. Now, you are sure about that? A. No, it isn't —

Q. What I mean is, when I say there was nothing between you and that door, I mean this: There is nothing now between me and this box (indicating front rail of jury box)? A. Yes.

Q. And that is what you mean? A. Yes.

Q. That there is open space between where you stood and the Greene street door, that is right isn't it? A. Yes.

Q. And from where you stood you not see the Greene street elevators, couldn't you? A. Yes, sir.

Q. And there was nothing between you and the Greene street elevators except this door and the partition in which the door was? A. Yes.

Q. Do you know what I mean when I use the word "partition"? A. Yes. (Witness indicates.)

Q. That is what it was, a place that was built up near the Greene street door? A. Yes.

Q. You didn't go to the Greene street door, did you? A. I ran, but the girls all came —

Q. You ran as far as the fire escape? A. Yes.

Q. And you stopped at the fire escape? A. Yes.

Q. And you saw the flames? A. Yes.

Q. At that time you say you did not go to the Greene street door? A. No, sir.

Q. What you did do, as you remember it and as you tell it to us, is that you and another young man started to run in another direction. Who was the young man? A. An operator.

Q. What was his name? A. I don't know. The girls told me that --

Q. No, I didn't ask you what the girls told you.

BY THE COURT:

Q. What is the name of that young man? A. I don't know.

Q. Would you know him if you saw him? A. Certainly I do.

BY MR. STEUER:

Q. Have you seen him here? A. No, sir.

Q. Have you seen him in the District Attorney's office at any time? A. No, sir.

BY THE COURT:

Q. Did you see him at any time after the fire? A. No, sir.

BY MR. STEUER:

Q. When he spoke to you, you and he ran around from the fire escape. Did you go that time in front of the examining tables? A. No, that is the fire escape and I went through this way (indicating).

Q. That is what I ask you — in front of the examining tables and in front of the dressing rooms, and you went to the door, you say? A. Yes, sir.

Q. In the time that you ran from the fire escape over to the door, did you meet anybody? A. No, sir.

Q. The way was perfectly clear? A. Clear, yes.

Q. There wasn't a girl and there wasn't a man there, there wasn't anybody that you met in all the time that you went from the fire escape, where you had been standing looking at the flames, over to the time when you got over here at the Washington place door, there was nobody? A. No.

Q. That is perfectly clear to you? A. Yes, sir.

Q. You understand exactly what I am asking you? A. Yes, I do.

Q. And when you got to the Washington place door there wasn't anybody there? A. No.

Q. And this young man, he went right over to the Washington place door? A. Yes.

Q. At that time you could see him easily, couldn't you? A. Certainly.

Q. And you could see exactly what he was doing, couldn't

you? A. Yes, I could.

Q. At that time did you see the door? A. Yes, sir.

Q. Was that the first time in your life you ever saw that door? A. Yes.

Q. Was there a key in the door? A. I don't know.

Q. What did he do? You say to the jury and to the Judge that he put his hand on the door-knob? A. On the door~knob, yes.

Q. What did he do with the door? A. He tried to open it.

Q. That does not tell us. What did he do with it?

BY THE COURT:

Q. What motion did he make with his arm, if any? A. I don't know.

Q. Show us, if you know now, what he did? A. He tried to open the door.

THE COURT: Strike that out.

BY MR. BOSTWICK:

Q. Could you show us if you went to that door (indicating courtroom door)? A. Yes.

MR. BOSTWICK: I ask that the witness be permitted to exhibit the notion of the hand of the person.

MR. STEUER: I think the witness is with me, and you will find that I will afford her every opportunity to tell this jury what was done.

THE COURT: Well, proceed.

BY MR. STEUER:

Q. How long were you at the Washington place door with that young man? A. Until the smoke came in.

Q. That does not tell us anything . How long were you there? Could you give us an idea? A. A few minutes,— I don't know.

Q. And during that time he put his hand on the door-knob and you saw him turn it? A. Yes, sir.

Q. You know what I mean, don't you? A. Yes.

Q. What else did you see him do besides turning the door-knob? A. Nothing else.

Q. Did he push the door so as to try to open it away from him? A. I didn't see that.

Q. That you didn't see. Did he pull the door so as to try to open it toward him? A. I don't know.

Q. Did you leave the door before he left it or after he left it? A. Before him.

Q. You left this young man at the door? A. Yes.

Q. From the time that you saw that young man at that door, did you see him again? A. No, sir.

Q. So we have got the young man now left at the door, and you never saw him again? A. Yes, I see him up in the dressing room, he was right near me.

Q. Then when you said you didn't see him again, that was simply a mistake? A. I thought you — I understand you —

Q. That is all right, there is no harm done, when you make a mistake you can always say, "I want to change that", or "I

made a mistake," or "I don't understand you", and it is all right. Where did you go when you left the young man at the Washington place door? A. I ran in this dressing room.

Q. You then came back from the Washington place door, and you came into —

A. The first dressing room.

Q. Near the Washington place door, that's right, isn't it? A. Yes.

Q. Were there other people in that dressing room? A. Yes. After I came some more came in too.

Q. Were there none in it when you came in, is that what you mean? A. No, nobody.

BY THE COURT:

Q. At the moment when you stepped into that room, was there anybody inside? A. I don't remember.

BY MR. STEUER:

Q. That you can't remember? A. No.

Q. After you got in, other people came into that dressing-room? A. Yes, sir.

Q. And this young man came into the dressing room? A. Yes, sir.

Q. And you were crying and screaming? A. Yes, sir.

Q. And he told you to stop crying and screaming, and you did stop? A. Yes, I did.

Q. And then you started over again? A. Yes.

Q. How long were you in that dressing room, about? A. Five minutes. I don't know.

Q. That is, in the dressing room nearest to the Washington place door? A. Washington place.

Q. When you went out of the dressing room that was nearest to the Washington place door, what did you do then? A. Then everybody started to jump over the machines.

Q. What did you do, is what I ask? A. I jumped over two lines, then I came out and I went through this way (indicating).

Q. You jumped over two lines of tables? A. Yes, sir.

Q. Since when is it that you remember that it was two lines that you jumped over?
A. Since when?

Q. Yes. A. I know I jumped only over two lines.

Q. You always remembered it was two lines? A. Yes.

Q. On the 10th of April, didn't you swear, when Mr. Rubin asked you, that you jumped over one line? A. One line? No, I think two lines.

Q. Didn't you swear when Mr. Rubin asked you several times that you jumped over one line, and that you came between the first and second table? A. I think I jumped over two lines.

Q. Well, I will just read to you what Mr. Rubin asked you and what you said. A. Perhaps I forget.

Q. Mr. Rubin asked you that time this question: "Did you jump the machines? A. I jumped only one line, because I was dressed, the other was not dressed." Do you remember that? A. I can't remember, it is eight months ago.

Q. Then the next question he asked you was, "Had you

your coat and hat on? A. Yes, and I went along this line” (showing where you went), "and I covered up my face”. Do you remember that? A. Yes.

Q. I want to read to you this question Mr. Rubin asked you: “You went along the passageway between the first and second tables”, do you remember that? A. The first and second, I don't remember.

Q. And do you remember that he handed you the diagram and said, "Put your finger on it"? A. Yes, sir; and at that time I knew better than now.

Q. And didn't you say that what you did was to go between the first and second tables?
A. Yes.

Q. Showing with your finger that you came around here (indicating)? A. Yes.

Q. You went through this door? A. Yes, sir.

Q. And went right through the Greene street door and went upstairs? A. No.

Q. What did you do? Now, take your time and don't get upset about it, just tell us what the fact was. A. Yes. I went through, I covered up my face and I went through that door to this partition, and I came over to the door, but I got scared because I didn't think to go up but I was thinking to go down; the stairways were full of flames, and I got scared and I shut the door again. So a woman come as she was standing near the window, and she opened the door and she started to scream, “To the roof, to the roof”.

Q. You think it was a woman that did that? A. I think so.

Q. You are not sure, are you? A. Yes, certainly, I know her.

Q. Oh, you know her? A. Yes, her name is Annie Gordon.

Q. Wasn't there a man there that was guiding all the girls and passing them upstairs?

A. No.

Q. Do you know Eddie Markowitz, the shipping clerk? A. No, sir, I don't know him.

Q. We will come back into this dressing room, which is the one that is nearer to the staircase, and you say that you think you were in there for five minutes and then you came out, and you believe that you jumped over this table? A. Yes, this table.

Q. The first table now? A. Yes.

Q. And then you came here? A. Yes.

Q. Between the first and second tables? A. Yes.

Q. And then you went to the Greene street door? A. Yes.

Q. Didn't I understand you to say that you ran all over the floor? A. The first time, but that was the second when I was in the dressing room; I was two times in the dressing room.

Q. You ran all over the floor the first time? A. The first time.

Q. Did you mean to say that this morning when Mr. Bostwick was asking you, that the first time you ran all over the floor? A. Yes.

Q. Well, we will have to start all over again.

BY THE COURT:

Q. You mean that you ran all over the floor the time that you left your card in the clock and started to run towards the fire escape, is that what you mean? A. No, sir.

BY MR. STEUER:

Q. The first time that you came out of the dressing room, it was the dressing room that was further away from the staircase on the Washington place side where you put your name? A. Yes. Well, I don't understand.

Q. The first time that you went to a dressing room at all, after you stopped work? A. Yes.

Q. Then you went to the place where you put your name? A. Yes.

Q. Now, to make it short, you came out of that dressing room and you went to the clock and you put your card in the clock, and you didn't take the card out? A. No.

Q. And you didn't take the card out? A. No.

Q. And then you heard a cry of Fire, and then you ran over to the fire escape?
A. Yes, sir.

Q. Well, now, you didn't run right there to the fire escape at that time, did you? A.
No.

Q. And you didn't run over any table at that time, did you? A. Nothing.

Q. Nothing at all? A. Nothing.

Q. You stood at the fire escape and then this young

said something — A. At the fire escape?

Q. Near the fire escape. A. No, he didn't say anything.

Q. He didn't say anything? A. No.

Q. You are sure of that, now? A. Yes.

Q. He didn't say a word to you? A. No.

Q. And you didn't say a word to him? A. Nothing, only when he started to run I followed him.

Q. That was from the fire escape? A. Yes, sir.

Q. You didn't run all over the floor that time? A. Nothing, no.

Q. At that time you ran the same way as you had come? A. Yes.

Q. Except that you did not go into this dressing room and you did not go into this dressing room (indicating)? A. No.

Q. But you came around here to the door (indicating on diagram)? A. Yes, sir.

Q. And you told us in that time you didn't meet anybody at all? A. No.

Q. No one of the girls that were sitting around here had gotten over here so as to be in your way? A. No.

Q. And when I say "sitting around here", I mean that no girls that were sitting near the Washington street side had gotten in these passageways or aisles so that you met them you went over to the door? A. No, sir.

Q. At that time, at getting here to the door, you had not run all over the floor and you had not jumped any table, had you? A. No, sir.

Q. Now, when you came from the door you came back and you went into the first dressing room? A. That's right.

Q. You had not gone all over the floor or jumped any tables then, had you? A. No, nothing.

Q. You stood in this dressing room for about five minutes, and you came out of the dressing room? A. Yes.

Q. And that is the time you say you jumped over one table? A. No, we were only running around on the floor, where to go.

Q. When you came out of the dressing room, you ran all around the floor? A. No, only right here.

Q. You were running around in this passageway? A. Yes.

Q. Where there were no tables? A. No.

Q. Nothing at all? A. No.

Q. And you were just running around here? A. Yes.

Q. And then you ran back again into the dressing room? A. Yes.

Q. How long did you stay in this dressing room, which is the dressing room nearest to the staircase, the second time you went in there? A. The second time I stayed there longer than the first time.

Q. How many minutes would you say the second time? A. It seemed to me that I was standing there maybe about fifteen minutes.

Q. It seemed to you about fifteen minutes. Then you came out of the dressing room the second time? A. Yes.

Q. And the second time it was that you jumped over that one table? A. Yes.

Q. And then you came down here in this passageway? A. Yes.

Q. And you ran to the Greene street door? A. Yes, sir.

Q. When was it that you jumped all over the floor and saw people all over the floor? A.

The second time I didn't see nobody on the floors.

Q. You didn't see anybody at all on the floors? A. Do you mean laying on the floors?

Q. Yes. A. Not sir.

Q. You didn't see anybody on the floor at all? A. No, sir; they were running around the floor.

Q. The people were running around? A. Yes.

Q. And you saw people running around? A. Yes.

Q. But what you did was to jump over this one table? A. Yes.

Q. Go out in the passageway between the first and second table? A. Yes, sir.

Q. Then on straight down to the Greene street door, is that right? A. Yes.

Q. And when you got to the Greene street door, the door was shut? A. No, the door was open.

Q. Did you find the door open? A. Certainly.

Q. And then you went to the stairs? A. No, I shut the door, I got scared because I see ~-

Q. Did you go out of the door? A. No, after.

Q. But at that time? A. No, I did not.

Q. At that time you did nothing but shut the door? A. Yes.

Q. And you did that as quick as you could? A. Certainly. Q. And because at that time in your condition you thought that by shutting the door it would keep the flames out? A. No, I thought I will get burnt.

Q. Well, it was so that you should not get burnt that you shut the door? A. No, no. I thought, well, I will live another few minutes, that's all.

Q. You don't mean to say that you wanted to get burned? A. No, but I didn't see any help for me.

Q. Wasn't it because you were afraid of the flames that you shut the door? A. Yes.

Q. Well, that is what I asked. And you wanted to keep the flames away from you as long as you could? A. Yes.

Q. And you thought it would take the flames longer to get where you were if you shut the door? A. Yes.

Q. And that is what made you shut the door? A. Yes.

Q. Now, after you shut the door what was the next thing that you did? Did you hear this Mrs. Gordon? A. Mrs. Gordon she was standing near the window; she ran to the door and she started to cry, "To the roof; to the roof."

Q. Near which window was she standing? A. Right in this partition.

Q. Did you mean this one there (indicating on diagram)? A. Yes.

MR. STEUER: Witness points with her finger on the

Greene street side, which is nearest to the last or the second of the freight elevators, and between the freight elevator and the partition.

Q. That is where Mrs. Gordon was standing? A. Yes.

Q. Then Mrs. Gordon came back from the window? A. Yes.

Q. Around here to the door? A. Yes, sir.

Q. And she opened the door? A. Yes.

Q. And said "To the roof"? A. Yes, sir.

Q. And then you followed to the roof? A. Yes.

Q. You went up to the tenth floor and from the tenth floor you went up by the stairs to the roof? A. Yes.

Q. And that is on the Greene street side? A. Yes, sir.

Q. When you came out of the dressing room the second time, if I understood you correctly, you took up the skirt of your coat? A. Yes.

Q. And put it around you? A. Yes, sir.

Q. And that is the way you ran? A. Yes, sir, but first I jumped over one line and then -

Q. You jumped over the line then did you take up the — A. Just the skirt of my coat and I went through.

Q. Did you tell us before that when you came out of the dressing room the second time and jumped over the table the fire was all over the floor? A. It was around this way, not on this side (indicating). Right near the window. Is that the examiner's table?

Q. Yes, just get yourself calm first, and then tell us?

A. (Witness indicates on diagram).

Q. What about over here (indicating Washington place side)? A. I don't know anything about that.

Q. Did anything happen to you? A. When?

Q. Well, of course, I know you were frightened and upset and all that, but I mean did you get burned? A. No, nothing.

Q. So you went through that Greene street door? A. Yes.

Q. After waiting all this time, without being burned at all? A. Not at all, only an old Italian woman —

Q. No, I didn't ask you about the Italian lady, I am asking about you? A. Nothing.

Q. You didn't get burned at all? A. No, nothing.

Q. And you think that — A. Only a little bit, a little hair got burned.

Q. You think a flame touched your hair when you went up? A. Yes, when I went up through the stairways, when I went up the fire-escape, I mean up to the roof.

Q. You mean after you had got to the tenth floor? A. Yes.

Q. And when you were going from the tenth floor up to the roof the flames were following you? A. Yes, sir, — they were not following me.

Q. Don't say yes when you don't mean yes. I don't want to get you to say anything that is not exactly right, and take your own time about it now. A. Yes, the flames were not following me. The flames were up this way, but when I went through my hair got a little bit burned.

Q. Have you got the place right? I don't mean the of the hair, but I mean the place where that happened, because you are telling the jury now that that happened after you left the tenth floor and were going to the roof? A. Yes.

Q. Is that what you meant? A. On the tenth floor, when I went out from the ninth floor.

Q. That is what I thought you meant. When you went out from the ninth floor and were going up to the tenth floor, then one of the flames hit your hair and singed your hair, or burnt it, is that right? A. Yes, sir.

Q. Have you told the jury everything that happened to you? A. When?

Q. That day. A. I have to tell —

Q. Have you already told us here this afternoon, everything that happened to you from the time that you found out that there was trouble, when you were in the dressing room, up to the time that you got up on the roof? A. If I told everything?

Q. Yes. That happened to you? A. Yes, I did.

Q. There is nothing that you know of now that you have left out, did you? A. I told everything.

Q. Were you a piece worker or a week worker? A. A week worker.

Q. After the fire you never worked for Harris and Blanck, did you? A. No, sir.

Q. Do you belong to the Union? A. No, sir.

Q. Did you go do am to the meeting place? A. Never.

Q. Never went there at all? A. No.

Q. How many times did you go to the District Attorney's office, if you remember? A. Two times before. I was four times, but one time I was up to the Grand Jury and one time I was by the Coronor, and two times I was in your (looking at Mr. Rubin) office.

Q. Two times after you were before the Grand Jury? A. Yes.

MR. STEUER: Isn't this the lady, Mr. Rubin, that recognized Lena Liberwitz?

MR. RUBIN: I believe she is.

MR. STEUER: A. different girl came in (Lena Zwick) and she said that was not the girl. Now I request that Lena Liberwitz a be produced.

MR. RUBIN: Mr. Bostwick will call her as soon as you are through.

MR. STEUER: Oh, all right, go ahead.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You also saw me at the Bar Association one time, did you not, uptown? A. Yes, one time in your office and one time there.

Q. I want you to pay attention to me just for a minute: I want you to tell me the length of time that you think it is between my clapping ay hands, do you see now --

MR. STEUER: I object to that as a test of time, but I will tell you what you might do, if you will tolerate a suggestion: suppose you take your watch and start at

a signal to her and tell her to tell you when a minute is up, or something of that sort.

MR. BOSTWICK: That is just what I was doing now. I will try that again.

Q. Now, (Mr. Bostwick clapping his two hands together) and then after a lapse of time again clapping his two hands together; how long: do you think that was between the two claps of my hands? A. One minute.

MR. BOSTWICK: Note that a quarter of a minute of time elapsed.

Q. Do you know the difference between the words "Moment" and "minute"? A. I think in a minute is sixty moments.

Q. When you used the records in your testimony that you stood at such a place "five minutes" do you mean that there were three hundred moments? A. No, I think less than that.

Q. When you used the word minutes did you mean any fixed and definite point of time? Do you know what I mean by that? A. No.

Q. Have you ever heard the expression "in a few minutes" — "I will come in a few minutes"? A. Yes, sir.

Q. By that what do you suppose you mean? A. A few minutes time.

Q. Well, do you mean a few minutes by the clock, or do you mean "I am coming shortly"? A. "I will come shortly."

Q. Now, I am asking you this: those words "minutes" are used sometimes like "shortly", and some times to mean time by

the clock. When you used “minutes” did you mean the full time by the clock? A. No, sir, I don’t know exactly.

Q. You did not mean that it was the exact time by the clock? A. No, sir.

Q. You meant it was a short or a long time, as you used the expression "two minutes” or "five minutes”? A. Yes, sir.

Q. You have testified several times that when you stood near this dressing room when near the examining tables, near to the fire-escape, you could see the door? A. Yes, sir.

Q. At the Greene street side? A. Yes, sir.

Q. The words were used “the door”, do you mean the door that led through the partition, or do you mean the door which led into the stairway?

MR. STEUER: Or do you mean them both?

Q. Or do you mean them both? A. Yes, I mean them both.

Q. When you stood by the examining table could you see the door that went from the hallway to the stairway? A. No, sir, when I stood on this side, then I couldn’t see the door.

Q. The door that you could see was the door leading through the partition? A. Yes, sir.

Q. But not the door that led into the stairway? A. No, sir.

Q. I wanted to correct that. You have brought no suit against Harris and Blanck, have you? A. What?

Q. Do you know what a lawsuit is? Do you know what it is to sue somebody? A. Yes.

Q. You have not sued Harris and Blanck, have you? A. No.

Q. You went and got your pay, did you not? A. Yes, sir.

Q. Whom did you see at the time you went and got your pay? A. Mr. Bernstein.

Q. Did you see either Mr. Harris or Mr. Blanck? A. After, I have seen Mr. Blanck.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. I don't know whether you understood Mr. Bostwick just now, but I want you to try and see if you understand me. Will you? When you came out of the dressing room, where you had your hat and coat every day? A. Yes, sir.

Q. And I am not now speaking of the time of the fire there, do you understand? A. Yes, sir.

Q. Every day when everything was nice and quiet when you came out of your dressing room couldn't you see the Greene street door? A. Yes.

Q. And you could see the Greene street elevators? A. Elevators, yes, sir. Not so very well, because on account of the partition.

Q. You couldn't see them so very well? A. No.

Q. But you could see them? A. Yes, but when I stood on the examiner's tables, then I couldn't see.

Q. When you stood behind the examiner's table, then you couldn't see it? A. No.

Q. But I ask you both now and before whether when you came out of the dressing room where you had your hat and coat,

whether you couldn't see the Greene street door and you said yes? A. Yes.

Q. Now, that is true, isn't it? A. Well, yes, sir.

Q. And you could see the Greene street elevators, couldn't you? A. Yes, sir.

Q. Now I want to tell you that you may have something in your mind that I have not got about that door. You told us before that you knew what the partition was — do you understand?
A. Yes.

Q. And in that partition there was a door? A. Yes, sir.

Q. When you passed through that door going down to the stairs there is another door? A.
Yes, sir.

Q. You know what I mean? A. Yes, one door from the partition and one ——

Q. Yes, one door is the partition door and one door is the stairs door? A. Yes.

Q. And it is the stairs door you closed at the time the flames came up? A. Yes.

Q. The Greene street stairs door on the ninth floor? A. Yes, sir.

Q. I ask you to tell the jury when you came out of your dressing room where you kept your hat and coat, could you see that door? I am not speaking of the time of the fire, but when everything was all right? A. Yes, then I could see.

Q. So you could see both of those doors? A. Yes.

Q. I want you to do this: I will say out loud to you "Now",

door you would come to? A. Yes, sir.

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

Q. Now, will you tell the jury exactly what you did or what you would do if you wanted to go from that door to the partition door, to the stairs door? A. Well, I went in that little partition and I opened the door.

Q. Which way would you go? Did you keep right on walking straight? A. No, it was right — the door was right near the partition door.

Q. You see (indicating on diagram) you have come from here and you have gone over here, and you are here now? A. Yes.

Q. Now, where is the door to the stairs? A. Right here (indicating).

Q. So when you came here you walked right around to your left-hand side, didn't you?
A. (No answer).

Q. I will tell you what would help you if you would do it. Stand up, and you put your back to me, just stand stand up for a second and turn your back to me (witness doing as requested); now, you are walking through the partition, you see. A. Yes.

BY THE COURT:

Q. You have opened the partition door and now you want to get to the stairs; now, where is the stairs door? A. Right here (indicating).

BY MR. STEUER:

Q. Then you turned to your left? A. Yes.

do you understand? When I say "Now" I want you to begin to think of time, - do you understand me? A. All right.

Q. And then after I wait some time, I will say "Now" again. Do you see? And then you tell the jury how long you think that was. Do you understand me? A. Yes, sir, I do.

Q. Perfectly plain, is it? "Now". (Then a pause of some duration) "Now". How long was that? A. Five minutes.

Q. Five minutes you think? A. Yes, sir.

MR. STEUER: That was one minute.

BY THE TENTH JUROR:

Q. Will you explain to us whether the door of the partition faced the door from the hallway, from the stairs, do you understand? For instance, here is one door from this side, and here is another door from the other side; do these two doors face one another? A. I can't understand.

BY MR. STEUER:

Q. Did you ever come up to work by the stairs? A. No, sir.

Q. I think you said "No" before? A. No, sir, never.

Q. Suppose you were going home with your hat and coat on and you wanted to go down by the stairs, you see? You didn't want to go by the elevator? A. Yes.

Q. You made up your mind you were going to go home by the stairs? A. Yes.

Q. You were coming out of the dressing room then you would go to the door in the partition, wouldn't you? A. Yes, sir.

Q. That was the first door you would reach, the first

MR. BOSTWICK: I ask that the juror be permitted to see this diagram at this point.

THE TENTH JUROR: I understand. Where was the dressing room.

MR. STEUER: Dressing room door (indicating on diagram).

BY THE TENTH JUROR:

Q. How could you see the door if you stood at the examining table? How can you see the door from the stairway? A. No, sir, I can't see it when I stood near the examining tables, I said I could not.

Q. Before you stated you did see the door? A. When I stood near the dressing room, you know, never did, because when this was on the bias, then I could see it a little.

Q. It is a big opening between the stair door and the partition door, is that right? A. Yes.

BY MR. BOSTWICK:

Q. The man that you say who went to that door on Washington place and tried it and couldn't open it, what kind of work did he do in the factory? A. He was an operator.

Q. Did he operate on shirtwaists? A. Yes, sir.

Q. When you were asked what he did you said you could show us at the door? A. Yes, sir.

Q. I now ask you to go to that door and show us what he did?

THE COURT: Witness indicates taking hold of the door knob with her right-hand and turning the knob.

MR. BOSTWICK: And indicated pulling the door.

MR. STEUER: No; I don't know whether she did or not.

THE COURT: You may go back again, Madam, to that door and show us what ha did (addressing witness). (Witness goes to the door and indicates.)

MR. BOSTWICK: And did the door open?

THE WITNESS: No, sir.

Q. You remember that I asked you b fore whether you understood every question that I was asking you, you remember that, don't you? A. Yes.

Q. You remember that I asked you when the young trail had his hand on the door knob what did he do, do you remember that? A. The way I show it to you.

Q. Do you remember that I asked you, did you see him pull the door? A. He tried, the same as I tried.

Q. Well, you remember that I asked you that distinctly, whether you saw him push the door first, and you said no, and I asked you whether you saw him pull the door, and you said no, that what you saw him do was to turn the knob? A. And I don't know the meaning of it. I know that when he tried, the same as I tried now.

Q. You think that this — if you had been at the door -- A. Yes.

Q. — and had your hand on the door knob, that is what you would have done? A. No, he did that.

Q. I am asking you if that what you would have done? A. If I would do that at the time of the fire --

MR. BOSTWICK: I object to the question.

THE COURT: I will allow it.

A. If I would do that in the time of the fire?

Q. Yes. A. I did not do anything.

Q. Then do you now say that you remember that at the time of the fire you saw the man pull the door? A. He tried the way I tried now.

Q. You know what it means to pull, don't you, you have pulled in your life, haven't you? A. Yes, but I don't understand the expression so well. I show the way I tried now, the door the same thing.

Q. I know. But you know if I get hold of a man and pull him you know what I am doing, don't you? A. Yes.

Q. And you know if I got hold of a chair and pushed it in front of me, you know that that is pushing don't you? A. Yes.

Q. You know that, don't you? A. Yes.

Q. Don't get afraid or nervous about anything. Just tell me. You know what it means to pull a thing, don't you? A. Yes.

Q. And you know what it means to push a thing, don't you? A. Yes.

Q. Now, I ask you again, take all the time you want to think about your answer and tell the jury, did that man push

that door that day, push, I said? A. Well, I am telling you. I don't know what to answer you, I know he only tried the way I tried now the door.

MR. BOSTWICK: Have Miss Libwitz stand up.

(A lady comes to the bar.)

MR. BOSTWICK: Is that Lena Libwitz?

THE WITNESS: Yes.

Q. Is that the girl you meant when you mentioned Lena this morning? A. Yes, sir.

THE COURT: The young woman standing at the bar is whom?

MR. BOSTWICK: Lena Libwitz.

ESTHER CUSHNER, a witness called on behalf of the People, being first duly sworn, testifies as follows: (Through Official Interpreter)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 57 East 98th street.

Q. On March 25th, 1911, were you employed by the Triangle Waist Company? A. Yes, sir.

Q. And you had been in their employ for how many years?

A. Four years.

Q. And you worked as an operator on what floor? A. Ninth floor.

Q. When you first heard any disturbance where were you? A. At my machine.

Q. What were you doing? A. I was dressing.

Q. Had you been in the dressing room? A. Yes, sir.

Q. What was the first that you knew that there was a fire? A. There was a shout of fire.

Q. Where did you go as soon as you heard the shout of fire? A. Towards the Greene street door.

Q. After you entered the Greene street door where did you go? A. To the fire-escape.

Q. And then after that where did you go? A. To the Washington place door.

Q. You mean the door on the ninth floor leading to the Washington place stairway?

A. Yes, sir.

Q. And then what happened? A. There was a girl standing near me, and she said to me —

MR. STEUER: I object to what she said.

THE COURT: I am rather disinclined to allow it, unless it falls within that general principle of spontaneous exclamation.

MR. BOSTWICK: I don't think it is admissible unless it characterizes the act, and I think the answer of the witness does characterize it, and that it falls in the class of spontaneous exclamations. There is no question there are many things that might be said that would be inadmissible.

THE COURT: I will hear it, and if it is not admissible I will strike it out.

MR. STEUER: I except.

A. "Esther, the door is locked."

Q. Did you go to the Washington place door? A. When?

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

Q. Did you try the door? A. No.

Q. Did you see anybody else try that door?

THE COURT: That only calls for an answer yes or no, and have the witness answer yes or no.

A. Ida Jacofsky.

THE COURT: What do you mean by that?

THE WITNESS: She wanted to open the door.

THE COURT: What do you mean by "wanted to open the door?"

THE WITNESS: She was standing in front of me and there was a lot of people there and she told me "Esther the door is closed."

MR. STEUER: I make the same objection to that on the same ground.

THE COURT: The same ruling.

MR. STEUER: I except.

Q. What did you see her do, if anything? A. I could not see; she was standing in front of me and there was a lot of people around there.

Q. Did you see anybody try that door?

MR. STEUER: I object to that on the ground it is incompetent and leading and suggestive and calls for the conclusion of the witness.

THE COURT: I will allow it.

MR. STEUER: I except.

A. I told you Ida Jacofsky.

Q. At night when you quit you would leave the factory by what door? A. The Greene street door.

Q. And when you went out was there a watchman standing by that Greene street door?

A. Yes, he used to look at the pocketbooks — he used to open the pocket books.

Q. Did you ever see anybody use the Washington place door? A. Never.

Q. Now, after the bell rang to quit work, did you see any of the girls go to the Washington place dressing room? A. Yes.

Q. And were the doors of the Washington place dressing room open? A. When the bell rang the doors were opened.

Q. How old are you? A. Nineteen, going on twenty.

Q. How long have you been in this country? A. About five years.

Q. How long did you work for the defendants? A. Four years.

CROSS EXAMINATION BY MR. STEUER:

Q. Where did you sit when you worked? A. My machine was on the third table from Greene street.

Q. And which way were you when you were working, was your face towards Greene street or towards the other side? A. Towards Greene street.

Q. In which dressing room did you have your hat and coat?

A. In Washington place.

Q. Where were you when you first heard the fire? A. At the machine.

Q. So you had been to the dressing room and had gotten your hat and coat, is that right? A. Yes.

Q. Then you were not far from the Greene street door when you heard the cry of fire? A. I think so.

Q. And you had been in the habit of going to Greene street, to the Greene street elevators? A. Yes.

Q. On this occasion was the first time that you ever went to the Washington place door was it? A. Yes.

Q. How many girls were in front of you when you went over towards the Washington place side, the door? A. Who could have counted how many there were especially when one is excited.

Q. All the girls were excited, were they not, as far as you could see? A. Or was crying, or hollering. Crying for help.

Q. And these girls were between you and the Washington place door? A. They were in front of me.

Q. Between you and the Washington place door? A. I could not push my way through. The girls there standing behind all of the girls, I was.

Q. And when these girls were all standing between you and the door, you could not see the door at all, could you? A. There were so many people there it was not possible to be seen.

Q. Now, do you mean by that that you could not see the Washington place door at all? A. When?

Q. At the time when you were over towards that door and when these girls were in front of you? A. Everything happened so quickly, I stood there a couple of minutes, and then we ran away again.

Q. How far from you was Ida Jacofsky? A. One machine before me.

Q. I mean at the time when you ran away from the fire-escape and ran over towards the Washington place door stairway door, how far from you was Ida Jacofsky then? A. A couple of people were between us.

Q. When you say a couple you mean the Jewish word, which you used; how many do you mean? A. Several.

Q. Did you at any time from the time you first heard "Fire" up to the present moment ever see the door knob at the Washington place door? A. No.

MR. STEUER: I move to strike out the testimony of this witness.

THE COURT: I think I will allow it in in view of the exclamation which she says she heard.

MR. STEUER: I move to strike out the testimony of the witness which was given on her direct testimony to the effect that she saw Ida Jacofsky, or any other person attempt to open that door or to use that language which was used by the District Attorney to try to open the door or any form of expression in which it appears in her testimony on the ground it is obvious that she saw nothing

and knew nothing and had no direct knowledge on the subject.

And I move also to strike out the testimony of the witness to the effect that Ida Jacofsky, or any other person, tried that door and exclaimed the door was locked on the ground that the cross examination of the witness disclosed that at all times there was a person between Ida Jacofsky and the door, and that she is not able to say on direct knowledge, and on the ground that it appears that there were a lot of people in there and she could not by any means have seen it herself.

THE COURT: It is not disclosed so by the cross examination.

MR. STEUER: I will make it clear then.

Q. Did you say that there were several people between you and Ida Jacofsky at the time when you got the nearest that you ever were to the Washington place side door? A. I was standing the last of all of them that were standing there.

Q. How many in front of you and between you and Ida Jacofsky? A. I had no time to count.

Q. About how many? A. I could not say. I could not see, I was standing there only a few moments, and I ran away.

BY THE COURT:

Q. When you heard the voice of Ida Jacofsky, at that moment, did you see any person standing between her and the Washington place door? A. I saw a lot of people there, but I

don't know the name of any of them.

Q. Pay attention to me: At the time you heard the voice as you say, of Ida Jacofsky, did you see any person between Ida and the Washington place door, that is nearer to the Washington place door than Ida was, at that moment, yes or no? A. I saw people, a lot of them, they were standing before her, standing in front of her.

Q. By in front of her do you mean nearer the Washington place door than she was at the time when, she is said to have made that remark? A. I could not notice that because I was smallest of all of them.

Q. That is to say, you don't know whether Ida was nearest to the door than anybody else at the time that she made that remark, is that it? A. I could not say that.

THE COURT: Pardon me. I am rather disposed to strike that out.

MR. BOSTWICK: May I ask one or two questions.

THE COURT: Yes.

BY MR. BOSTWICK:

Q. Are you now in the employ of these defendants? A. No.

Q. You work for the National Waist Company? A. Yes, sir.

MR. BOSTWICK: The People will consent to the striking out of the testimony of this witness.

THE COURT: Out it goes, and the jury will disregard it.

ETHEL MONICK, a witness called in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 164 East 112th street.

Q. Now, Ethel Monick, on March 25th, 1911, you were in the employ of the Triangle Waist Company? A. Yes.

Q. And you were working as operator on the ninth floor? A. I was a floor girl on the ninth floor.

Q. A. floor girl on the ninth floor? A. On all the floors.

Q. On all the floors. What sort of work did you do? A. I used to give out the trimmings to the operators.

Q. How long had you been working for them on the day of the fire? A. Three months.

BY THE COURT:

Q. Where were you living while you were working for them? A. What do you mean by that?

Q. Where was your home during the time you worked for them? A. 164 East 112th street.

BY MR. BOSTWICK:

Q. Now, will you speak so that the last Juryman can hear, and toll this to the jury: Now, on this Saturday you were on both the eighth and ninth floors during the day, were you not? A. Yes, sir.

Q. At the time of the fire on which floor were you? A. Ninth.

Q. And where were you working when you first learned there

was a fire? A. I was close to the Greene street entrance.

Q. How do you know there was a fire or any disturbance? A. I was standing near my table, and I seen smoke near the heater, so I said to one of the girls ~~

THE COURT: Never mind; you saw smoke.

A. (Continuing) I saw smoke and --

THE COURT: You have answered the question.

Q. And where did you see the smoke first? A. I seen it right near the fire escape, the heater.

Q. Now what did you girls do and what did you do at that time? A. I seen fire, and then I seen all the girls rushing down to the place, to escape, so I tried to go to the Greene street door, and there were quick girls there, and I seen I can't get out here, so I went through the elevator, and then I heard the elevator fall down, so I ran through the Washington place side, and I went over to the Washington place side, there wasn't any girls there . So I ran over to the doors, and no one was over there because hardly any one knew there was a door over there, so I went over to that door.

Q. When you say the door, you mean the door ~~~ A. On the Washington place side.

MR. STEUER: I move to strike out her testimony as there can be no charge of neglect about what other people didn't know, charged against these defendants.

THE COURT: Strike it out, that nobody knew that the door was there, and the jury will disregard it.

Q. When you went to the Washington place door, state what you did there? A. I tried the door and I could not open it, so I thought I was not strong enough to open it, so I hollered “Girls, here is a door”, and they all rushed all over, and they tried to open it, and it was locked, and they hollered out, “The door is locked and we can't open it.”

MR. STEUER: I move to strike that out, all of that, your Honor.

THE COURT: I will let it stand.

MR. STEUER: I except. I move to strike out what the witness though, and I move to strike out separately what the witness thought, and I move to strike out what she said; and I move to strike out what the girls said on the ground it does not appear who said it or in what capacity the person who said it had any knowledge on the subject.

THE COURT: Read the answer, and then read the objection.

(Answer repeated, and the first two clauses of the motion to strike out.)

THE COURT: I don't think it purports to say that.

MR. STEUER: I except to that statement, your Honor, if it be a ruling.

(The balance of the motion to strike out read.)

THE COURT: Motion denied.

MR. STEUER: Exception

Q. These girls that you spoke of were operators on that floor, were they not? A. Yes, sir.

Q. Well, after you had tried the door, ~ you say it would not open? A. No, sir.

Q. What did you do to the handle of the door, if anything? A. I tried to open it so, I could not; I didn't believe my own strength, and I thought perhaps be frightened and I can't open it, so I yelled ~~-

THE COURT: Strike out what she believed, and the Jury will disregard it.

Q. Can you show us at this door what you tried to do? A. Yes, sir.

Q. Step down. A. (Witness goes over to door in court room.)

Q. I ask you to take hold of that handle. A. (Witness does so) I could not open it.

(Witness returns to her chair.)

THE COURT: For the purpose of the record.

MR. BOSTWICK: It will be noted that the witness took hold of the handle of the door, and in the presence of the Judge and jury tried to push and pull the door, after turning the handle.

MR. STEUER: I did not so understand that.

MR. BOSTWICK: I will accept any statement you say is correct.

MR. STEUER: I did not see it that way. I saw the

witness make a very determined effort at pulling the door, but I did not see any indication ~ perhaps the jury did ~~ of pushing It. I did not see that.

MR. BOSTWICK: Then I will ask the witness to again go over to the door and illustrate to the jury.

MR. STEUER: This witness understands English quite thoroughly and hears what is said, and the jury must have seen what was done.

THE COURT: Did you grab hold of both sides — to place it upon the record --

MR. STEUER: I am perfectly willing for the jury to know and to put it whatever the fact is, your Honor, what I say is not at all conclusive, neither is what Mr. Bostwick has said entirely conclusive.

THE COURT: (Addressing the jury) You can understand that so far as the purposes of the trial are concerned, the observation of the jury of what the witness did is sufficient; but that indicates, however, nothing upon the record. It is conceivable that it may be desirable to have something down on the record by way of description. I suggest that that be agreed upon virtually between counsel.

Mr. Steuer: I think it will be pretty difficult to agree upon it now. This is quite an intelligent girl, and she would have been able to tell what she did, if she had been asked.

Q. At the time you took hold of the handle of the door and turned it, did you both push and pull the door? A. I tried every which way, but I could not open it.

Q. After that where did you go? A. After that I ran over to the elevator, and the elevator opened, and I went down.

Q. That is the passenger elevator? A. The passenger elevator.

Q. On the Washington place side? A. Yes, sir.

Q. Were there other people there? A. Yes, sir, there was about twenty-five, and then girls right on top of our heads because it was the last trip.

Q. Then you went down —

THE COURT: I think a few moments ago, Mr. Steuer, the witness did say something that was an expression of her thought, when you took your first objection, which escaped my mind at the time. That part of her answer I will strike out.

Q. During the time that you were working for the defendants did you ever see anybody come through the Washington place door leading to the stairway? A. No, sir.

Q. At night, when the bell sounded to quit work, you went out by which entrance? A. Greene street.

Q. Was there a watchman at the door every night as you went out? A. Yes, sir.

Q. What would you do as you passed before him? A. Have to open our pocketbook and show whether you don't take anything.

Q. How old are you? A. Sixteen.

Q. Born in this country? A. No, sir.

Q. Now long have you been in this country? A. Five years.

Q. During the time that you were there did you ever see any fire drills? A. No, sir.

MR. STEUER: I object to that as incompetent, irrelevant and immaterial.

THE COURT: I will allow it.

MR. STEUER: Exception.

Q. During the time that you worked there did any one ever instruct you how to get out?

MR. STEUER: I object to that as incompetent, irrelevant and immaterial.

THE COURT: I will allow it.

MR. STEUER: I take an exception.

A. One girl used to tell another, the foreladies used to tell us, when I first came into that place, it is very big, so I wanted to go to Washington place —

MR. STEUER: I object to that.

THE COURT: Objection sustained.

MR. STEUER: It is incompetent.

THE COURT: Strike out the answer and the jury will disregard it.

Q. Every night did all the operators go out the same way? A. Yes, sir.

Q. Did any one ever instruct you or tell you the way to

leave the factory in case of fire? A. No, sir.

MR. STEUER: I object to that as incompetent, irrelevant and immaterial.

THE COURT: I will allow her to answer yes or no.

MR. STEUER: I except.

A. No, sir.

Q. Do you know what a lawsuit is? A. No.

MR. STEUER: What would she sue for? Did she have an injury?

MR. BOSTWICK: We don't know.

Q. On the day of the fire was there — at the time of the fire was there any superintendent on the ninth floor? A. No, sir.

Q. What was the time for closing on Saturdays? A. Quarter to five.

Q. And on other days? A. Quarter to six.

Q. And this was a Saturday? A. Yes, sir.

Q. About how long would it take for all the girls to go out from the ninth floor? A. I could not tell you, because I did not wait or watch them.

MR. BOSTWICK: That is all.

CROSS EXAMINATION BY MR. STEUER:

Q. I suppose you remember everybody that was on the floor at the time of the fire, don't you? A. Yes.

Q. You could tell the jury just where they all stood, couldn't you? A. At the time of the fire?

Q. Yes. A. I did not watch where they were standing. They all tried to escape, that is all I know.

Q. Before they started, do you remember where they were working? A. They were all at their machines, some at machines, some were at the tables by the examiners.

Q. They were all there at the machines, or they were at tables by the examiners.

Q. And you saw them all? A. Yes, sir.

Q. And you know everybody that was on the floor? A. Yes, sir.

THE COURT: Will you kindly talk up so you can be heard?

Q. And you looked so as to remember, exactly how many there were there, and exactly who was on the floor? A. Not at the time of the fire.

Q. Do you tell the jury all of the girls worked on Saturday afternoon on the ninth floor? A. All of the girls, perhaps one or two, because they were religious, and did not work on Saturdays.

Q. How many perhaps were there? A. One or two girls.

Q. That is all? A. That is all.

Q. Only one or two girls absent from that ninth floor, is that what you say now? A. Yes, sir.

Q. And all the rest of them you saw at the time of the fire? A. Yes, sir.

Q. And you know exactly where they were, don't you? A. Yes, sir.

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Q. And how many men were there on the ninth floor at the time when the fire started? A. I don't know.

Q. Why don't you know, you knew just a moment ago? A. Well, I can't remember until now.

Q. Did not you see them all? A. I did see them all, but I don't remember.

Q. You told this jury that you saw at the time of the fire every man that was on the ninth floor? A. I don't know that I have to remember how many men there were.

THE COURT: Go slowly with this witness. Wait until she has finished her answer.

Q. I ask you, did you know at the time of the fire every man that was on that floor? A. I did know him, but I don't remember it now. I didn't know that I have to know that.

Q. How did you know that you have to know whether the superintendent was on that floor or not? A. Well, I didn't know that I had to know, that is only one person, that is why I remember, and he was at the head there, that is why I remembered that.

THE COURT; Will you kindly talk a little louder.

Q. Where was that head man? A. He was on all of the floors most of the time on the eighth floor.

Q. Whom are you referring to? A. What do you mean? I don't understand.

Q. Whom are you talking about when you talk about the superintendent? A. Mr. Bernstein.

Q. And he was the one that you say was not on the ninth floor at the time of the fire?

A. Yes, sir.

Q. Now, when the fire started you say that you were working? A. On the ninth floor.

Q. Whereabouts on the ninth floor? A. Near the Greene street door.

Q. And you noticed some smoke coming up at the radiator near the fire-escape? A. Yes, sir.

Q. Well, where you were standing there, the Greene street door was in perfect view of you, wasn't it? A. Certainly it was. I did not see the door because there was a partition there.

Q. You saw the partition door, didn't you? A. Yes, sir.

Q. And through the partition door?

THE COURT: Will you kindly talk a little louder? I am not going to ask you again.

Q. And through the partition door you could see the other door, couldn't you? A. Certainly if I looked I could see.

Q. Didn't you look? A. I did when I had to.

Q. At that time, I mean. I am talking about at that time? A. I went in, certainly I went in and tried to get out.

Q. You went as far as the Greene street door? A. Yes.

Q. And you didn't go out the Greene street door? A. No, sir, because I could not go.

Q. There were a great many girls there at the time?

A. Yes, sir.

Q. Do you remember whether anybody else had seen any smoke or anything else before you did? A. I told them about it.

Q. You were the first one to tell? A. Yes.

Q. So you know now that you were the first one to know about it? A. Yes.

Q. How many — how far away from the Greene street door was it when you first found out that there was a fire? A. Well, it was about from that there place (indicating) to here (indicating). Maybe a little more.

Q. I don't know what you mean when you say from that there place? A. From that wall (pointing) to this wall (pointing).

Q. The whole width of this room, then? A. Yes, sir.

MR. STEUER: What will we make that, what is the width of this room, Mr. Bostwick?

MR. BOSTWICK: From wall to wall it is about twenty-eight feet.

Q. Well, now, did you leave the place where you were standing and go nearer to the Greene street door? A. Before I turned around there was the girls all over there too.

Q. Were you not the one that told them about that? A. I did not tell them, I told the girls around me, the girls working on the other side saw the fire, seen it before me, over on the other side of the Washington place.

Q. You say they saw the fire? A. I only seen smoke then, I did not see any other fire yet.

The fire ~-

Q. The fire was on the Washington place side? A. The fire was all around, before I turned around.

Q. When did you first see any fire then? A. When I turned around I was at the bookkeeper, and she gave me my pay —

Q. Your getting you pay has nothing to do with this. I asked you where did you first see fire? A. When the girls started hollering fire.

Q. I didn't ask you when, but where? A. I seen it in back of me, the window was right in back of me.

Q. What window? A. The Greene street window, in the Greene street, I did not know what place this is, it was on this side (indicating).

THE COURT: Was it on the side of the fire-escape or on the side of the —

THE WITNESS: On the side of the fire-escape.

Q. Isn't it true that the first thing you saw was smoke? A. Yes.

Q. (Laying map before witness) Now, were you at what they call Mary's desk? A. Yes.

Q. How near to the fire-escape was Mary's desk? A. It was about six feet away, I guess, I could not tell you the right measurement.

Q. About six feet from the fire-escape? A. I guess so.

Q. Well, now, do you remember between which of the — do

you remember between which of the machine tables it was? A. On the Greene street side.

Q. There is the Greene street right there (indicating), and where is the first table (indicating) from Greene street? A. The first table, yes.

Q. There is the second (indicating). There is the third (indicating), coming on this way the numbers increase. There in the Greene street elevator (indicating), and there is the Greene street stairs (indicating). Here is the door in the partition right there. Do you see it (indicating)? A. I do.

Q. Now, where was Mary's desk? A. Here is Mary's desk, it was right near here (indicating).

Q. Was Mary's desk inside of the partition? A. No, on the outside.

Q. Well, when you opened — apparently you don't understand this. Now, here is where the partition runs (indicating). And out here it ends (indicating), you see there? There is the door going into the partition (indicating), and there is the door that goes to the Greene street stairs (indicating). Do you understand me so far? A. This is the partition (indicating). No, I can't understand it.

THE COURT: You see the fire-escape there. Put your finger on the fire-escape — Mr. Steuer, you show her where it is.

Q. (Counsel does so) Now, can you tell us where Mary's desk was? A. Well, that was right near the fire-escape.

Q. You don't remember nearest to what table that was, table of machines, do you? A.

Well, they were double tables.

Q. You mean by that that the girls sat on both sides of the tables? A. One opposite the other.

Q. One opposite the other? A. Yes, sir.

Q. Between each of these double tables? A. Near the fourth table, between the fourth and fifth table was the desk.

Q. You mean to count, beginning counting the tables on the Greene street side, do you? A. Yes, sir.

Q. So that that would be the first (indicating) and that would be the second, the third, the fourth, the fifth (indicating), and you would put it between the fourth and the fifth? A. Fourth and fifth tables.

Q. Is that right? A. That is right, right between here, somewhere right here (pointing).

Q. That is between the fifth and the sixth tables. A. Right near the fire escape. The fire-escape was not far from the desk; right opposite the fire-escape.

Q. Where was this radiator that you saw the smoke at? A. The radiator was near the fire-escape also.

Q. Was it right near the window which opened on the fire-escape? A. Yes, sir.

Q. And that is where you saw the smoke? A. Yes, sir.

Q. Standing out here (indicating) you could plainly see the door in the partition, couldn't you? A. Certainly I could, but the door was not this way (indicating), it was on the side

(indicating), the door was on the side.

Q. On which side? A. It was running towards Washington place, if I had to go — I had to turn around and go around a partition, and then I was in the hall.

Q. Do you mean that?

THE COURT: You say that that door is shown on that diagram, is not in the real place where the door was; is not that that you mean?

THE WITNESS: I don't know how it is shown on the diagram. I know how it was there.

Q. Well, I will try to make it clear to you, if I can: You see this here line from this point down to there (indicating)? A. Yes, sir.

Q. The whole line, that is the Washington place side of the building? A. The machines did not run that way.

Q. I understand that. But that is Washington place side of the building (indicating)? A. Yes, sir, that is so.

Q. This is Washington place side (indicating)? A. This is Washington place side, yes.

Q. This here (pointing) is Greene street? A. Perhaps if you hold it around this way I could understand.

THE COURT: Turn the map around for her, and perhaps she could understand it better.

(Map is then turned the other side to the witness.)

Q. Now, you are looking at Washington place, are you not? (Indicating) A. Yes, sir.

Q. And this, that is run along here? A. Yes. I see.

Q. And everything is very plain to you now, is it? A. Now it is plain.

Q. Then you see that the Greene street elevators were over there, you see that (pointing)? A. Yes, sir.

Q. And there is the Greene street stairs (indicating). You see these? A. Now I understand it.

Q. You see when you come out of the Greene street door, there was a room right in front of the Greene street elevators? A. There is a little room there.

Q. And when you come out of the Greene street stairs door this way ~ A. There is a partition.

Q. You were looking toward the partition and you turned right around the stairway door that led right into the workshop? A. Yes, sir.

Q. Supposing you were coming up the steps and wanted to get into the shop? A. You see the door pointed.

BY THE COURT:

Q. You mean to say when you opened the door in the partition you faced Washington place? A. Washington place, yes, sir.

Q. You say that door in the partition was the door which when opened opened towards Washington place? A. Yes, sir, it was not a door, there was no door there, only an opening like a door.

Q. That is to say, when you came out of the freight elevators on the ninth floor and you wanted to go into the

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shop, you would walk in the direction of Washington place? A. Yes, sir.

Q. And you were facing through the opening facing Washington place? A. Yes, sir.

Q. In which there was no door? A. Yes.

Q. Is that so? A. Yes, sir.

Q. You understand what I mean? A. Yes, sir.

Q. Put your finger on that diagram where the opening was, not where it is shown there, but where it was as you remember it? A. Here is the door (indicating), and here is the partition here (indicating). I cannot point it out exactly on the map, but I can picture it.

BY MR. STEUER:

Q. Suppose you were to start out with the idea that this here (indicating) from there (indicating) to there (indicating) is the door that led to the Greene street stairs. There was a door that led to the Greene street stairs, wasn't there? A. Yes, sir.

Q. Now, suppose that you start out with idea that that is the door, that is the space where the door is, you see (indicating)? A. I see.

Q. Well, try and keep that in mind, will you, that that is the door (indicating). Now, if you were coming out of that door and wanted to look into the loft, do you remember, is it your way of remembering that there was a space in the partition right in front of the door that led to the Greene street stairs,

and that that is the way you looked towards Washington place? A. The opening comes there (indicating). There was no space; that was like a little room, three walls ~~ two walls, rather, two and the wall from the house makes three.

Q. Two walls and the wall from the house was three? A. And the door is four.

Q. Which door? A. The Greene street door.

Q. The door towards the Greene street stairs? A. There was two doors to the Greene street, the door to the other room of the house, and the door to the stairs, that is two, and in the partition.

Q. The other to the house, to what house do you mean? A. To the factory.

Q. To the factory? A. The factory and another door to the stairs.

Q. Another door to the stairs? A. Yes, sir.

Q. Where was the other, to the factory -- just when you have got out, there is a door?

THE COURT: You mean down on the street?

THE WITNESS: No, on the ninth floor.

THE COURT: On the ninth floor?

THE WITNESS: Yes.

Q. You said that there was, -- it was like a room with three walls, do you remember that? A. Yes, and a door —

Q. Well, now, do you know what parallel means? A. No.

Q. Parallel means two lines that run in exactly the same

direction, - you understand? A. Yes.

Q. For instance, this line here (indicating), and that line there, where you are sitting, when you hold that straight, they are parallel no matter how far you stretch them out, they would never come together because you see they are running in an equal distance apart, and in the same way, do you understand? A. Yes — I don't understand the question.

Q. I am not going to ask you the question, until you understand it clearly. Perhaps I will have to abandon that. Suppose you are down on the street now, over there at Washington place —

THE COURT: You take her up and let her come up the elevator onto the ninth floor.

MR. STUER: That is what I want to do, Judge.

Q. You are on the street now, you are going up stairs to the ninth floor, see? A. The elevator, or up the stairs?

Q. Do you go up the stairs ever? A. Only when I work on Sundays, we have to go up the stairs.

Q. Then you know how you get upstairs, do you go up the stairs? A. Yes, sir.

Q. Well, supposing you went up by the stairs, and you are upstairs on the ninth floor and then you get up there everything is closed. Tell us what you would do to get in? A. I open the door from the stairs, then I would open the door from the inside, then I go in through the partition, and then I would be in.

Q. You open the door from the stairs, then you open the door from the inside, and then you go through the partition? A. Yes, sir.

BY THE COURT:

Q. How far away was the door, what you call the other, on the inside from the door by the stairs? A. By the stairs — well, it was going like this (indicating) see, if you open this door you walk about four feet and then there would be another door.

Q. How was the other door placed, the door on the inside, right opposite the stairs, the door or how? A. Right opposite like this (indicating).

MR. STEUER:

Q. Could you look right through it? A. Certainly you could.

Q. If you were standing in the first door that you came in, from the stairs, and you were looking straight in front of you, what would you see? A. Then I see there the elevators, you could not see the stairs down, because it was slanting like, not straight.

Q. If you came up the stairs and opened the door and looked straight in front of you, as you opened the door, would you see — what would you see, the front of the elevators? A. What door.

Q. The stairs door on the Greene street side? A. If I looked in?

Q. I don't want you to look in. I want you to look straight in front of you? A.

You could not see it.

Q. You could not see? A. No.

Q. You opened a door again, the Greene street stairs door and looked straight in front of you, - tell me what you do see? A. I see the wall of the room opposite this door.

Q. You mean the wooden wall? A. Wooden wall.

Q. Partition? A. And the partition inside of that little room, that was opposite the elevator.

Q. That little room, that was opposite the elevator? A. Yes, sir.

Q. You are in a little room, you have walked into the little room from the Greene street stairs, and you have just shut the Greene street door. Now, you want to go into the shop, what do you do? A. I have to turn around.

Q. That is what I thought.

THE COURT: The diagram is all right on that.

Q. You see, here is what we have done with you, we have brought you from the sidewalk up the stairs, and you are on the ninth floor, nine flights up, and you have opened this door here (indicating). Do you see? A. Yes, sir.

Q. Now, you are standing at this door and you want to go into the loft into the shop and you have come around here (indicating)? A. Yes.

Q. I would have to open this door (indicating).

Q. Yes. Then there was a door there, wasn't there? A. Cer~

tainly there was a door.

Q. And then you go into the loft? A. No, then I go into the partition, then I go into the loft through the partition.

THE COURT: She means inside of the loft there is a partition which is not indicated there.

Q. Do you mean this here, you get inside of that (indicating)? A. I don't know what that is there. I know that when I get in this door I was in a little room, it was the partition, and then I went in through the opening, then I was in the loft.

Q. Do you remember when these girls that were working at these tables complained -- did you ever hear of such a thing — I am asking this at your suggestion, Mr. Bostwick — you remember that these girls that were working at the first two table, we will say, 1, 2, 3 and 4, found that when they opened the elevator doors and when they opened the Greene street door that cold air came in and that there was a draft? A. What door, which door?

Q. Both of the elevator door and the street door, the stairs door? A. This door was always open.

Q. And you remember that they put up a screen, do you know what a screen is? A. No, I don't understand you. Make it plain so I could understand it.

Q. Do you feel quite sure that you remember that after you walked into the door in this partition, that you still went through another door, A. Yes.

Q. To get into the loft you think you passed through

three doors? A. Three doors.

Q. Did you keep your hat and coat on the ninth floor? A. Yes, sir.

Q. Where did you keep them? A. In the dressing room.

Q. Which one? A. On the Washington place side.

Q. That is, in this dressing room here (indicating) A. Yes, sir.

On this night when this fire happened, did you get your hat and coat? A. Yes, I had my hat and coat.

THE COURT: Talk louder, I don't hear you. See that other man, he wants to hear. Say that over again.

A. (Continuing) I did have my hat and coat on, because I always used to get ay clothes two or three minutes before time.

Q. You mean that you used to look at the clonk and see that it was two or three minutes before time? A. Yes, sir.

Q. Then you would go and gat your hat and coat, would you? A. Yes, sir.

Q. Where did you look at the clock? A. The clock was right at that wall where I was standing.

Q. That clock — was that the time clock, the punch clock? A. The punch clock, the girls used to punch their cards.

THE COURT: (Addressing the Twelfth Juror) whenever you cannot hear what the witness says, please indicate it, as you have got to hear the testimony.

THE TWELFTH JUROR: Your Honor, I would ask if the counselor would step back there (indicating rear of jury

box).

MR. STEUER: I will be glad to.

Q. You were standing by Mary's desk, were you at the time when — A. No, back of her desk. I had a table there right near the window.

Q. Right by the window? A. Yes, sir.

Q. And at that time you noticed some smoke coming up the radiator, did you? A. Yes, sir.

Q. Now, from where you were at that time, you could see the door that you would have to go through in order to get to the Greene street door, wouldn't you? A. What do you mean, I could see? How could I see if it was closed up by the partition? I could not see anything through the partition.

Q. If what was closed up? A. The partition was there, I could not see, no door through there.

Q. Do you mean to tell us that you were standing where you say you were, between the fourth and the fifth tables, the machine tables, looking towards Greene street, you could not see the door in the partition? A. I could not, because the partition was there.

Q. I am speaking of the door in the partition, and you have shown us that door? A. The door in the partition, no.

Q. You did not show us the door in the partition? A. I did, I could not see it from where I was standing.

Q. What was there between you and that door? A. Because the door opened in towards the Washington place side, and I

was standing on the Greene street side, on this side (indicating) that is why I could not see it.

Q. I am speaking of the door that is on the Greene street side? A. I understand, but it did not open to me, the door was towards Washington place, how could I see it when I was over here (indicating).

Q. Were you nearer to the Greene street wall than the door? A. What door?

Q. The door in the partition? A. I was nearer the Greene street, it didn't open to me, there is a wall here (indicating), and then the door was here (indicating), so how could I see it? I seen the plain wall, but I did not see the door through the partition.

Q. Was the partition between you and that door? A. Between me and what?

Q. Between you and the door in the partition was there a wall? A. There was a --

THE COURT: Mr. Steuer, it has occurred to me, and I suggest it to you as perhaps a solution, she may have been standing where the end of the screen, as you have described it was between her and the partition door so that her view of the partition door may have been cut off by the end of the screen.

MR. STEUER: But that was not true, your Honor.

THE COURT: I do not say that it is, I merely suggest this to you.

MR. STEUER: I have been trying to think that, and that is what made me ask that line of questions; in order to pay her in that position, your Honor, she would have to be east of the partition door, wouldn't she.

THE COURT: She would have to be somewhat towards Washington place.

MR. STEUER: Then she says that she was — she puts herself quite some distance west of that, your Honor.

THE COURT: How near were you to the fire-escape wall?

MR. STEUER: That is just what I was going to ask her, the very next question.

THE WITNESS: What is the question?

THE COURT: Read the question. (Question repeated).

A. I was right near the wall; not even a foot away from the wall.

Q. Now, you say not a foot away from the fire escape wall? A. No, sir.

Q. And you were not a foot away from that fire-escape, were you? A. From the fire-escape about a foot.

Q. About a foot, and that is all? A. Yes, sir.

Q. So that if you had just put your hand right out here (indicating) you could have touched that window that opened on the fire-escape? A. Yes, sir.

Q. And at that time there was nothing but a little smoke coming up from the radiator? A. Yes, smoke, did not last long,

after about a second I seen flames all around.

Q. A. second later you saw flames, did you? A. Flames all about the building.

Q. You were the person nearest to that fire escape, window at that time, weren't you?

A. Yes, sir.

Q. And you saw the smoke? A. Yes, sir.

Q. And you say that flames came at that fire-escape window just a second after you saw that smoke? A. Yes, sir.

Q. Then the flames were there at that fire escape window all the time after that? A. I did not watch the flame, I was trying to get out and not looking after the flames.

Q. The fire came in that way? A. Certainly it came right up from the eighth floor.

Q. Then when you saw that the flames were at the fire-escape window, then you ran away from there didn't you? A. I did not run away, I tried to go down.

Q. To go down what? A. The fire-escape.

Q. Did you get on the fire-escape? A. I wanted to go, but there were too many girls there I could not go down, so I went away to see if I could find a better way.

Q. Many girls were over there trying to get out from the ninth floor? A. Yes, sir; trying to get out on the fire-escape.

Q. There was — I asked you a moment ago whether you were the person nearest to the fire-escape? A. I was the nearest.

Q. And yet these many girls got there before you? A. Yes, sir, got there before because on Washington place they seen the

fire before me. I seen the smoke, and they saw fire.

Q. That was fire on the Washington place side? A. Yes, sir.

Q. So these girls that came over to the fire escape — A. They blocked my way.

Q. Came from the Washington place side? A. From all over.

Q. Well, did you see any girls coming from the Washington place side? A. Certainly I did, they were all rushing.

Q. Running to the fire-escape? A. All of them, all over.

Q. A. good many girls from the Washington place side? A. I could not tell you that.

Q. Can you not give me an idea? A. All of the girls I could not count them to say whether there was a good many or not. You cannot figure a thing like that when you are excited and there is a fire. You cannot watch the girls, which way they come from or where they are.

Q. Well, now, you were the girl who was nearest the fire-escape window when you noticed the smoke? A. Yes, sir;

Q. And then a lot of other girls came to the fire-escape before you got to it, because you — when you wanted to get on the fire-escape, there were a great many girls on it? A. Certainly, because they knew there was a fire and they were running for the escape.

Q. They knew there was a fire and were running to the fire~ escape, to get out on the fire-escape? A. Yes, sir;

Q. Were you looking around too during the second of time to see what was going on? A. I did not know what was the matter,

see, because I only seen smoke, and in another minute I heard a fire, and they were all rushing so I turned too.

Q. How did you first try to get out? A. First I tried to go to the fire-escape. I seen there was so many at the window, the window was not so big, and the fire-escape was very small, two people could not go down, you know.

Q. At one time? A. At one time; and so I could not get out there, and I did not think that I could, and I thought that I would go down the elevators, I would go down there that way. I could not go through the window because there was so many there, so I ran over to the Greene street door.

Q. You really were not looking around very much at that time you were thinking more particular of how to get out of that building, weren't you? A. Certainly.

Q. So that when you started out with your testimony in the beginning, did you know who was on that floor, and did you know that the superintendent was not there on the floor, you did not really mean that you looked all over that floor to see where anybody was, did you? A. I was sure that the superintendent was not on our floor.

Q. Now, as a matter of fact, you have talked this matter over quits a number of times since the fire, didn't you? A. What do you mean, talked it over.

Q. Didn't you talk to anybody about it? A. About what?

Q. About the fire. A. I did not expect — I was not asked about it.

Q. In any way? A. I believe they told me not to talk about it.

Q. Told you not to talk about whether the superintendent was there? A. They did not tell me — I did not know that they were going to ask me whether the superintendent is on the floor or not. It in not my business.

Q. You didn't talk to anybody about it? A. No, sir.

Q. Never asked that question, never until now? A. I was told not to tell anybody and I didn't.

Q. You were told not to tell anybody, and you did not? A. I did not till just now.

Q. The first time you have told about that in your life, that the superintendent was not on that floor was here this afternoon? A. I did not know whether you would ask that question.

Q. You didn't know whether I would ask it? A. No.

Q. I want you to pay attention to my next question, and I would you to think it over carefully and answer it carefully, will you? A. Yes, sir.

Q. I want you to tell this jury, whether from the time that that fire started, the time you first saw any smoke there up to the time when you went on the witness stand and swore to tell the truth, during that whole time, did you ever tell anybody, no matter where, or under what circumstances, but I want you to tell us positively whether you told any person in the world that the superintendent was not on that floor? A

positively not; I can swear to it to anything you want.

Q. If I were to tell you that you not only told it, but you signed a statement in which you said the superintendent was not on the floor, you would be surprised, wouldn't you? A. What do you mean?

Q. Didn't you tell Mr. Rubin that the superintendent was not on the floor? A. Because he was not, if he knew he was —

Q. Didn't you tell that to Mr. Rubin? A. I did.

Q. Didn't you tell it to him more than once? A. That is the first time.

Q. You signed a statement that the superintendent was not there, didn't you? A. No, sir, I did not sign for that. I never said that before, that is the first time when you ask me.

Q. That was the first time? A. To-day, that you asked me that question.

Q. I am not asking you what I asked you. A. Did Mr. Rubin ask me?

Q. Yes. A. Never asked me about the superintendent.

Q. Didn't Mr. Bostwick ask you? A. To-day?

Q. Before to-day? A. No, sir, never.

Q. So that — who told you not to tell about it, then, if no body asked you? A. No, to tell about that?

Q. About whether the superintendent was on the floor or not? A. I don't know anything about it. They asked me, so I said I didn't know. I did not see him on the floor, that is

all. I was never asked that question before.

Q. Did you talk about the fire at all to anybody? A. What do you mean by talking about the fire?

Q. Tell what happened at the fire? A. What happened at the fire?

Q. Yes. A. I could not talk about it because I was only glad they did not ask me anything; I did not want to remind myself of the fire.

Q. You never did talk about it at all, did you? A. I spoke to my parents about it, they asked me what it was and I told them.

Q. Since March, haven't you spoken to a great many people about that fire? A. Yes, they told me whether I worked there or not; they did not ask me any questions.

Q. Have you worked there since the fire? A. No.

Q. Did you ever go to the Washington place door before the 25th day of March, the day of the fire? A. When I first started to work there I did go.

Q. Are you speaking now of the door or are you speaking of the Washington place elevator? A. I am speaking of the door.

Q. You went to the door? A. Yes.

THE COURT: Referring to the door on the ninth floor?

THE WITNESS: On the ninth floor, on the Washington place side.

Q. Did you go through that door? A. I never went through that door.

Q. Did you go downstairs or up stairs through that door? A. No, sir.

Q. Did you go downstairs or upstairs? A. Downstairs I did not ever go — I didn't even know which way to go out of the room, nor down through which door to go down, and I seen there was a door there, I see the door there to go down and they tell me no, to go through the other door.

MR. STEUER: I move to strike that out what she was told.

THE COURT: Strike it out.

Q. If Mr. Blanck told you anything you can tell us. Did he ever tell you anything about the door? A. No, sir.

Q. Did Mr. Harris ever tell you anything? A. They did not tell me. They perhaps told the —

Q. I ask you did Mr. Harris tell you? A. No, sir.

Q. You saw Mr. Harris every day didn't you? A. Not every day.

Q. You mean to tell the jury now that you did not see Mr. Harris there, around the factory, every day? A. Not every day; sometimes once a week, or one day of the week Mr. Harris or Mr. Blanck was not there, they were not there every day.

Q. Down where? A. On the ninth floor.

Q. I am not speaking of Mr. Blanck for the moment, I ask you about Mr. Harris. A. Mr. Harris.

Q. Do you claim now that you worked there a single day when you did not see Mr. Harris? A. Well, sometimes Mr. Harris did

did not come down.

Q. I did not ask you whether he did not come down. I ask you to please tell us whether there was a single day that he was not there? A. I did see Mr. Harris, but not on the ninth floor.

Q. I didn't ask you about the ninth floor, and I wish you would answer my questions. I asked you and I ask you again whether there was a single day when you did not see Mr. Harris? A. When he used to go up on the tenth floor I would see him only on the ninth floor.

Q. Did you ever ask Mr. Harris about the door on the Washington place side, whether you had a right to use that, in your life? A. I did not ask him; I used to be afraid of him.

Q. You were afraid of Mr. Harris? A. Sure.

Q. You saw Mr. Blanck every day, didn't you? A. Mr. Harris we saw most of the time on the ninth floor.

Q. Mr. Harris you saw most of the time on the ninth floor, because he ran the factory, didn't he? A. No, the superintendent ran the factory.

Q. And Mr. Harris had nothing at all, - did nothing at all down there? A. He used to come down some times and walk around four or five minutes.

Q. That is all he did? A. Yes, sir.

Q. Did you ever see Mr. Blanck walking around for five minutes there? A. No, not very often.

Q. Were you around there very much without seeing them there? A. I was.

Q. Don't you know that Mr. Harris spent his time in the factory almost entirely? A. He did, perhaps but not on my floor.

Q. Didn't you see him — did you say a little while ago that you were a floor girl, and that you were on the eighth and ninth floors? A. The eighth and the ninth floors, but not on the tenth. Mr. Harris was on the tenth floor most of the time.

Q. As a matter of fact he was down on the tenth floor? A. I don't know, I was down on the ninth floor.

Q. Have it any way you like, do you know whether Mr. Harris used to spend but five minutes a day on the ninth floor? A. That is all.

MR. BOSTWICK: I object to the characterization, "have it any way you like". I think the witness is trying to tell the truth and is telling the truth.

MR. STEUER: I have not tried to insinuate anything against anybody.

THE COURT: Proceed. I understand what you mean. It is immaterial for the purposes of the defense what she says in that regard.

MR. STEUER: I only want to get what she claims in that regard.

Q. Is it your statement that Mr. Harris spent five minutes a day on that ninth floor so far as you could say? A Some times

used to come down twice.

Q. Twice, then, five minutes a day? A. That did not happen often; some times.

Q. You do like to argue some, don't you, little girl? A. I am going to answer your questions.

Q. I would like to get started somewhere your Honor.

THE COURT: Just sit around here for a moment. I want to have your attention for a moment. I think your intentions are all right. Pay strict attention to the questions that are asked of you and do not say anything more.

THE WITNESS: Yes, sir.

THE COURT: You answer then just the best you know how. I think you mean all right.

Q. Did you see Mr. Blanck at all during the day time? A. Yes.

Q. Did you ever ask Mr. Blanck which way you had a right to go up and down or anything of that sort? A. No, sir.

Q. Were you afraid of Mr. Blanck also? A. I never spoke to either of them.

Q. You do not really mean to say that you were afraid of those two men, were you?
A. Not exactly afraid, you know, they are —~ I was like nothing to them, because I was only a working girl.

Q. Did these men ever do anything, did you ever see them do anything that would make anybody afraid of them? A. I don't

know about that.

Q. I am asking you whether you ever saw anything, did ever Mr. Blanck, ever do anything that you saw, or did he say anything which you heard, that make you afraid of Mr. Blanck? A. Because I know that Mr. Blanck --

MR. STEUER: May I have an answer to that question, your Honor?

THE COURT: Strike out the answer and read the question to the witness.

MR. BOSTWICK: I call attention of the fact that in judgment counsel has made this witness his own for this purpose, long ago, and I will ask the right to cross examine this witness.

MR. STEUER: I have not made her my own on any subject, and I have not yet been able to get started as to what this girl says.

MR. BOSTWICK: I did not bring out who ran this factory.

THE COURT: Proceed.

(Repeated by the stenographer.)

A. I will answer it — shall I answer this question?

Q. Yes. A. Well, I know that when a girl don't do anything right, you know, she gets discharged; that is why I was afraid, that is why I did not talk to them.

Q. That is why you did not speak to them? A. Yes, sir.

Q. You have not got any other reason, have you? A. No, sir,

not as far as I know.

Q. And that reason applies to both Mr. Harris and Mr. Blanck, you were afraid to talk to them because you might be discharged if you spoke to them? A. Yes, sir.

Q. Did you speak to Mr. Bernstein the superintendent? A. I did speak to him.

Q. Did you ever ask Mr. Bernstein anything about the doors? A. No, sir, I only spoke to him about business, that is all, things that I needed there.

MR. BOSTWICK: Keep up your voice please.

THE COURT: If you will only answer a little louder, you will make it lots easier for everybody.

Q. You got out of the building by the Washington place elevators, did you not? A. At the time of the fire?

Q. Yes, and you state that that was the last trip, did you not? A. Yes, it was the last trip.

Q. You were on the Washington street side all of the time after you left the fire escape, weren't you? A. No, I was on the Greene street and then I went to the Washington place.

Q. How long were you on the Greene street side? A. I was trying to get out, push in the door, but I could not, there was so many girls there trying to do it.

Q. On the Greene street side? A. Yes, sir.

Q. How long did you stand there, do you know? A. I could not tell you the time I spent there.

Q. Then you went over to the Washington place side? A. Yes.

Q. Did you see the elevator go down at the time? A. I when I went over to the door, I saw the elevator going down too, I was too late to get on that trip.

Q. And the next time it came up did you go down? A. Yes.

Q. And how many trips did the elevator make? A. I don't know; I could not tell you.

Q. Don't you know anything about that? A. No, sir.

Q. When you got over to the Washington place site were there many girls there? A. Certainly there were.

Q. Were they standing by the elevator door? A. They were all standing and knocking at the door of the elevator and ringing the bells.

Q. And had the elevator just gone down? A. Yes, sir.

Q. And the girls were standing at the side of the elevator? A. Yes, sir.

Q. Were there any girls at the Washington place door, A. No.

Q. Nobody there, no girls there? A. No.

Q. So that your road to the Washington place side was perfectly clear? A. It was not perfectly clear. I knew there was a door there and I pushed through them and I went over there.

Q. And there was no girl in front of that door? A. They were all in front, they did not know whether there was a door there or not.

THE COURT: The point is there were girls between the elevator doors at which you were and the Washington

place door. You had gone to the elevator door on Washington place, and you found that the elevator had started down on its trip?

THE WITNESS: Yes, sir.

THE COURT: And that you were too late for it?

THE WITNESS: Yes.

THE COURT: And then there being other girls there, you pushed your way through them, going in the direction of the Washington place door?

THE WITNESS: Yes, sir.

THE COURT: Is that so?

THE WITNESS: Yes, sir.

Q. And there were no girls that you pushed your way through — between you and the Washington place door, were there? A. There were many girls there.

Q. Between you and the Washington place door, that you pushed your way through?
A. After I pushed my way through I went to the door, and I told them there is the door, and they all ran to the door.

THE COURT: At the moment you came to the door was there any person nearer the door than yourself?

THE WITNESS: No, sir, I was the nearest.

Q. And you called to the girls, and you called to them and told them that there was a door? A. First I tried it.

Q. And after you tried the door and found that you could not open it, then you told them there was a door there? A. I

hollered out there is a door here.

Q. And the girls came over? A. All ran over, the girls and the men.

Q. The girls and the men, you mean after you had tried the door and could not open it, then they came running over? A. Yes, sir.

Q. Did you remain at the door, did you know that somebody else tried to open the door there? A. I thought perhaps they would open so I could get out there.

Q. You stayed right alongside of that? A. Certainly alongside.

Q. Was there a big crowd there to that door? A. When I told them about it, they all ran over there.

Q. All of the girls ran, left the Washington place elevator, and came over to that door? A. Why, some of them were standing by the elevator, thinking that perhaps we would go out through the elevator.

Q. Were you near the door? A. Yes, I was near the door.

Q. Were you among the last to leave the door on the Washington place side? A. Then the elevator come and I went down.

Q. Now, little girl, I am going to try to get an answer: won't you please tell us whether at the time you were standing near that Washington place door, you were among the last to leave that door? A. I don't understand you.

MR. BOSTWICK: I object to the question, to that last part.

THE COURT: Put it this way - I think I know what Mr. Steuer wants.

BY THE COURT:

Q. You have got to the point where you are in front, right by the Washington place door, and as I understand you tried the door to open it, and you didn't open it, and you called out to the others that there is a door there. Then the others came and you remained by the door, and some of those others tried the door to open it? A. Yes, sir.

Q. And then some of those who had tried the door to open it moved away, and you were still at the Washington place door?

A. No, sir, they did not move away, they were still trying the door, said I seen the elevator, and I rushed right into the elevator.

Q. You left the Washington place door, having tried it, and after those others came in and tried it before those who came after had also tried, or the others left the door? A. They did not leave the door, they were trying to open it.

Q. They were in the act of still trying to open it at the time you started for the Washington place elevators, is that so? A. Yes, sir.

BY MR. STEUER:

Q. You were not any stronger that day than you are today, were you? A. I don't know.

Q. You were not any bigger or heavier at that time, were you? A. It is a year ago, I was smaller.

Q. And there was a great deal of excitement there, of confusion, wasn't there? A. I don't understand what you mean by excitement.

Q. You really don't know what I mean by excitement? A. No, sir.

Q. Were you just as quiet and calm at that time as you are now? A. Just as I am now, because I was never in such a fire, and I didn't know it was a fire, so I ran looking for an escape, I didn't know about being excited.

Q. You do know what excitement is, do you, if you were not excited.

MR. BOSTWICK: There is a difference between excited and excitement.

THE COURT: Very slight.

MR. STEUER: Only in Mr. Bostwick's own imagination.

Q. Now, I first asked you do you know what it is to be excited? A. In what case?

Q. Well, did you see anybody that was excited while you were in that quiet and calm condition, just the same as you are now, did you see anybody that was not calm? A. The other girls, I don't know whether they were excited or not. I didn't ask them.

Q. You didn't ask them whether they were excited, so you don't know; is that it? A. Yes, sir.

Q. When the girls were over at the door you called out to them "Here is the door", you didn't know then that there was any

excitement, that they were excited? A. They all rushed to the door that is all I know.

Q. Tell me then, did a man run over there and bang at the door and pull at the door and try to open it, and did you see them? A. I saw it.

Q. Who was it, a man or a woman? A. I don't know whether a man or a woman.

Q. You do not know whether it was? A. I don't remember.

Q. How many people did you see trying to open that door? A. I could not ~ there could not get more than five or six near enough, and then those back of them tried, stayed right there in case they opened the door, they would go out.

Q. There was a lot right back there, so if they opened the door, that they could all get out, is that right? A. Yes, sir.

Q. And you worked your way back to that crowd to get to the elevator? A. Yes, sir.

Q. But the crowd that was in back of you did they rush for the elevator when they heard the elevator come? A. Perhaps they did not get there they rushed.

Q. You were the farthest away from the elevator, and had gone there, and immediately saw the elevator coming up? A. I was not there right by the door when the others were trying the door; they pushed me away when they came there trying to open the door, they pushed me back and away, but I was near.

Q. They pushed you away? A. Yes, sir.

Q. Didn't you say a few moments ago that you were standing

there so if they did open the door that you could get out? A. I could get through if they did not open it I was not far away, they had pushed me away.

Q. Which were you, were you farthest away or nearest to the door or to the elevator? A. First, when I went there I was the nearest; when the crowd went over to open it they pushed me away, so if they opened it, opened the door, why after that I could have gone out.

Q. Did they push you all the way through the crowd? A. Not all the way through the crowd. I was there amongst the girls.

Q. When you got to the elevator, were you the first one to get in? A. What do you mean, the first one? There were so many more inside when I got in there I just pushed in, there was no place for me, but I pushed in there, and I was clear up against the wall, I was right, pushed right against the side.

Q. You mean to tell us then, you cannot tell us whether the girls were excited? A. I don't know.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. The time that you promised that you would not tell or talk about this case was when you were before the Grand Jury, wasn't it? A. Yes, sir.

Q. No one until to-day ever asked you or put the question to you whether the superintendent was on that floor, is that correct? A. Never.

Q. And you never made any statement, did you? A. No, sir.

Q. You never knew the question me going to be asked you?

A. I never knew about it.

Q. The elevator in which you went down was pretty full, wasn't it? A. Very full, yes, sir.

Q. Were there people on top of you? A. Yes, sir.

Q. Can you mention the name of a single girl that was on top of you? A. Katie Weiner.

Q. During any of the period of time that you worked there before the fire, did you ever go to the Washington place side on the ninth floor and try the door? A. I did not try it, I tried to go there to go down, but I did not try the door then.

Q. You have been asked whether ~ you have been questioned as to whether you asked Mr. Harris or Mr. Blanck about how you could go in or how you could get out. Did you ever have conversation with Mr. Harris or Mr. Blanck while you worked there? A. No, sir.

Q. The rules were pretty strict there, weren't they?

MR. STEUER: I object to that.

THE COURT: Objection sustained.

MR. BOSTWICK: I withdraw the question. A. Yes, sir.

MR. BOSTWICK: Don't answer the question, I have withdrawn it.

THE COURT: The answer is stricken out.

Q. Were you allowed to go to work there if you came late?

MR. STEUER: I object to that as immaterial.

THE COURT: Objection sustained.

Q. And you have been asked whether when you were about the Washington place door other people were about you? A. Yes.

Q. Now, when you first went to the Washington place door and tried to open it, were you alone? A. Yes.

Q. No crowd around you then? A. No, sir.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. You say there was plenty of space right in front of the door? A. There was no space, I had to crush through from the doors; there was a lot of girls there and I had to push my way out through them.

Q. You had to push out through? A. Yes, sir.

Q. After you got by the girls, through the crowd of the girls, there in front of the elevator, over to the Washington place door there was plenty of room? A. Well, they blocked it up from the dressing room.

Q. And after you got by the elevator door, there is quite a distance from the elevator door to the stairs, isn't there, or don't you know? A. No, I have nearer seen it there, I was never there.

Q. You told this jury that you were the first one on the ninth floor to tell that there was a fire, didn't you? A. Yes, -- not a fire, but the smoke, -- I beg your pardon.

Q. Smoke, then? A. Yes, sir.

Q. You also told the jury that the other girls did not know there was a door so you told them?

MR. BOSTWICK: I object to that.

THE COURT: She said that in substance.

Q. Did you say that? A. Say what?

MR. BOSTWICK: I don't think so, if your Honor please.

MR. STEUER: It is the fact, however, she has repeated it half a dozen times and Mr. Bostwick, what is the use of saying that?

THE COURT: I remember that. She did not say so precisely in that language, but is substance that was what she said.

Q. What is the use of going over this again, Mr. Steuer, now?

Q. Don't these girls sit where they face, - their eyes looking right at that door? A. They were sitting with their back to the ---

Q. There were not any girls sitting there that way? A. The girls sat facing it and facing the dressing room, they were facing both ways; the dressing room covered that door.

Q. The dressing room covered that door? A. It did not cover it, but you could not see it when you looked.

Q. Was the dressing within twenty-five feet of that door, was it the distance — was the dressing room door as near as that door over there is to you — A. I made a mistake.

Q. You made a mistake? A. Yes, sir.

Q. What was this that covered up that door, if it was not the dressing room door? A. Nothing.

Q. Then you mean in sitting at those tables, was there anything between those girls and the Washington place stairs door? A. No, sir.

BECKIE ROTHSTEIN, a witness called in behalf of the People being first duly sworn,

testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK: (Through Official Interpreter)

Q. Where do you live? A. 411 Cherry street.

Q. On March 25th 1911, were you employed by the Triangle Waist Company, were you not? A. Yes.

Q. And you were an operator on the ninth floor? A. Yes.

Q. And you were working on that day of the fire? A. Yes.

Q. You heard the bell ring to stop work? A. Yes.

Q. Then where did you go? A. As soon as I heard the bell, I took my pocket book and the paper, and I went away from my machine, left my machine.

BY THE COURT:

Q. What part of the room was your machine in? A. The first line from Greene street, the sixth machine — machine No. 6 — I don't know the number it was — it was the sixth machine.

Q. And as you worked at the machine did you face the Greene street windows, or was your back to the windows? A. My back was turned toward the windows of Greene street.

Q. That is to say, that was your position when working? A. Yes.

BY MR. BOSTWICK:

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

Q. How long have you been in this country? A. Three years.

Q. What was the first that you saw of this fire? A. I saw that smoke was coming from somewhere, I saw Sam Gilman, and told him that there is smoke, and he says that we ought to see if there is not a fire here somewhere. And he said, "Perhaps there is a fire", but I did not hear whether there is a fire or not.

Q. Did you see any smoke or fire?

THE COURT: Do you want that conversation out?

MR. STEUER: If I interrupt that way, we will never get anywhere, your Honor.

THE COURT: That conversation is stricken out. Do not say anything that you told to anybody or that any body said to you. The jury will disregard what was stricken out.

Q. Did you see any smoke or fire? A. I didn't see any fire, I saw smoke.

Q. What did you do after you saw the smoke? A. I went out from the place where I was working, between the machines. The dressing room was right near where I was coming out from between the machines.

Q. Is that what was known as the Greene street clothes closet? A. Yes.

Q. Was that right in front of the freight elevators? A. Yes.

Q. Well, where did you go after you went to the Greene street clothes closet? A. I had taken my hat and coat and was going

out to that door and I was pushed away.

Q. What door do you speak of? A. When I came out I came near the Greene street door.

Q. And then where did you go? A. I was pushed into a crowd, and I saw I could not get out; then I went between the machines again, then I started to climb over to the Washington place elevator.

Q. Did you get near to the Washington place doorway, yes or no? A. Yes.

Q. When you got over there did you see anybody? A. It was crowded over there.

Q. Did you see Mr. Bernstein? A. Yes.

THE COURT: Which Bernstein?

THE WITNESS: Sam Bernstein.

Q. You don't mean the superintendent, ~ you mean the operator? A. The operator.

Q. What did you see Sam Bernstein do if anything? A. He pulled the door.

Q. Tell us just what you saw him do? A. He pulled the door, then I said to him —

MR. STEUER: I object to conversation.

Q. What did you see him do to the door? Tell us in every detail? A. He pulled the door, he knocked, I don't know what more he did.

Q. Did turn the handle? A. He did everything; he pulled door.

Q. Did he pull it or push it? A. He pulled the door, not only he alone, all of them, they pulled the door.

Q. And did the door open? A. No; then I saw the elevator come up and I was pushed into it with the crowd, into the elevator car.

Q. And you got down that way to the street? A. Yes.

Q. Now, how long have you worked for the Triangle Waist Company? A. Six months.

Q. During the time that you worked there did you ever see anybody go in or open that Washington place door? A. I did not see anybody.

Q. Did you ever see anybody go in or go out of that Washington place door? A. Never.

Q. At night when you left you would leave the place by which entrance? A. Greene street door.

Q. Was there a watchman there? A. Yes.

Q. What would you have to do as you passed out? A. We had to open the pocket books and he would examine them.

Q. While you were there did they ever have a fire drill?

MR. STEUER: I object to that as irrelevant, incompetent and immaterial.

THE COURT: Same ruling.

MR. STEUER: I take an exception.

A. No, I did not know anything about it.

THE COURT: Mr. Steuer, you can cross examine tomorrow morning.

Gentlemen, I may say to you, for your convenience,

or rather, that you may know to~morrow we propose to adjourn at four o'clock. I have an engagement tomorrow afternoon that I am obliged to keep.

You are admonished not to converse among yourselves on any subject connected with this trial or to form or express any opinion thereon until the same is submitted to you, not to talk to anybody about the case, or allow anybody to talk about it or read anything about it, or visit the premises where the occurrence is said to have taken place.

(The Court now directs an adjournment to Tuesday, December 12th, 1911, at 10:30
o'clock a.m.)

New York, December 12th, 1911.

TRIAL RESUMED.

BECKY ROTHSTEIN, resumes the stand, and further testifies (through Official Interpreter Rosenthal)

CROSS EXAMINATION BY MR. STEUER:

Q. When you came over to the Greene street door you say there was already there a large crowd of girls? A. Yes.

Q. And you were sitting very near to the Greene street door, weren't you? A. Yes.

Q. But these girls got to the door before you? A. Yes.

Q. Could you give the jury any idea of how many girls there were there? A. I can't say, because there was a little part of a wall there and I couldn't see.

Q. Could you tell the jury whether there were ten girls or one hundred girls? A. The place was filled with girls and I don't know how many were there.

Q. And you couldn't give us any idea between ten and one hundred, could you? A. There were a great many there, the place was filled with them.

THE COURT: Perhaps you might put it this way, are you prepared to say there were more than ten?

Q. Are you prepared to say to the jury that there were more than ten girls there? A. A great deal more. I think even more than fifty.

Q. Where do those girls come from? A. How can I know that where they came running from.

Q. Well, you sat within five or six girls of that door yourself, did you not? A. I was sitting in the first line from the window, and there were other lines.

Q. But you knew that there was trouble before there was any outcry said before you saw any flame, didn't you? A. I didn't know.

Q. Why, didn't you tell the jury only yesterday that you saw a little smoke and because you saw a little smoke you spoke to Samuel Geldman? A. Yes.

MR. STEUER: It might be well here to note that there should be a correction made in the record. The stenographer noted the name as Gillman; the name used by the witness was Geldman, you will find almost at the beginning of her testimony.

THE COURT: Well, that correction can be made.

MR. RUBIN: I think his name is Gillwund.

MR. BOSTWICK: Page 533, third line.

Q. What was the name of the young man that you spoke to? A. Sam Gellman.

THE COURT: I may say that I struck that conversation out.

MR. STEUER: I understand.

Q. Now, it is true, is it not, that you did not hear of any trouble, and did not know of any trouble, until you saw a little smoke? A. Yes.

Q. When you saw the smoke, you already had your hat and

coat? A. I just started to go out and Gellman, just looked out of the window to see whether there was a fire.

Q. Did you or did you not have your hat and coat when you saw the smoke? A. No.

Q. Where was your hat and coat at that time? A. In the small dressing room, when I go away from the machine.

Q. That small dressing room is right near to the Greene street door, is it not? A. Yes.

Q. And it is right near to the Greene street elevator, isn't it? A. Yes.

Q. And when you saw the little smoke you started right out for that dressing room, didn't you? A. Yes, sir.

Q. Did you get your hat and coat? A. Yes.

Q. At that time you were right near the Greene street elevators and the Greene street door, weren't you? A. No, I couldn't get near it.

Q. Then instead of waiting at the door you walked back to your machine, didn't you? A. No.

Q. You didn't go back to your machine at all? A. No.

Q. You are sure about that? A. Yes.

Q. Did you start to go to the Washington place elevators, then? A. Yes.

Q. You didn't go to the Washington place elevators, did you? A. Yes, I did go.

Q. Are you sure about that? A. Yes.

Q. You are sure that from the Greene street door you went to

the Washington place elevators? A. Yes.

Q. Was there a crowd at the Washington place elevators? Yes, it was full there.

Q. Did you stand there? A. Yes.

Q. The elevator came up, didn't it? A. No, at that time. In about two minutes or five minutes it came up.

Q. When it came up you were crowded in with the rest, weren't you? A. Yes.

Q. When you were standing in front of the Washington place elevators were you in the middle of the crowd? A. Yes.

Q. There were people on either side of you, weren't there? A. Yes.

Q. Did you go anywhere else at that time? A. I went to the window and leaned out, but I saw there no way of saving myself, and I went back.

Q. From the Washington place elevators, you went to the window? A. Yes.

Q. Did you have to fight your way through the crowd to get to the window? A. Yes.

Q. And then when you came back from the window did you have to fight your way through the crowd again? A. Yes.

Q. In the meantime were the girls all crying and shouting and generally excited? A. Yes.

Q. Now, have you told us every place that you were to that afternoon after you saw that there was fire? A. Yes.

Q. Are you sure about that? A. Yes.

THE COURT:

Q. Do you mean that you have told us all the places that you went to in answer to the questions put to you both by Mr. Bostwick and Mr. Steuer, or that you have told us all the places that you went to in answer to the questions put to you by Mr. Steuer? A. I would anyway say everything, tell everything.

BY MR. STEUER:

Q. In answer to the questions that I have put to you, this morning, and leaving out what you said yesterday afternoon, I ask you whether you have told the jury this morning every place that you were to after you saw the smoke on the day of the fire? A. Yes, I can swear to it.

Q. I would like you to take as much time as you think you need and go over in your mind that whole shop and every place that you were to that afternoon after you saw smoke in the shop, and tell us again whether you are sure that you told us this morning every place that you were to after you saw smoke in that factory? A. Yes, I can swear by my life.

Q. Which way did Sam Bernstein leave that shop? A. From his machine.

Q. I mean on the day of the fire. A. Yes, the day of the fire, and the time of the fire.

Q. Did you see Sam Bernstein go to the Greene door? A. No.

Q. You went to the Greene street door, did you not? A. I

couldn't reach it, it was too crowded there.

Q. But you went in the direction of the Greene street door, did you not? A. Yes, I passed that ~ it was near the door.

Q. When you passed by near the Greene street door did you see Sam Bernstein then? A. No.

Q. When you came over to the Washington place elevators, and you were in the middle of the crowd, did you see Samuel Bernstein then? A. Yes.

Q. And Sam Bernstein was the first person right by the Washington place elevator doors, was he not? A. He was at the elevator, and then he ran to the other door and tore it.

BY THE COURT:

Q. What do you mean by the other door? A. Leading out to the steps.

BY MR. STEUER:

Q. When he ran to the door that you say leads to the steps that is the time that you were at the Washington place elevator doors? A. Yes.

Q. And at the time when he ran over to the door leading to the steps, it was after that that you went to the Washington place windows? A. No.

Q. Did you remain at the elevator doors in the crowd? A. Yes.

Q. How many people were between you when you were in that crowd and Sam Bernstein when you say he went to the Washington place steps door? A. It was filled with people; I didn't

count how many.

Q. Well, could you say there were as many as fifty people between you and Sam Bernstein at that time? A. I don't know; perhaps there were more, perhaps less.

Q. Will you please tell the jury the smallest number of people at any time that were between you and Bernstein while Bernstein was at that door? A. I don't know. It was filled with people. I didn't count, I can't tell.

Q. Do you mean that the space between you and Bernstein was filled with people? A. Not quite filled, it is not far.

Q. How many rows of people were there between you and Bernstein?

THE COURT: At the moment when he, as you say, was at the Washington place door? A. Not many.

BY THE COURT:

Q. How far away were you from Bernstein at the moment when you say Bernstein was at the Washington place door? A. Not far.

Q. Show us in this room how far away you were from Bernstein at that time? A.
(Witness indicates the distance from the witness chair to the eighth juror).

THE COURT: Well, that is a distance of ten feet.

MR. BOSTWICK: I ask that the record show the motions of the witness when she made her answer a few moments ago, and I asked to have it put on the record but the court said no, let her answer again. I would like to have it

on the record that the witness before the jury indicated by her hands something.

THE COURT: I didn't see her hands.

MR. STEUER: May we stipulate the distance, your Honor, from the witness chair to the eighth juror.

THE COURT: Yes.

MR. STEUER: I think the jurymen indicate that they think it is eight to ten feet.

MR. RUBIN: About eight feet, yes, sir.

Q. At that moment, when you say you were about eight feet away, or have indicated that you were about eight feet away from Sam Bernstein, and Sam Bernstein was, as you say, at the Washington place door were you nearer by that distance the Washington place windows than Bernstein?

THE COURT: I think that question is involved, and I withdraw it.

Q. At the moment when you say Sam Bernstein was at the Washington place door who was the nearer of the two to the Washington place windows, you or Sam Bernstein? A. I was nearer.

BY MR. STEUER:

Q. Had you gotten to the Washington place window at that time? A. I had left the window, I was then running towards the door? A. Towards the Washington place elevator doors? A. I was at both doors.

BY THE COURT:

Q. At the moment when you left the window towards what door did you go? A. Elevator door.

BY MR. STEUER:

Q. Can you give the jury any idea as to how many people were in front of you that time when you got back to the Washington place elevator doors? A. I didn't count.

Q. Who got into the elevator car first, you or Bernstein? A. I.

Q. Can you give us an idea of how many people got in after you and before Bernstein got in? A. I don't know.

Q. These people that were in front of you at the time when Bernstein was at the door which leads to the Washington place steps, some of them were shorter than you and some of them taller than you? A. Yes.

Q. Won't you try, please, and give the jury an idea of how many people there were at that door at the time when you got there -- the Washington place door -- when you got to the place from which you saw Bernstein? A. I don't know; I didn't count.

Q. Would you say that there were as many as twenty? A. I can't say; I don't know.

Q. Would you say there were as many as fifty? A. It was crowded; I don't know how many were there.

BY THE COURT:

Q. What parts of Sam Bernstein's body did you see, when, as you say, you saw him at the Washington place door? A. The side.

Q. And when you say the side indicate on your own person

what you mean? A. I saw him from my right side as he was standing at the door.

Q. Yes, but how much of Sam Bernstein did you see when he was standing, as you say, at the Washington place door? How much of his person did you see? Did you see his head? A. Yes.

Q. Well, how much did you see? A. (Witness indicates at a point on the chest).

Q. Did you see his feet at that time? A. No.

Q. Did you see his knees? A. No.

Q. Did you see his hands? A. Yes, I saw the hand as he was holding it at the door.

BY MR. STEUER:

Q. When he was standing at the door did he have his hands up? A. No.

THE COURT: You put your hand as nearly as you can in the position in which you say you saw Bernstein's hands at the moment when he was at the door?

MR. BOSTWICK: I ask that the witness be asked to rise, because the witness sitting can by no possibility give —

THE COURT: Well, she may stand. Stand up, Madam. (The witness arises and indicates with her arms and hands.)

THE COURT: The witness indicates by the arms bent at the elbow, the hand somewhat above the level of the elbow — that is to say the forearm rising somewhat from

the elbow, the elbow being somewhat lower than the wrist and with the fists clenched.

BY MR. STEUER:

Q. He had both hands then, or both elbows then, at about his waist line; is that right?

A. I don't know. I didn't observe that exactly. I saw him tearing at the door.

Q. Were his hands higher than the place where I have got mine now — where I have got my right hand (indicating by resting hands on top of front rail of jury box)? A. It was not higher.

Q. I meant from the ground where I am standing up to the top of this rail? A. It was lower.

(By measurement the distance from the floor where Mr. Steuer was standing in front of the jury box to the top of the rail of the jury box is now found to be three feet and a half.)

Q. If there were this crowd of people in front of you and between you and Bernstein, some of whom were taller than you, and some of whom were shorter than you, how could you see Bernstein hands lower than this railing? A. Because he was standing at the door and he tried from higher up and lower, from the top and bottom.

Q. Where higher up did he try the door? A. He tore it from the top and from the handle, and I can't tell any more.

Q. Where from the top did he tear it? A. At the beginning of the door.

Q. You mean the top of the door? A. Yes.

Q. Bernstein reached up to the top of the door and he was tearing the door there, was he?

A. Was pushing the door open? A. Yes.

Q. You mean that Bernstein got his hands in the Washington place elevator doors and that is where he was rattling the door? A. No.

Q. Did you hear him rattle the elevator door? A. No.

Q. Was he at the Washington place elevator door? A. I didn't see him.

Q. You didn't see him at the Washington place elevator doors at all, did you? A. At first we were at the elevator, then he ran to the other door and I ran in another direction.

Q. Did you see Bernstein knocking at the Washington place elevator doors? A. No.

Q. Did you see him at the Washington place elevator doors? A. No.

ROSE MAYERS, called as a witness on behalf of the People, being first duly sworn testifies as follows:

(The witness states that she resides at 263 Rivington street.)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, were you in the employ of the Triangle Waist Company?

A. Yes, sir.

Q. Were you in the building at the time of the fire? A. Yes, sir.

Q. Did you work on the ninth floor? A. Yes.

Q. Were you an operator? A. Yes sir.

Q. Where were you when you first knew there was a fire? A. I was just putting my hat and coat on.

Q. What part of the ninth floor were you on when you first knew there was any trouble or knew there was a fire? A. On Greene Street.

Q. Were you at your machine, or in front of your machine, or away from it? A. Just by the door of Greene Street.

Q. As soon as you heard there was fire or trouble where did you go? A. To the passenger elevator on Washington Place.

Q. Where were the other girls going at the same time? A. I seen the girls reach the same place where I ran, Washington Place.

Q. Were they come from the Greene Street side to the Washington Place side? A. Yes sir.

Q. When you got to the Washington Place side of the building where did you go? A. I just happened to go over to the door and I was just about the first one to catch hold of the knob and I twisted it and turned it and it was closed and we couldn't open it.

BY THE COURT:

Q. What door was that? A. That was on the Washington Place door.

Q. You mean the elevator door? A. No, the entrance to go

downstairs - the steps.

BY MR. BOSTWICK:

Q. Did you see anybody else try that knob? A. There was two girls besides me to come up but I was about the first one to hold the knob.

THE COURT: Just answer the questions in as few words as you know how.

Q. How long had you been working for the Triangle Waist Company on March 25th? A. Seven months.

Q. At night when you went out which way would you go out? A. The Greene street door.

Q. And was there a watchman at the Greene Street door when you went out? A. Yes sir.

Q. And what would you do as you passed the watchman? A. Show the pocketbooks, open them and show them to the watchman.

Q. When you say pocketbooks do you mean such a pocketbook as you have now in your hand? A. Any kind of --

Q. Did people who had handbags such as you now have with you open those? A. Yes sir.

CROSS EXAMINATION BY MR. STEUER:

Q. When you use the words "pocket-book" you have reference -- you call that a pocketbook which you now have, don't you? A. Yes sir.

MR. STEUER: May we stipulate the size of that? (By measurement with a rule the bag is found to be eight and one-half by twelve inches).

Q. On the day of the fire where were you working? A. Near the Greene Street door, at the machine.

Q. How? A. At the Greene Street door at the machine, just about the Greene Street door.

Q. There were a number of tables with machines on them, in that loft, were there not?
A. Yes sir.

Q. And you worked at one of those tables? A. Yes sir.

Q. What table did you work at? A. About the second table.

Q. From the Greene Street side? A. Yes sir.

Q. When you were sitting at the table which way did you look while you were at work?
A. Towards Washington Place door.

Q. Now, which side of the table were you on ~ near the Greene Street side or near the Washington Place side? A. Near the Greene Street side.

THE COURT: She does not quite understand that. Were you near the Washington Place end of the building, or the fire escape wall? Those are the opposite walls.

THE WITNESS: The fire escape wall.

Q. And the table ended very near to the Greene Street side of the building? A. Yes sir.

Q. Near where that partition was in which the door was to

go out of the Greene Street — A. Yes sir.

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

Q. How near that end of the table did you sit? A. About four machines away from there.

Q. The bell had rung for the power to stop, had it not? A. Yes sir.

Q. And you were about putting your hat and coat on? A. Yes.

Q. What did you hear or see at that time? A. I heard the watchman, I was just going to give him my pocketbook to open it, and just as I opened it I heard him say, "Fire", and I didn't see nothing, no fire or smoke, but I seen all the girls ran towards Washington Place there; I ran towards there too.

Q. At that time you must have been right alongside of the Greene Street door, weren't you? A. Yes, I was right there.

Q. And the Greene Street door was the door by which you went out every evening?
A. Yes sir.

Q. And the door by which you came every morning? A. Yes.

Q. And the door near which you worked and to which you were perfectly used every day? A. Yes sir.

Q. But you didn't go out right by that door? A. No sir.

Q. What was the name of that watchman that you heard cry fire at that time? A. I don't know the name of him, I don't exactly know his name.

Q. You worked there how many months? A. Seven months.

BY THE COURT:

Q. If you heard his name do you think you would remember it? A. No, I never heard his name either, because I never had much business with him,

Q. If you should see him would you recognize him? A. Yes.

Q. Have you seen him at any time since the fire? A. No.

BY MR. STEUER:

Q. Is he a Jewish man? A. Yes sir.

Q. Do you mean to tell the jurymen that you handed him the pocketbook --

MR. BOSTWICK: I object to the form of the question.

THE COURT: Well, leave that out. Did you hand him?

MR. STEUER: I don't really think there is any legal objection to "Do you mean to tell the jurymen." What is there offensive about that? That does not violate any legal principle that I have ever heard of. I will try and leave it out, I do it from habit.

Q. Do you say that you handed the man your pocketbook? A. Yes sir.

Q. Isn't it the fact that as you walked by you opened it? A. I just had it open at that time.

Q. Well, that is what you mean? A. Yes.

Q. And you didn't mean that you handed that man your pocketbook? A. No.

Q. You opened it for him to look in if he wanted to?

A. Yes.

Q. And you passed right out? A. Yes sir.

Q. So, that you were right by that door? A. Yes sir.

Q. But you didn't go to that door, you didn't go to the elevator that you use every night and every morning? A. No sir.

Q. There was nobody in your way? A. No sir.

Q. Nothing to stop you from going down? A. Well, I heard one of the fellows saying that, "There is the flames there," and they were hollering, "There is the fire right at the steps".

Q. That fellow was not as near to the door as you were? A. No sir.

Q. You don't even know who he was? A. Yes, I do. I think it was Mr. Bernstein, the one that worked on the eighth floor, the fellow that gave out laces.

Q. Bernstein that worked on the eighth floor? A. Yes, he worked.

Q. And that gave out laces? A. Yes.

Q. Was he on the ninth floor? A. No, he just ran up on the tenth floor at that time.

Q. Why, you were inside in the loft on the ninth floor? A. Yes sir.

Q. Do you know Miss Monick? A. Yes sir.

Q. You and she have seen each other since the fire? A. Yes.

Q. And have had quite a number of talks? A. Yes sir.

Q. And you and she gave out interviews to the newspapers after the fire, didn't you?

That is the little girl that testified here yesterday? A. I wasn't here yesterday.

Q. Oh, you were not down town yesterday? A. No.

Q. Where have you seen Miss Monick? A. I haven't seen Miss Monick yesterday.

Q. When did you last see her? A. Last week, upstairs on the ninth floor ~ on the fourth floor.

Q. In this building? A. Yes sir.

Q. When did you see her before then? A. I didn't see her before then.

Q. At no time? A. No time.

Q. Did you see her the day of the fire? A. No, I didn't see her the day of the fire, but in the morning I did see her, before the fire.

Q. Did you see her on the ninth floor at the time of the fire? A. No sir.

Q. Was she in the loft at the time of the fire? A. Yes.

Q. How do you know if you didn't see her? A. I heard all the girls say she was there.

Q. When? A. When we got down.

Q. Was she downstairs when you got down? A. I don't remember seeing her down there, but some of the girls seen her go home at that time.

Q. Was there anybody between you and that Greene Street

door at the time when you showed the watchman your pocketbook? A. There was no one but me and the watchman.

Q. And you could see the door plainly? A. Yes, I seen the door plainly there.

Q. And you were about five feet away from the stairs? A. Yes sir.

Q. But you turned around and followed a crowd of girls? A. Yes sir.

Q. Over to the Washington Place elevators doors? A. Yes.

Q. Then you must have been the last girl that started for the Washington Place elevator doors? A. No, I was not the last girl, because not all the girls knew there was a door there, because that door was always closed up.

Q. You know that the other girls didn't know there was any door there — you and Miss Monick both knew that, didn't you? A. I don't know whether she knew it or not; I know I know it.

Q. You know she knew yesterday afternoon that the other girls didn't know there was a door there, and you know it this morning? A. I knew it before that.

Q. Do you want to add anything to that? A. I knew that when I worked there the fifth month, because my cousin worked there the fourth year and she always told me.

Q. Your cousin always told you that she didn't know there was a Washington Place door? A. Yes, she told me there was a door there, that is how I know it, otherwise I would never know it.

Q. Your cousin told you there was a Washington Place door? A. Yes sir.

Q. When did your cousin tell you there was a Washington place door? A. The fourth month I worked there, about the fourth month.

Q. What season of the year was it when you started to work there? A. Winter season.

Q. Seven months before March is the winter season? A. I remember it was around November I come in.

Q. Then you didn't work there any seven months, did you? (No answer).

Q. Did your cousin tell you that that door stood wide open for three months, every day? A. No, she didn't tell me anything about that.

Q. That part of it your cousin never mentioned, did she? A. No sir.

Q. And no other girl ever told you that that door had stood open for three months every day? A. No sir.

Q. Did your cousin ever tell you that they had a phonograph on the ninth floor and that all the girls used to come up at lunch time from the eighth floor to the ninth floor by that stairs? A. No sir.

Q. Nothing about that, they never told you? A. No sir.

Q. Nobody ever mentioned that that door was open, did they? A. No sir.

Q. Every time that that door was mentioned it was mentioned as being tight shut, wasn't it? A. Yes sir.

Q. You heard your cousin speak of it many times? A. Yes.

Q. As being tight shut? A. Yes sir.

Q. Your cousin always kept telling you that the Washington Place door is kept tight shut, didn't she? A. Yes sir.

Q. Long before a fire was dreamt of your cousin told you that? A. Yes sir.

Q. Told you that almost every day, didn't she? A. Not almost every day.

Q. Very often? A. When we come to talk about it.

Q. When you came to talk about it she told you that the door is tight shut, every day? A. Yes sir.

Q. Or every time she mentioned? A. every time I seen her, but not exactly all the time, but when we coma to talk about the doors I always used to say, "What is that there with boxes?" and she always used to tell me, "There is a door there to go out".

Q. She told you there was a door there to go out? A. Yes.

Q. But you had never been to that door yourself, had you? A. On the ninth floor? I had been once to that door. I just seen the door but I never went out.

Q. Then you knew there was a door there, seeing it with your own eyes? A. Yes sir.

Q. Was it any different from any other door? A. No.

Q. Was there any curiosity about that particular door? A. There was no curiosity, but the other doors were all open and that one was always closed.

Q. In the winter time? A. Always.

Q. Didn't you girls even complain that the Greene Street door was open? A. It was open.

Q. Didn't you complain about it? A. Yes, we complained that it was open.

Q. You didn't want it open, did you? A. Why didn't we?

Q. Well, why did you complain about it if you wanted it open? A. We didn't want it exactly closed with keys.

Q. Oh, you didn't want it closed with keys? A. No.

Q. But you wanted it closed? A. Yes, closed because it was too cold with the draft.

Q. The Washington Place door, you wanted it closed because it was too cold? A. Yes, closed that you could open it again, tout they had it closed with locks and other kinds of things.

Q. And you say they kept it closed with all kinds of things? A. Yes.

Q. You saw them keep it closed with the locks, didn't you? A. I seen the locks myself.

Q. You saw the locks. What locks did you see on that Washington Place door? A. there was patent locks, closed with keys.

Q. And you saw them close the patent locks with keys?

A. No, I didn't see them close them, but you could see the patents.

Q. How many times did you see the patents? A. As many times as I passed.

Q. How many times did you pass? A. I don't know.

Q. Well, about how many times? A. As many times as I worked there.

Q. How many times did you work there? A. About the seventh month.

Q. And you saw it every day? A. Yes, whenever I passed.

Q. Don't you know you told this jury only a few moments ago you saw that only once?

A. Once? Whenever I passed I always seen that door.

Q. Do you say that you didn't tell here a few moments ago that you saw that door once?

A. (No answer).

Q. Well, that is your answer. A. I know as many times as I passed there I seen the door.

Q. Well then you saw the door now every day? A. I didn't always pass through there that way, I didn't have any business on that aisle, but sometimes when I passed there I seen that door.

Q. What took you over there when you passed there? A. Just to see some girls I knew there.

Q. What girls did you know there? A. That girl that was killed -- Rosie Carlton.

Q. That is only one. You cannot tell us any girl that lives that you visited there, can you?

A. One girl by the name of Jennie. She used to give out the laces.

Q. What is her last name? A. I don't know.

Q. Jennie didn't work any machine, did she? A. No, she used to give out laces.

Q. Where did she work? A. Ninth floor.

Q. What part of the ninth floor? A. Near the Washington Place door.

Q. There were a lot of girls that sat at machines in front of that Washington Place door, weren't there? A. Yes sir.

Q. But none of those girls got there before you, did they? A. They were all at the elevator at that time.

Q. You are sure about that? A. Yes sir I am sure about that.

Q. And you were the girl that got to the door, were you? A. Yes sir.

Q. And you were the one that tried the knob? A. Yes.

Q. Did you cry to the other girls, "Girls, there is a door here that you don't know about"? A. I didn't cry out anything because there were many girls beside me there.

Q. Did you say anything like that? A. I didn't say anything.

Q. Did you hear anybody say anything? A. Nothing at all.

Q. You were right by the door? A. Yes.

Q. Had your hand on the knob? A. Yes sir.

Q. I ask you whether at that time there was any girl that had her hand on the knob and that called out, "Girls, there is a door over there"? A. All the girls, when I had my hands there, the girls knew there was a door and they all helped with their hands to open it.

THE COURT: Repeat the question. (Question repeated by stenographer)

A. No girl.

Q. What you are positive about? A. Yes sir.

Q. Was there a crowd of girls behind you? A. There was many girls behind me — fifty girls, I can say.

Q. About fifty? A. Yes.

Q. And they were crowding up, weren't they? A. Yes sir.

Q. You turned around and went to the Washington Place elevator? A. Yes sir.

Q. That is where you started for first, wasn't it? A. No, I started first for the door.

Q. You knew that you were nine flights up, didn't you? A. Yes sir.

Q. You were in a hurry and anxious to get out of that building, weren't you? A. Yes sir.

Q. You knew the elevator goes faster than you could go downstairs, didn't you? A. Yes sir.

Q. And you knew the fire started on the eighth floor, didn't

you? A. Yes sir.

Q. You knew if you walked downstairs you would pass the fire, wouldn't you? But you preferred trying a door that you knew was always locked with keys, didn't you? A. Yes sir.

Q. How did you expect to open that door if it was always locked with keys? A. We couldn't all get down the elevator because there was too many girls there.

Q. How did you expect to open a door that you knew was locked with keys? A. Well, we tried to open it anyway.

Q. A door that you knew was locked with keys, you went over there to open with your hands without keys? A. Not only me, about fifty girls.

Q. You were the one that tried the knob? A. Yes sir.

Q. Although you knew that the door was locked with keys? A. Yes.

Q. So you expected by turning the knob to open a door that you knew was locked with keys, didn't you? A. Yes sir.

REDIRECT EXAMINATION BY MR. BOSTWICK:

Q. When you say no girl cried out, you mean you didn't hear any girl cry out while you were there? A. I didn't hear anybody cry out at all.

Q. When you left that place you don't know what happened, do you? A. No sir.

Q. And when you say you expected to open that door, you mean you hoped to open it, don't you? A. Yes sir.

MR. STEUER: You make a fairly good witness, Mr. Bostwick.

THE COURT: No comments.

MR. STEUER: I never heard of an examination where a witness used a word and then the counsel arises and says you mean so and so.

THE COURT: There was no objection to the question; any argument, therefore, is uncalled for.

SOPHIE ZIMMERMAN, called as a witness on behalf of the People, being first duly sworn, testifies as follows (through official interpreter Rosenthal):

(The witness states that she lives at 82 Avenue C).

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March the 25th, Saturday, the day of the fire, for whom did you work? A. For the Triangle Waist Company.

Q. And how long had you been employed by them? A. Over three years.

Q. On what floor were you employed on that day, and working? A. On the ninth floor.

Q. Where were you when you first learned that there was disturbance or fire? A. I was right at my machine, I had brought my clothes.

Q. And then where did you go when you learned of this disturbance or fire?

THE COURT: Find out where her machine was.

MR. BOSTWICK: I withdraw the question.

Q. In what part of the loft was your machine? A. It was in the middle of the shop, the table was in the middle of the shop and near the Washington Place side window.

Q. Did you go or did you see anybody go to the Washington Place side of the building? After the cry of fire, or after you knew there was a fire? A. I went there and I saw others go there.

Q. Did you know that there was a stairway on the Washington Place side? A. Yes.

Q. Did you ever see anybody before the day of the fire use the door to the stairway -- go through it? A. No, never.

Q. At the time of the fire did you see anybody go to or near that Washington Place door on the ninth floor leading to the stairway? A. They went to the door. I also went to the door when the fire took place.

Q. Did you see anybody try that door? A. Yes.

Q. Do you know what the handle of the door is? A. I don't remember the handle of the door.

Q. Do you know what the handle of a door is? A. Oh yes.

THE COURT: The knob of the door.

Q. The knob of the door? A. Yes.

Q. Did you see anybody touch the knob of that door? A. Yes.

Q. What did you see them do to the knob or that door. If anything? A. They took hold of the handle and they turned it

and they tore it — tried to tear it, but they couldn't ~~ to open it.

Q. The door didn't open? A. No.

Q. At night when you left that building how did you go out? A. Through the Greene Street door.

Q. Did all the employees, the operators, go out that Greene Street door? A. Yes sir.

Q. Was there a watchman by that Greene Street door as they went out? A. Yes.

Q. What would you do as you passed the watchman? A. We had to open our pocketbook and show whether we had anything in our pocketbook.

Q. And in wintertime did you ever see anybody go in or come out of that door which lead to the Washington Place stairway on the ninth floor? A. No, never.

Q. How old are you? A. Twenty years.

Q. How old were you last March? A. I believe nineteen.

Q. How long have you been in this country? A. Five years.

CBOSS EXAMINATION BY MR. STEUER:

Q. Did you work for Harris & Blanck during the summer time? A. Yes.

Q. Well, about this Washington Place side door in the summer time, was it locked? A. Yes, I never saw it open.

Q. You understood that last question, did you not? A. The question was whether I had seen the door open and I answered no.

Q. And you say now that you worked there for three years, don't you? A. Yes.

Q. And during the three years in the summertime that Washington Place side door was locked? A. I always saw it closed.

Q. Isn't it the fact that that door stood wide open from the time that the porter opened the door until at night when you girls went home? A. No.

Q. Do you belong to the Union? A. No.

Q. Did you go in the march? A. No. I attended the mass meeting.

Q. Well, you went to several meetings, didn't you? A. No.

Q. You say that the Washington Place door all the year around was closed, wasn't it?
A. As near as I can remember it was always closed, I never saw it open.

BY THE COURT:

Q. Now, we are talking about the Washington Place door on the ninth floor, do you understand that? A. Yes sir.

BY MR. STEUER:

Q. And you worked there for three years before March, 1911? A. Yes.

Q. And in July and August that door was closed every day, wasn't it? A. I never saw it open.

Q. Were you working there when they had the phonograph on your floor? A. Then I came up the phonographs were there.

Q. And they used to play the phonographs during the lunch hour for you every day, didn't they? A. A short time when I used to go up they used to play it.

Q. Didn't the girls come from the eighth floor to the ninth floor during that time while the phonograph was playing? A. I don't remember.

Q. Did you have a forelady on the ninth floor that used to give out work? A. Yes.

Q. Didn't she go down to the eighth floor to get the work? A. Yes, she used to go.

Q. Will you swear that that girl didn't go at least a half dozen times every day down through that Washington Place door to go from the ninth to the eighth floor? A. She used to go through the Greene Street door from the ninth floor.

Q. You had your eyes to the Washington Place door, didn't you? A. Yes.

Q. But you always used to see her go down the Greene Street steps? A. The Washington Place door was never open.

Q. But you used to see her go down, when you were looking at the Washington Place door you used to see her going down the Greene Street door? A. I hadn't my eyes fixed all the time on the Washington Place door — once in a while I turned my head to one side and the other side.

Q. And when you turned your head that is the time you saw the forelady going down the Greene Street steps? A. I used to see how she used to go down from Greene Street to bring up the

work.

Q. Now, you have seen this paper (Diagram Exhibit No. 2) before, haven't you? A.

No.

Q. Didn't they show it to you in the District Attorney's office? A. No.

Q. You see here eight tables, don't you? A. I know the building but I don't know anything from the paper.

THE COURT: While you sit in that chair you will try and study that diagram carefully, and you pay strict attention to the explanation that is given by the defendant's attorney about it.

THE WITNESS: I don't understand it, I have never seen it.

THE COURT: (Addressing official interpreter) You tell her that she has to obey me. And you (addressing the witness) pay careful attention to what the lawyer says about that plan. Now, proceed, Mr. Steuer.

Q. Down here at this end where I pointed from one end to the other, that is the Greene Street wall of the loft? A. Yes.

Q. This here that I am pointing to now is a machine table where the girls and men worked at the machines, and that is the table that is nearest the Greene Street wall —

THE COURT: Do you understand that?

THE WITNESS: Yes.

Q. This that I am pointing to now is the second table from the Greene Street wall? A. Yes.

Q. All of it that I am pointing to now are the tables at which the operators sat, beginning from the Greene Street wall and coming over towards the Washington Place side? A. Yes.

Q. You just show the judge and the jury at which table in that loft you sat when you worked?

THE COURT: Put your finger on it.

A. I can't tell exactly at what table it was, whether the third or the fourth.

THE COURT: Put your finger where you think you sat.

THE WITNESS: This table (indicating the fourth table from the Greene Street wall).

Q. And you sat on the side where the gentleman just had his finger now, did you not? A. Yes, right next to the window my friend was sitting at her machine and next to her I was sitting at my machine.

Q. Now, will you please put a mark where you sat.

THE COURT: It is fair to the witness to say that she says she is not certain as between the third and fourth tables.

MR. STEUER: Suppose we ask her whether she is sure that it was either the third or fourth.

THE COURT: Yes, because that is immaterial.

Q. Are you sure that you sat at either one, the third or the fourth table from Greene Street? A. Yes, one of the two tables it was.

Q. Will you put a mark at both the third and the fourth

tables at the point where you sat? A. (Witness marks as requested).

Q. Don't you know that sitting there you could not see the Greene Street door at all? A. I could see.

Q. You could see from where you sat at that place the door which led to the Greene Street steps? A. Yes.

(Mr. Steuer now shows the diagram to the jury, and indicates where the witness marked on it).

Q. Where did you work last month? A. You mean the month after the fire?

Q. No, last month. A. In Twentieth Street.

Q. Where did you work in October? A. Also in the same place.

Q. Did you receive on the 12th of October, 1911, a letter inviting you to a meeting at 151 Clinton Street, on the third floor, to meet the lawyer for the Ladies Waist & Dressmakers' Union?
A. No sir.

Q. Did you ever go to 151 Clinton Street? A. No.

Q. Didn't you go on the 16th of October, 1911 to 151 Clinton Street, and didn't the lawyer go over the story of the fire with each one of you girls? A. No.

Q. Do you know a man by the name of Abraham or Abe Baroff? A. I heard of him.

Q. Well, you know he is the general manager, don't you, of the Union? A. Yes.

Q. Well now, didn't every one of the girls get a letter from

Abraham Baroff to come down to 151 Clinton Street? A. No.

Q. You say you are not a member of the Union? A. No.

Q. Have you ever been a member of the Union? A. Yes.

Q. How long were you a member of the Union? A. A short time only, as long as the strike lasted.

Q. You were a member of the Union only during the strike and after the strike you were not a member of the Union? A. No, because I didn't work at such a place where I was needed to be -- where I needed to be a member of the Union.

Q. On the afternoon of the fire, or the evening of the fire, you were with your clothes at your machine? A. Yes, I took my clothes to my machine before I knew that there was a fire.

Q. When you heard there was a fire you didn't go to the same elevator that you always went down by, did you? A. No.

Q. Did you look around to see where the fire was? A. Yes.

Q. Where did you look? A. Greene Street.

Q. Did you see the fire? A. Smoke.

Q. Where did you see smoke? A. Greene Street, at the windows.

Q. Which windows? A. Greene Street, by the fire escape by the door. I looked at the window in Greene Street and I saw fire -- smoke I saw.

Q. Then did you go to the Washington Place elevators? A. Yes, I went to the Washington side door.

Q. You didn't go to the Washington Place elevators, did

you? A. No.

Q. You also wanted to walk down the nine stairs, didn't you? A. I thought in case of a fire I could save my life there, because the other place, it was very much crowded.

Q. What other place was very much crowded? A. Greene Street door.

Q. What about the Washington Place elevators — why didn't you go to them? A. I knew we couldn't go down there because we were never permitted to go down there.

Q. Even in case of a fire you were not permitted to go down? A. This I didn't know.

Q. Your story is, is it not, that you were not allowed to go to the Washington Place door even?

MR. BOSTWICK: I object to the question.

Objection sustained. Exception.

Q. Had you ever gone to the Washington Place side door before? A. No.

Q. Did Mr. Blanck ever tell you that you could not go down by the Washington Place side elevators? A. I didn't ask him.

THE COURT: Do you want that out?

MR. STEUER: No.

Q. Do you mean by that that he didn't tell you that you could not go down? A. I was afraid to ask. I saw nobody went down and I didn't dare to go there.

Q. Did Mr. Harris ever tell you — and the judge said you

should say yes or no, and won't you please try to obey what he says? Did Mr. Harris tell you you could not go down those elevators? A. No.

Q. Did Mr. Bernstein tell you you could not go down those elevators? A. No.

Q. Did you see other girls go to the Washington Place Elevators the night of the fire? A They were standing in a row of girls — it was very much crowded there.

Q. Were there a lot of girls around the Washington Place door? A. Yes.

Q. And there were a lot of girls around the Washington Place elevators? A. Yes.

Q. Didn't you know at that time that girls were going to go down the Washington Place elevator? A. No.

Q. Hadn't the girls got down the Washington Place elevator?

THE COURT: You mean at the time she was at the Washington Place door?

A. No.

Q. Did you go down on the first trip by the Washington Place elevator door? A.
No, I wasn't saved there.

Q. Which way did you get down? A. Greene Street.

Q. By the Greene Street elevator or Greene Street steps? A. Greene Street, up to the roof.

Q. So that after you had gone to the Washington Place door there was time enough for you to go to the Greene Street side

and go upstairs and go on the roof?

MR. BOSTWICK: I object to the question.

THE COURT: Objection overruled.

A. I went over to the Washington Place door —

MR. STEUER: No matter what question I ask I am bound to get the answer that they tried the Washington Place door —

THE COURT: No, no comment of that kind, Counsellor. You pay attention to the question, Madam. Tell her that, Mr. Interpreter, and that she must answer it.

Q. (Question repeated by stenographer)

THE COURT: Yes or no.

A. Yes.

Q. Did anything happen to you at all? A. I was damaged -- my hands injured.

Q. How were your hands injured? A. Just scratched.

Q. Scratched? A. On the wrist when I tried to get over to the next roof.

Q. But nothing happened to you until you got on the roof? A. No.

Q. Although you first went to the Washington Place side and then went over to the Greene Street side?

THE COURT: You have got that on the record, Counsellor.

MR. STEUER: All right.

Q. Didn't Mr. Blanck take you up on the roof? A. No.

Q. Didn't Mr. Blanck help you up on the roof? A. No.

Q. Who did? A. I don't remember who did.

Q. Don't you know that Mr. Blanck put you up on the roof before he put his own little daughter up? A. No. When I came to the street I met Mr. Blanck already.

Q. I didn't ask you anything about the street, I asked you about the roof. Do you now say that Mr. Blanck didn't hand you up on the roof? A. No.

Q. Do you know Mr. Silk? A. No.

Q. Do you know Mr. Harris? A. Yes.

Q. Didn't Mr. Blanck hand you up to those two men and didn't they take you up from one roof to the other? A. No.

Q. Who did? A. We ourselves helped ourselves on the wires -- one girl helped the other up.

Q. You didn't see Mr. Blanck on the roof at all? A. No.

Q. Do you say it is not true that Mr. Blanck was the last man that went from one roof to the other — the last person, not the last man? A. I don't know that.

KATIE WEINER, called as a witness on behalf of the People, being first duly sworn,

testifies as follows:

(The witness states that she resides at 1457 Madison Avenue).

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. On March 25th, 1911, Saturday, the day of the fire, you

wars employed by the Triangle Waist Company, were you not? A. Yes sir.

Q. And how long had you been working for them before the fire? A. About five months.

Q. And on which floor were you working? A. Ninth floor.

Q. What sort of work did you do? A. Cutting out lace.

Q. In what part of the loft did you work? A. Washington Square, right in the corner.

BY THE COURT:

Q. When you say the corner, what corner do you mean? A. At the Washington Square there was a little corner, like a little corridor, and right at the window I was sitting — my back towards the window, my right hand alongside of the radiator.

Q. In other words, you sat with your back towards the Washington Place window, is that so? A. Yes sir, and my face facing the factory.

Q. Your face facing the — A. The loft — facing the Greene Street entrance.

BY MR. BOSTWICK:

Q. Do you remember when the bell rang to quit work on that Saturday afternoon?

A. Yes sir.

Q. What was the time to quit work on Saturday afternoon? A. Quarter to five.

Q. What did you do and where were you when the bell sounded to quit work. A. I was at the dressing room near the Greene

Street entrance.

Q. There are two dressing rooms, one nearest to the Washington Place side and one further away from the Washington Place side? A. I was at the one further away from the Washington Place side.

BY THE COURT:

Q. You don't mean you were in the coatroom over on the Greene Street side, do you? A. No sir, there is another one right away from the Washington Place dressing room, right in the fact of there.

BY MR. BOSTWICK:

Q. (Showing People's Exhibit 2) This along here is Washington Place and that is Greene Street, you see? A. Yes sir.

Q. And that is the corner of the building in Washington Place and Greene Street, and if you walk up north, up town, on Greene Street, you would come to the freight elevators, do you see? And if you went another direction — if you went west along Washington Place — you would come to the passenger elevators? A. To the Washington Place elevator?

Q. Yes. A. Yes sir.

Q. To the Washington Place passenger elevators? A. Yes.

Q. So that there are the freight elevators, and here are the passengers elevators. This is the wall of the building and on this wall is a fire escape which is shown right there. Next to the passenger elevators were the stairway, Washington Place

stairway, and under that stairway was a dressing room, and there is another dressing room further away from Washington Place, and that is the dressing room of which you have spoken? A. Yes sir.

Q. That is front of the ladies toilets? A. Yes sir.

Q. And this place is where the ladies toilets were (indicating on diagram)? A. Yes sir.

Q. That is properly shown on this diagram, and this is the men's toilet right next to it. How, there were examining tables in the space marked "Examining Tables", were there not? A. Yes sir, right alongside of the toilet.

Q. And some examining tables near the fire escape, and there was a clothes closet in front of the Greene Street freight elevator? A. Yes sir.

Q. And also a partition ran along in front of the stairway and then there was an extra little screen, was there not? A. Yes sir.

Q. The machines ran north and south — they ran the same way that Greene Street ran, did they not? A. Yes sir.

Q. There is the first row of machines that ran right along next to the Greene Street windows, didn't they?

THE COURT: Do you understand it?

A. Just a minute — they all ran the same way, Mr. Bostwick.

Q. Yes. Now, didn't they run the same way that Greene Street ran? A. They all ran the same way, I think.

Q. Now on the ninth floor, the first table of machines near the Washington Place entrance was short, was it not? A. Short.

Q. Shorter than the others? A. Yes sir.

Q. And right there is the Washington Place door that led to the stairway, right next to the Washington Place elevators? A. Yes.

Q. And these are the dressing rooms. What were you doing at the dressing room at the time that you speak of just after quitting work? A. Putting on my hat and coat.

Q. What was the first thing that you knew that there was a fire in the place? A. I heard screams of fire.

Q. Where were you standing when you heard those screams of fire? A. Near the Greene Street side there are examining tables, just alongside of the ladies room, and there was a little table where a girl used to sit and cut out, and I was standing there talking to some of the girls while putting on my hat and coat.

Q. Do you remember the girls you were talking to? A. Yes.

BY THE COURT:

Q. Was that near the time clock near the fire escape? A. Right opposite.

Q. When you say opposite, about how far away? Show us in this room how far away you were from the time clock? A. From here down to the first row of windows, and perhaps a little further ~ about a distance of about —

Q. About thirty feet away from the time clock on the — A. I should judge that, yes sir.

BY MR. BOSTWICK:

Q. As soon as you heard the cry of fire where did you go? A. Back to the Washington Place corner where I sought to call my sister.

Q. And then where did you go? A. I went back again towards Greene Street where I was standing looking for her near the dressing room as I thought I could find her; I couldn't, and I tried to run to Greene Street and it was full of smoke and I couldn't and I turned back to the Washington Place side. Then I was trying, I was knocking at the elevator ~-

Q. You mean the passenger elevator? A. Yes sir.

Q. The Washington Place elevator? A. Yes sir.

BY THE COURT:

Q. Just tell what you need yourself? A. I went back again from the Greene Street side towards the Washington Place passenger elevator, I knocked at the door and thought the elevator would come up, I seen he didn't come, and the smoke was coming very thick, he was not up —he didn't come up — and I was choking with smoke, I couldn't stand it no more, I went to the windows and put my face out to get some sir, and I called down — I cried "Fire" downstairs, and people were looking up. Then people pushed me towards the windows and I went away from the windows back again towards the elevator. Suddenly he come up, and there was a whole lot of girls and they rushed there

and I was pushed back. Then I seen the flames were coming up from the Greene Street entrance toward Washington Place; I went back to the door -- I always knew there was a door because I couldn't help seeing it.

BY MR. BOSTWICK:

Q. Which door are you now speaking about? A. Washington place door.

Q. You went to the Washington Place door on the ninth floor that led to the stairway?

A. Yes sir. I tried to open that door and I couldn't.

Q. Will you go to this door and show me exactly what you did with the door when you say you tried to go out that door?

MR. BOSWICK: I ask that the jury be in a position that they can see.

THE COURT: Yes, the jury may stand up.

A. I turned the knob this way and that way (indicating) I pushed it towards myself and I couldn't open it, than I pushed it inward and it wouldn't go. I then cried out, "The door is locked." And there was a lot of girls behind me, I ask them for assistance, so I knocked at the door, I seen the flames were too strong ~~

Q. State after that where you went awl what you did. A. I pushed the door and when I seen the door didn't open I began to holler, "Girls the lock was locked".

THE COURT: What did you do?

Q. What did you do? A. I turned the knob and I tried to

open it, and there was a lot of girls with me.

BY THE COURT:

Q. What did you do after you left the door, if you did leave the door? A. I stood back a little ways from the door and I stood right beside the door again, in the door, but I took my hands off the knob.

BY MR. BOSTWICK:

Q. Then where did you go? A. Nowhere. I stood right at that door still.

Q. How long do you suppose you remained at that door? A. Yes sir.

Q. I say, how long do you suppose you remained at that door? A. About three minutes or five minutes.

Q. It seemed like three minutes or five minutes to you? A. Yes sir.

Q. Then where did you go? A. Then I still cried, "Girls, help me".

BY THE COURT:

Q. What did you do? Where did you go? A. I stood at that door still till the last minute.

BY MR. BOSTWICK:

Q. When you did go away from that door where did you go and what did you do? A. Suddenly I seen the Washington Place passenger elevator come up, and all the girls that were at that door all went towards that elevator and I went also there, all the girls went into the elevator and I was pushed back again.

Then the elevator went downstairs, and I seen the flakes were approaching quick and I left — and the elevator left the ninth floor, it went down. It went between, I should judge, about the eighth and ninth floor, when I got hold of the cable and I threw myself in.

Q. You threw yourself on the top of the elevator? The elevator had gone down? A.

The elevator had left the ninth floor and the door was left open.

Q. What did you do? A. I got hold of the cable nearest toward my hand.

Q. Did you jump from the floor to the cable? A. Yes sir.

Q. And you got hold of the cable? A. Yes sir.

Q. And then what happened as you caught the cable of the elevator? A. Then the elevator was not far down yet -- it was, I think, between the eighth and ninth floor — and I landed — I don't remember -- on top of the girls' heads or on top of the elevator, until I got down to the street. My face was facing down and my feet extending out and as I was going down my feet were hurting me, my ankles were hurting on the doors and I cried, "Girls, my feet are being" --

Q. Never mind that. How long had you worked for these people? A. About five months.

Q. During the period of time you worked there did you ever see anybody go in or out of the Washington Place door on the ninth floor? A. No sir.

Q. At night when you went home how would the employees, the

operators, leave the factory? A. By the Greene Street entrance.

Q. Was there a watchman who stood near the Greene Street entrance as you went out?

A. Yes sir.

Q. And as the operators passed out before the watchman what would they do? What would the girls do? A. If they had bags they had to open the bags and show them. Any possible, we had to show them what we had in them.

Q. There was only one watchman on that floor? A. Yes sir.

Q. Did you have any relatives working for the same company at the same time? A. I had a sister working there.

Q. Only one sister? A. One sister.

Q. What is her name? A. Rose Weiner.

Q. Is she dead? A. Yes sir.

Q. Do you know whether any of your family have brought any lawsuit against Harris and Blanck? A. I beg your pardon?

Q. You don't understand what lawsuit is? A. No sir.

Q. How old are you? A. Seventeen.

Q. Were you seventeen in March last? A. Yes sir, I am past seventeen now.

Q. Were you born in this country? A. No sir.

Q. How many years have you been in this country? A. Eleven years.

CROSS EXAMINATION BY MR. STEUER:

Q. You say you don't know what a lawsuit is? A. No sir.

Q. Your mother's name is Sarah, isn't it? A. Yes sir.

Q. And the sister who lost her life in the fire was Rose? A. Yes sir.

Q. Don't you know that your mother has sued Harris and Blanck for a very large sum of money? A. I don't know nothing about it -- my mother never spoke to me about that.

Q. Your mother never mentioned the fact and you never heard it mentioned in the family? A. No sir.

Q. The fact that on the 24th of August, 1911, your mother brought a lawsuit against these people has never been spoken of or mentioned in the family? A. No sir, not to me. My mother never spoke to me about that.

Q. Did you see the machinist on the ninth floor near the Washington Place door? A. Yes sir.

Q. What is the machinist's name? A. Well, his first name is Willie and I think his second name is Greenspan or Winstropf.

Q. Did you ever know his first name? A. His first name only.

Q. Never knew his second name? A. No sir.

Q. You don't know that you swore to his second name when Mr. Rubin examined you on the 10th of April? A. Well, I called him Willie Winstropf, as I said just now.

Q. You said Willis Greenepan? A. That is what I said.

Q. And Willie was sitting back there in the court room while you were swearing to him? A. What courtroom?

Q. In the court room where you were swearing? A. I have not seen Willie in the court room.

Q. Wasn't Willie right there in the court room while Mr. Rubin was examining you?

A. I have not seen Willie.

Q. Well, you saw Willie on the ninth floor at the time of the fire, didn't you? A. I seen him then.

Q. And you saw him near the Washington Place door? A. Near the elevator.

Q. Didn't you see him near the elevator, near the Washington Place there? A. Only the Washington Place elevator.

Q. Didn't you see him near the Washington Place door at Washington Place? A. Yes.

Q. You did or you did not? A. I did not.

Q. Did you speak to Willie while you were at the Washington Place door? A. Yes.

Q. Do you remember that you were asked whether you saw Willie try the door and that you said there were so many people around you could not see? A. I beg your pardon?

Q. You didn't say that? A. What?

Q. I ask you whether you were asked by one of the jurymen whether you saw Willie try the door and whether you said to that, that you could not we because there were so many people around?

THE COURT: Referring now to what you said at the Coroner's inquest.

A. No sir. I never was asked about Willie and I never seen him trying the door.

Q. You never were asked by Willie and you never were asked

whether you saw him try the door and you didn't say that there were too many people around? A. I haven't seen Willie at the door, though.

Q. And you never saw Willie at the door and you never were asked anything about it? A. No sir.

Q. And you never said anything about it, is that right? A. All I said is that I seen him near the elevator.

Q. At page 259 (Coroner's Minutes) you were asked, "Did he try the door? A. Well, I seen him going towards the windows." Did you say that? A. Yes sir.

Q. Was it true? A. Yes sir.

Q. "You didn't see him try this door? A. No, there were so many of us there". Did you say that? A. Yes.

Q. Were you the first girl to get to that door? A. Yes.

Q. And the first girl to try the knob? A. Yes sir.

Q. And then you told the other girls it could not be opened, didn't you? A. Yes sir.

Q. And you said the door was locked, I think? A. Yes sir.

Q. And you said that out loud? A. Yes sir.

Q. Then the girls remained standing there, did they? A. Yes sir, they remained trying the door.

Q. She girls remained trying the door? A. When I cried that the door was locked.

Q. And of course the door was not open? A. The door was not open.

Q. By nobody? A. By nobody.

Q. You were the last one to get up there, weren't you? A. That I can remember about, yes, from the whole crowd.

Q. How? A. The crowd that was there, I was on the last trip the elevator made to come down.

Q. The last one. Don't you remember you told the jury here very minutely as to how you did it? The car had already started down, don't you remember that? A. Yes.

Q. And then Mr. Bostwick had his hands out to show how you did it, don't you remember, and you grabbed the cable? A. Yes.

Q. Well now, there wasn't anybody on the cable, was there? A. No sir.

Q. But you? A. But I.

Q. And the car was right there, just started away from you, hadn't it? A. Yes sir.

Q. So that you know that you were the last one to go down? A. Yes sir.

Q. It was not a girl by the name of Monick that was the last one to go down? A. She was in the elevator.

Q. She was in the elevator before you got in? A. Yes sir.

Q. Did you see Miss Monick at the fire? A. Yes, on the floor before she got into the elevator.

Q. Whereabouts on the floor? A. Near the door ~~ at the door.

Q. Before you or after you? A. With me, right along; I was there before and then she come from the other side, and we

all tried that door.

Q. So you were there before her? A. Yes sir.

Q. And you were at the door before she got there? A. Yes.

Q. And you were right there at the door when she got there? A. When she got there.

Q. And tried the knob while she was there? A. No, I tried the knob before she was there.

Q. And then you cried out that the door is locked? A. Yes.

Q. And then when you cried out that the door was locked were there no other girls there? A. Yes sir.

Q. And were they there before Miss Monick? A. That I can't say, I don't remember that.

Q. How many girls came when you cried out that the door was locked. A. There were quite a number of girls, while I was at the door, with me and there were many more — we all stood there crying the door was locked, trying to open that door.

Q. While you were there trying the door yourself were there a large number of girls in the back of you? A. Yes sir.

Q. A very large number, was there? A. Well, I should judge about twenty-five.

Q. And they were pressing against you, weren't they. A. No, not pressing against me.

Q. No, at all? A. No sir.

Q. There was a great deal of smoke that came there while you were there near that door, wasn't there? A. Yes sir.

Q. And the smoke came like a great big wave, didn't it? A. The fire came like that; the flames came like a great big wave.

Q. The smoke and flames came towards you? A. First I seen smoke and a few minutes later I seen fire.

Q. Flame. Are you sure that the first you saw of the smoke on the Washington Place side was not when Willie opened that door? A. I seen the smoke before Willie came to the door, I seen that smoke on the Greene Street side.

Q. I ask you again, are you sure that on the Washington Place side — not on the Greene Street side — that it was not the fact that the first you saw of the smoke was when Willie opened the door? A. I beg your pardon?

Q. Isn't it the fact, I ask you again, that the first you saw of any smoke on the Washington Place side was when Willie opened the door? A. Willie did not open any door for us.

Q. Why didn't you say that before when I asked you twice about Willie opening the door? A. I didn't understand you, I didn't hear you.

Q. Did you see Willie at the door? A. No sir, I did not.

Q. What did you mean when you said, "I seen the smoke before Willie came to the door"? A. Because as soon as the girls started to cry out "Fire", about two minutes later the loft was full of smoke, and several minutes later Willie came up from the Greene street entrance toward the Washington Place

elevator, and then there he stopped, and then I seen smoke also.

Q. Did you see Willie at the door? A. I have not seen Willie at the door, I have seen him near the Washington Place elevator.

Q. Did you see how Willie got down? A. No sir, I have not.

Q. Did you see how Willie got away at all? A. No sir.

Q. Well now you are absolutely sure that you were the last girl that went out? A. That I remember of, yes.

Q. You say "that I remember of". I want to call your attention to the facts again ~ that you caught hold of the cable and in that way were taken down by this car? A. Yes, but I don't say there were no more girls left in the loft. I was the last one to come down from all the crowd, and back of me by the elevator there was no more.

Q. Was there any further trip by that elevator? Another trip to follow it? A. I don't know about that.

Q. Well, we will put it this way then. You know Miss Monick and you were in the car on which she went down? A. Yes.

Q. Perhaps I misled you when I said that you were in the car, because in your testimony you were not quite certain whether you were in the car or on the car? A. I was not in the car.

Q. And I don't want to mislead you. What I want to know is, was Miss Monick in the car? A. Miss Monick was in that car.

Q. And made that trip down? A. But not that I was in.

Q. Did you see her while she was in the car? A. I have not seen her while she was in the car, but I have seen her before she went into it when she pushed in.

Q. Now, can you tell us with relation to the people that pushed into that car about where she got in — among the first or in the middle or among the last? A. Well, I should judge among the last.

Q. And you were standing on the outside of this crowd? A. Yes sir.

Q. So that when it came to your turn — A. I was left out.

Q. Well, when the elevator went down did he leave the elevator door open? A. Yes sir -- a little ways open.

Q. Then if it was a little ways open the people that were up there could have shoved it as far open as they wanted to? A. Yes sir.

Q. So that your statement now is that the elevator door on the ninth floor was open at least from the time that you went down? A. The elevator door was open while the elevator started to run down — a little way open.

Q. It was not closed after you got out, was it? A. I don't know about after I got down? I didn't close the door after I caught the cable.

Q. Did you see it close? A. I don't remember.

Q. Did you hear it close? A. No, I didn't hear it close.

Q. From your position, as you have described it to the

it might have been closed? A. It could not.

Q. Then you know it was left open? A. I should judge it was left open because I didn't close the door back of me when I got down on the cable.

Q. When you got downstairs were your hands torn? A. Yes, my ankles —

Q. Now, your ankles are not at your hands? A. My hands were torn.

Q. Have you not a single mark on your hands that you can show this jury now? A.
No sir.

Q. Did you go to any hospital and have your hands dressed? A. I went to our doctor and I had some — and I had them dressed.

Q. Your hands? A. My left hand. I don't know what he put on -- some kind of medicine, and that was all.

Q. On your hands? A. On my right hand.

Q. I thought you said on your left hand just a second ago. A. On my right hand.

Q. Didn't you look at your left hand and say on your left hand? A. It was my right hand.

Q. Have you any kind of a mark on your right hand? A. No
sir.

Q. So that you held onto an elevator cable while that car was going down nine flights, and there isn't a mark of any kind left on your hands? A. No sir, but I believe that I landed on the top of the elevator, no more than the elevator left the

ninth floor — I should judge it was between the eighth and the ninth floor. I had to get hold of the cable only to get on it, but I didn't have to hold onto it until I got down the nine floors; I didn't slide down the cable nine floors down.

BY THE COURT:

Q. In other words, having hold of the cable you were caught by it and dropped down head first among the people who were in the car? A. Yes sir.

BY MR. STEUER:

Q. Haven't you said to the jury less than half a minute ago that you didn't know whether you were in the car or not? A. Well, I still say.

Q. And don't you say that now? A. Yes sir.

Q. You don't tell his Honor that you were on the people's heads inside that car, do you? A. I first said I didn't remember whether I landed on the people's heads or on top of the elevator.

Q. Do you want to change and say that you now remember and say you were on the people's heads? A. Yes, I can state I was on the people's heads.

Q. Inside the car now? A. Well, inside of the car.

Q. Well, the people's heads didn't stick out through the car, did they, on this elevator?

A. The elevator was down between the eighth and ninth floors.

BY THE COURT:

Q. Did that elevator have any top at all? You know what

I mean by a top ~~ a cover? Did it have any cover? A. Yes sir.

Q. Was that cover what you call a solid cover, or was it -- can you describe the cover of the elevator, the top of the elevator? What was it — a regular ceiling, or a place with openings?

A. It was like the iron strips on it, and it was a round top.

Q. And those irons were about how far apart? A. Well, I think about a foot apart from each other, or perhaps more.

BY MR. STEUER:

Q. The round part of the elevator, that completely enclosed the elevator, did it not? A. That top of it closed the elevator — that was like the roof of the elevator.

Q. That completely closed it, didn't it? A. Yes.

Q. So that the people's heads that were inside of the elevator of course could not stick through the top, could they? A. No, they could not.

Q. When you say that you landed on the top of the people then that makes you positive that you were inside the car and that when you went down you dove into the car and that way got on the people's heads, is that right? A. Yes sir, that is right.

Q. When you started out the car had gone down and you grabbed the nearest cable over the roof of the car? A. Well, I don't know, I don't remember whether it was over the roof or the cable Inside where the elevator man holds the cable, but I

know I got onto some cable before I laid down flat and I landed on top of the people's heads.

Q. You remember that now distinctly, don't you? A. Yes.

Q. As soon as his Honor asked you that question about the people's heads that brought it back to you? A. Yes sir.

Q. And you know now positively that you were on the inside of the car? A. Inside of the car.

Q. Wasn't your memory about this transaction, that is, about this cable and about going downstairs, just as clear say fifteen days after it happened as it is now? A. You mean that I thought what I was doing?

Q. What? A. You mean that I still kept on with what I done then fifteen days after that fire?

Q. No, but fifteen days after the fire was your memory about your trip downstairs as good as it is now? A. Well, I never thought — I never thought how I escaped, on account of my sister being burned and always speaking of her and I never gave thought of myself.

Q. When Mr. Rubin asked you the questions you gave thought to it in order to answer them? A. I am answering them now just as to him.

Q. But at that time you gave thought to them in order to answer them, didn't you? A. Yes.

Q. Did you say anything about being in the car at that time and remembering that you were on the people's heads? A. I stated that I believed that I landed on the people's heads or

else an top of the elevator.

Q. You didn't know which at that time? A. No sir.

Q. But now you know? A. Now I know that I was on top of the people's heads.

Q. And you didn't know it when you first went on the witness stand to-day, did you? A. Well, no.

Q. In other words, when you first went on the witness stand to-day and Mr. Bostwick asked you the questions you answered it in the exact words you used on the 10th of April when Mr. Rubin asked you, didn't you? A. Yes sir.

Q. And you know the words that you used on the 10th of April, don't you? A. I don't remember them.

Q. Well, you have heard them read several times since that time, haven't you? A. Only a few — I was once at the Grand Jury, and the first statement I made at Attorney Bostwick's office.

Q. When was the last time you were there? A. I don't remember.

BY THE COURT:

Q. Do you remember or not any part of your body passed through the roof of the car? A. No sir, I don't remember.

Q. Do you remember whether your body struck the roof of the car? A. I don't remember.

BY MR. STEUER:

Q. The fact that you lost your sister in that fire, does that cause you to have any feeling against these men? A. No.

Q. No, the slightest? A. No sir.

Q. You have got no anger and no resentment, no feeling of any kind because your sister lost her life in their factory? A. That is, you mean do I state my statement because I have lost my sister?

Q. No, no, no; I just mean what I asked you. You haven't got any feeling of way kind against them, have you? That is what I mean. A. Is that it, that had I not lost the sister that I would not testify?

Q. Well, it is not very important what I mean just now, it is very important to get an answer to a question sometimes. What I mean is of no importance here, nobody pays any attention to me — A. Well, I can't answer you unless I understand the question.

Q. You don't understand it? A. No sir.

MR. STEUER: That is all.

REDIRECT EXAMINATION BY MR. BOSTWICK:

Q. Katie, the fact that you have lost your sister –

THE COURT: Do not lead her now, just ask her a question. I may anticipate the form of your question, but don't put a leading question.

MR. BOSTWICK: That's all.

CELIA WALKER, a witness called on behalf of the People being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

(The witness states that she resides at 292 Stanton Street).

Q. On March 25th, 1911 you were employed and working for the Triangle Waist Company, were you not? A. Yes.

Q. How long had you been working there? A. I worked there a year and a half, and at the time of the strike I left and came back six months before the fire.

Q. What was the nature of your work? A. An examiner.

Q. And on what floor did you work? A. On the ninth floor.

Q. At the examining table? A. Yes sir.

Q. I show you People's Exhibit 2, a diagram of the ninth floor of that building. This street here is Greene Street and this is Washington Place and there is the corner of Greene Street and Washington Place, do you understand that? A. I do.

Q. If you walked along the Greene Street sidewalk and walked uptown you would come to the Greene Street entrance, that is, the freight elevator entrance? A. Yes sir.

Q. But on the other hand, if you walked toward the park you would come to the Washington Place entrance? A. Yes sir.

Q. And right here are the Washington Place or the passenger elevators? A. Yes sir.

Q. And over there are the freight elevators? A. Yes sir.

Q. Right next to the passenger elevators there was a stairway? A. Yes.

Q. And right next to that stairway was a dressing room? A. Yes sir.

Q. And right next to that dressing room and in front of the toilets was another dressing room, is that correct? A. I don't know about the other dressing room, I really never went into the dressing room — I had my clothes outside.

Q. Well, you know where the ladies' toilets were? A. Yes.

Q. And right next were the men's toilets? A. Yes sir.

Q. This is the wall of the building, so the loft is right in here, and these are windows, and if you looked out there was a court here, was there not? A. Yes sir.

Q. Opposite the court over here was the University building? A. That's right.

Q. Right on the side of the wall, on the outside of the building, was the fire escape? A. That is toward this side (indicating) .

Q. That is this side, the fire escape. Now, these lines represent rows of tables on which the operators worked at their machines ~~ they ran that way, didn't they? A. Yes sir.

Q. Do you see the words "Examining tables" there? A. I do.

Q. In this blank space there were examining tables, were there not? A. Yes sir.

Q. Right near the fire escape on that side of the room, the examining tables were there? A. There were two long ones and three short ones.

Q. And over here, that is, near the men's toilet, there were more examining tables in the corner of the building?

A. Yes sir, in the space near the men's toilet.

Q. Now many examining tables were over here? A. One towards the window and one in front of that, a short one.

Q. Two that is? A. Yes sir.

Q. You don't think you could draw in there the examining tables, do you? A. Well, if you make them real small -- what do you mean?

BY THE COURT:

Q. Could you take a pencil — A. (Interrupting) Oh no.

Q. Could you take a pencil and show us about where the examining tables were, by drawing on that diagram? A. I can point out to you. This here, there was one table this way and another one this way (indicating), do you understand? And then on the sides we have short tables, two girls at a table.

Q. So there was one long table and one coming this way.

Q. Extending parallel — do you know what that is? A. Yes.

Q. Extending parallel to the wall on which the fire escape was? A. Yes sir.

Q. Another long wall running just the other way? A. Near the Washington Place school?

Q. Near the University building? A. Yes sir.

Q. Where were you when you first knew there was a fire in that building? A. At my table.

Q. And what did you do? A. When I first heard fire the girls started yelling ~~

BY THE COURT:

Q. No, what did you do? A. I ran towards the Greene Street side and in the excitement instead of walking towards the Greene Street side I went amongst the machines; then I saw there was a big crowd at the Greene Street side and I walked toward the elevator on the Washington Place side.

BY MR. BOSTWICK:

Q. You mean the passenger elevator? A. The passenger, yes sir.

Q. You first went to the Greene Street side of the building? A. Yes sir.

Q. And then you went near the passenger elevator? A. Across the machines.

Q. In the Washington Place side? A. Washington Place side.

Q. How did you get from Greene Street over to the passenger elevators? A. There were too many people in the aisle so I jumped from one machine to the other.

Q. Did the elevator come up then? A. No sir. We waited for a long time and the elevator didn't come.

Q. And then where did you go? A. I went over to that Washington Place door.

Q. That is the door right next to the elevator? A. Next to the elevator.

Q. And leading to the stairway that led down to Washington Place? A. Yes sir.

Q. When you got to that door what did you do to it? A. I

tried to open it and I couldn't open it.

Q. When you say you tried to open it what did you do? Do you know what the knob of the door is? A. Yes sir. I turned the knob.

Q. Did you do anything to the knob of the door? A. I turned the knob and pulled at it after turning.

Q. Did the door open? A. It did not.

Q. Did you see anybody else try that door? A. No. I was first and there was a lot of people in back of me.

Q. After you found that you couldn't open the door where did you go? A. I went back to the elevator.

Q. And then what happened there? A. We waited for that elevator and then he came up and took in as many as he could and when I came I near it he says, "Next trip" and he didn't take me on.

Q. And then he went down? A. And he went down without closing the door of the elevator.

Q. He never came up again, did he? A. He did not.

Q. After he had started down from the ninth floor what did you do? A. Well, I was standing waiting for the elevator to come up and while I was standing waiting the space was about this wide (indicating on judge's bench) and I held on so the people in back of me wouldn't push me into the shaft.

Q. Was there any flame in sight at this time? A. Yes sir, all around the window.

Q. And you could see the fire? A. Yes sir.

Q. And what did you do? A. I saw there was no help, either I would be pushed down or I would have to jump, so I jumped over to the center of the cable — that rope attached to the elevator, which goes up and down and I slid down as far as the fifth floor. When I got to the fifth floor a lot of people fell on top of me and pulled me with them.

Q. Do you know whether Katie Weiner was on top of that same car? A. I do not. I was unconscious when I got there.

Q. You were unconscious? A. I was.

Q. So that the last you remember was when you were ~ A. I was at the fifth floor.

Q. And you were then hanging on the cable, or had you dropped to the top of the elevator? A. I only remember coming to the fifth floor. I remember seeing that “5” there, and a lot of people fell on top of me.

Q. Do you know, at that time, when you got to the fifth floor, do you know whether you were on top of the elevator or whether you were still holding onto the cable? A. I don’t know what you mean by the cable.

Q. Were you still sliding down the cable when you saw the number “5” or had you reached the roof of the car? A. I was still sliding but I fell and a lot of people fell on top of me.

BY MR. BOSTWICK:

Q. Do you know whether this was the elevator nearest Washington Place or not? A. It was not — towards the dressing room.

Q. It was the one nearest in there (indicating)? A. Yes.

Q. In other words, the one nearest the north? A. Yes sir.

THE COURT: We will take a recess now. Gentlemen of the Jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. Don't let anybody talk with you about the case and don't talk with anybody about the case. Recess till two o'clock.

After Recess, Trial Resumed.

CELIA WALKER, resumes the stand and further testifies:

DIRECT EXAMINATION BY MR. BOSTWICK, CONTINUED:

Q. Speaking of the Washington Place door that led from the factory to the stairway from the ninth floor, did you ever see anybody come in or go out through that door? A. No sir.

Q. You knew there was a door there, didn't you? A. I did.

Q. Did you ever see a key in that door? A. No sir.

Q. At night when the girls, the operators, went home which door did they go out? A.

Greene Street.

Q. Did you ever see a watchman standing at the Greene Street door? A. Yes sir.

Q. Did you ever see what the operators did as they passed out? A. Opened their bags.

Q. If I remember correctly, you said that when you were taken from the top of the elevator you were unconscious? A. I was unconscious.

Q. Before you lost consciousness do you know whether any other people had jumped on the top of that elevator? A. I don't know.

Q. How old are you? A. Twenty years.

Q. Born in this country? A. No sir.

Q. Now long have you been in this country? A. About fourteen years.

Q. About how many employees would you say were in the factory at the time of the fire? A. On the ninth floor?

Q. Yes. A. About five hundred — I never counted the machines.

Q. You never counted them? A. No.

Q. But your impression is that there were five hundred? A. Yes sir.

BY THE COURT:

Q. Do you know how many machines there were in that room? A. No sir, I never counted them.

CROSS EXAMINATION BY MR. STEUER:

Q. Did you mean by your last answer — I didn't take in the question — that there were five hundred on that one floor? A. I said I didn't count them but to my eyesight I surmised about five hundred.

Q. When you first heard of any disturbance you were at one of the examiner's tables?
A. Tables, yes sir.

Q. And that examiner's table was near the fire escape? A. No sir.

Q. Where was it? A. Towards the men's toilets -- more towards the men's toilets.

Q. That would be between the fire escape and the -- A. (Interrupting) The door.

Q. And the dressing closet, would it not? A. Yes sir.

Q. The closet in which you kept your clothes? A. I didn't keep my clothes there.

Q. Oh, you did not? A. No sir.

Q. Where did you keep yours? A. I had a wall right near me and I had a nail there and my coat hung there.

Q. You had your clothes right near by where you worked? A. Where I stood, yes sir.

Q. How was it that your attention was first called to the fact that there was anything wrong? A. Well, the girls started to holler "Smoke" and it smelled like fire.

Q. The girls started to holler? A. Yes sir, and they said "Smoke". I looked around, and they started to scream. I said, "It is all right". I consoled them. And then all of a sudden looking up I saw flames all around.

Q. Do you mean by that that right after you heard some of the girls call "Smoke" then when you looked up you saw flames? A. Yes sir.

Q. All around? A. Right away towards where the fire escapes were.

Q. Then you didn't start for the Greene Street side at all, did you? A. I did.

Q. Started for the place where you saw the flames? A. Towards the Greene street door.

Q. Then the flames were not at the Greene street door, were they? A. I said on the side where the fire-escape was.

Q. Oh, the flames were on the side where the fire-escape was? A. The fire escape.

Q. And if we treated that wall that is behind you as the Greene street wall, then those flames would have been to your left-hand? A. The Greene street wall was not towards my back.

Q. No, I am treating it now as if it was, don't you see? I don't say it was behind your back at all. A. Oh.

Q. I am saying if we treated the wall of this room that I am looking at as being the Greene street wall, then those flames would have been to your left-hand, wouldn't they? A. Yes, sir.

Q. And were you standing in relation to the Greene street wall about the same as I am standing now, in the back of you? A. I was facing the Greene street wall.

Q. And these flames were over near the fire-escape to your left-hand? A. This way, towards my left-hand.

Q. You mean over that way? A. Well, if I was standing that way, yes, sir.

Q. I am taking the position now, which I suppose you were in? A. I would.

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

Q. And seeing those flames over there on the fire-escape side, from where you were the Greene street door was perfectly

clear to you, was it not, - to that line and side, I mean?

A. Yes, straight in front of me.

Q. You could see it? A. Yes, sir.

Q. The door was in perfect view from where you worked, was it not? A. It was.

Q. The Greene street door?

BY THE COURT:

Q. From where you were standing when you first saw the flames could you see the Greene street door? A. Yes, - not the whole of the factory leading to the hall.

BY MR. STEUER:

Q. When you say the door of the factory, you mean by that the door that was in the partition through which you walked in order to go to the door for the stairs? A. Yes, sir, I could see that door.

Q. In that place were there any flames at all? A. No, sir.

Q. Was there any smoke at that place? A. There was.

Q. There was smoke but not flames? A. No flames.

Q. From where you were you could not see the Washington place door at all, could you? A. No.

Q. And you couldn't even see the Washington place elevators from where you were?
A. I could not, no.

Q. Did I understand you correctly to say that you ran out on the machines then? A.
When I walked toward the door I saw a lot of people, I said.

Q. Toward what door? A. Greene street. I saw a lot of

people and I saw the smoke and then I got excited and instead of keeping on I walked amongst -- I ran amongst the machines and jumped from one row of machines to another.

Q. Let me ask you, - were you so excited at that time that you don't distinctly remember just what you did, or do you now very distinctly remember what you did? A. I remember everything that I did there.

Q. This diagram (People's Exhibit 2) has been explained to you this morning by Mr. Bostwick, has it not? A. Yes, sir.

Q. Now, you will understand from what he said that Greene street is down at the other end of the diagram, and you notice here are the words "examining tables"? A. Yes, sir.

Q. And there also are examining tables. And if I recall correctly you said that where the words "examining tables" appeared nearest to the dressing room it was at an examining table there that you were standing? A. By this (indicating).

Q. And when you pointed your finger you pointed your finger to a point which was near the Washington place side of the wall, and where that wall joins what we have called in this trial the fire-escape wall, or the north wall?

THE COURT: On the Washington place wall.

Q. Where the university building was? A. Yes, sir.

MR. RUBIN: May I suggest, for the convenience of all the witnesses that that dressing room be marked No. 1, and this one No. 2.

MR. STEUER: Yes, mark them that way, Mr. Rubin.

(The dressing rooms are marked Nos. 1 and 2.)

Q. Your table then was between the dressing room which is now marked No. 2, and the wall in which the fire-escape was located, or next to which the fire-escape was? A. Yes.

Q. After you saw the flame then you started for the Greene street door, did you? A. Yes.

Q. And would you mind with your finger just pointing at the way you started to walk — I mean covering the territory through which you walked? A. This is about where I stood (indicating). Then I went in amongst the aisle here, and seeing a lot of smoke, and people running there, there was no room for me, and I ran back, and instead of running this way I ran this way (indicating), and had to jump over these machines.

Q. Now, we will get that clear. You say you started at a point where you were working — that means at that examining table? A. That table.

Q. Which was between the dressing room and the fire escape wall, and running parallel with the University wall — that's right, isn't it? That's where you were? A. That is where I was, yes.

Q. Well, now, you see this here is what we have called or are calling now, the University wall? A. Yes, sir, I understand that.

Q. And this here we have called the north wall or the fire-escape wall, you see? A. Yes.

Q. Now, being here in the position that you have told us about you started to go from your place over to the door on the Greene street side? A. I did.

Q. And your object was to get to the Greene street door, was it not? A. It was.

Q. When you pointed with your finger just now, I don't know whether you did it intentionally or not, and that is why I am asking you the question, you drew your finger down alongside of that partition? A. I don't know where the door is here. I went straight along.

Q. Well, then I will show you the door, see? I thought that might be a mistake, that is why I ask you. Now, the door which leads into the partition and which door I thought you said you could see from where you stood at work is right here, you see? A. I see.

Q. And it is marked there "wood partition and door"? A. I see.

Q. And this open space there, do you see where the lines stop on either side? A. I do.

Q. Well, the open space there between those lines, that is meant to be the door on that diagram you see? A. Yes.

Q. Now, having that in your mind that that is meant to be the door, suppose you show us again how you walked? A. That was about my table, and if this is the place where it was empty, I walked as far as here (indicating almost to the door).

Q. You have pointed your finger as going through the

place which was empty and where you stood, and I ask whether there were any machines there? A. No machines there.

Q. And that is where you walked, where there were no machines and then you stopped your finger a little distance from the door?

THE COURT: At about the end of the screen, nearest the University wall.

THE WITNESS: Yes.

Q. Could you give us an idea in feet, do you think, of how many feet that was at that time from the door? A. I have no time to look at feet.

Q. I don't suppose you had time to look at feet, but I am asking you if you recollect now? A. I have no idea.

BY THE COURT:

Q. How close about did you come to that door in the partition? A. I don't remember.

Q. Did you come to the end of the screen? Do you know what I mean? A. Do you mean the partition?

Q. Yes, that partition. Did you get as far as the end of that? A. No, there were a lot of people around there.

Q. Did you get to it? A. Not right close to it, because there were people in the way. When you go to the roof you did get at that point.

BY MR. STEUER:

Q. Will you tell us then what you did, and use your finger to point out, will you?

THE COURT: Take your finger now.

A. When I got about there (indicating) I saw a lot of people in the way trying to get out, and smoke, and instead of goings back there and back to the elevators I wanted to get to the elevators instead of going back there I went this way.

Q. Instead of coming through the open space you turned right in between the table? A. Among the aisle, between the machines.

Q. I asked you before whether you distinctly remembered where you went, and maybe it will help you if you take a little while before you tell us, but beginning on the Washington place side, do you remember between what tables it was that you walked in? A. No.

Q. You don't remember? A. I do not.

BY THE COURT:

Q. Do you remember how many machines you jumped over? A. I do not.

MR. STEUER: I presume she meant machine tables.

THE COURT: Machine tables.

BY MR. STEUER:

Q. Can you tell us that? A. No.

Q. It was more than one? A. Of course it was.

Q. And it was more than two, wasn't it? A. Yes, sir.

Q. And if where you had your finger before as being the place where you thought you walked, do you remember when you put your finger around there? And please remember I am not

tying you down to anything -- I don't suppose you do remember just where it was? A. I understand.

Q. I just want you to tell us the best you can, don't you see? Now, if you had gotten down as far as this then you would have been either between the fourth and fifth tables, or the fifth and sixth tables, beginning to count at the Washington place side; is that where you think you were?

A. I really don't remember.

Q. Well, when you did start to walk over this way, you do remember that you got between tables? A. Yes, sir.

Q. That is where you were, somewhere between two tables? A. Yes, sir.

Q. And when you got some where between two tables, what did you do -- got up on the table that was nearest to the Washington place side from you? A. I don't know what you mean.

Q. Washington place side? A. I don't know what you mean.

BY THE COURT:

Q. When you started to move over the tables, you moved over the direction of the Washington place elevator? A. Yes, your Honor.

BY MR. STEUER:

Q. Then are we to understand that you jumped from one table to the other? A. I did.

Q. You don't mean to tell the court and these gentlemen here that what you did was to get down on the ground and then get up on the next table? A. No, sir.

Q. And get down on the ground again and get up on the next table? A. No, sir.

Q. But you want to be understood as saying -- A. I jumped from one table to the other.

Q. That when you stood on one table you jumped over on the other table without getting down on the ground, that is what you mean? A. Yes, sir.

Q. In March 1911, do you remember whether your skirt was about as tight as the skirt you have got on now? A. They were not, to work.

Q. But there isn't any question, you are now testifying positively, and you remember it just as distinctly as if you were doing it now, that when you once got up on one of these tables you kept on jumping until you got to the table that was nearest to the dressing room? A. Yes.

Q. Without putting your feet down on the floor at all? A. I only know that I jumped.

Q. You know you kept jumping from one table to the other? A. Yes.

Q. From the top of one table to the top of another table? A. Yes, sir.

BY MR. STEUER:

Q. Never getting down at all? A. No, sir.

Q. Do you think you can jump as well to-day as you could in March? A. I don't think so, no.

Q. You cannot jump as broad to-day as you could in March?

A. No; not in this skirt, and not in the health I am in.

Q. Before you did this thing on the 25th of March had you ever taken athletic exercises so as to make you a good jumper? A. I did.

Q. Where did you go to do your jumping? A. I didn't have to go any where, but when I was a child in school I used to go to the gymnasium — not exactly the gymnasium — you know, the east side schools have evening recreation -- on Grand street, I used to go.

Q. And you used to practice jumping? A. Not jumping — everything.

Q. Did you find out how broad a jump you could make? A. Never.

Q. Did you girls, while you were jumping, if you did jump, did you ever jump with other girls? A. A. rope.

Q. No, I don't mean the skip rope, I mean making a broad jump so as to see how much ground you could cover when you jumped? A. I never did that.

Q. You never did that in your life? A. Never tried to.

Q. Well, now, after you jumped over these tables you got between the first table, beginning to count from the Washington place side and the dressing room which is marked No. 1, did you not? A. I did.

Q. And then being at that dressing room you passed around, or did you pass around to the elevated on the Washington place side? A. I went straight to the elevator.

THE COURT: Pardon me for just one moment, Mr. Steuer. Suppose you ascertain at what point she was, if knows on the last table when she made her jump.

MR. STEUER: I was just getting to that and I was going to try to help her recollection by calling her attention to something.

BY MR. STEUER:

Q. You notice that between two sections, two parts of the second table, nearest to the Washington place side door, there is an opening or passageway? A. Yes, I notice it.

Q. At the time when you were jumping from one table to another, coming towards the Washington place side dressing room or elevators, do you remember whether you were nearer to the Washington place side windows, or whether you where further away from them? A. I was further away from them.

Q. So that in coming over this second table you came over the long part of it and not the short section? A. I did.

Q. And when you came over the table nearest to the Washington place side dressing rooms, were you in about the same position as you were when you passed over the second table? A. I don't remember what position.

THE COURT: Just about as far from the Washington place wall?

THE WITNESS: Oh, I went straight along.

Q. Could you give us an idea of how many machines from the end of the tables nearest the fire escape side that it was that

you were jumping over -- these tables? A. I have no idea.

Q. Were you about the middle of those tables, or nearer the Washington place side, or nearer to the fire-escape side? A. I don't remember, I had no time to look around.

BY THE COURT:

Q. When you made your final jump and landed on the floor, what was immediately in front of you? A. I didn't look. I ran immediately to the elevator.

BY MR. STEUER:

Q. Doesn't your memory serve you sufficiently now to be able to tell us whether when you got down in front of the floor you were in front of the dressing rooms? A. I don't remember that. I jumped down and I ran toward the elevator.

Q. Ran towards the Washington place elevators? A. Yes, sir,

Q. Now, at that time was there a crowd between you and those elevators? A. There was.

Q. Where was the crowd that was between -- A. Waiting for the elevator.

Q. Waiting for the elevator? A. Waiting for the elevator.

Q. So that when you passed through the passage way or open space between the dressing room No. 1, and the first table, that is where you ran, was it not, when you were running towards the Washington -- A. I jumped off of the table and ran toward the elevator.

Q. That would naturally put you between that first table and whatever was nearest to the Washington place side? A. Natur-

ally, yes.

Q. And then you ran through that open space to the Washington place elevators? A.

Yes, sir.

Q. When you got to the Washington place elevators you had passed the Washington place door leading to the steps, had you not? A. I don't just remember.

BY THE COURT:

Q. That is to say you went first off nearer to the Washington place side than the door leading to the Washington place stairs? A. Do you mind showing me where the door was? I can't place it.

BY MR. STEUER:

Q. Why, certainly. You see the elevator doors and the elevators themselves are nearer to the Washington place than the stair door, you see? A. Yes.

Q. The stair door is toward the inside of the loft from the elevators.

THE COURT: Put your finger on it and show her.

Q. The door is this open space here, do you notice it? A. Yes.

Q. Like here? A. Yes, I see.

Q. That is supposed to be the door leading to the stairs? A. Yes.

Q. And these are the stairs going down here, you see? A. Yes, sir, I see.

Q. And now the elevators were over here, over to your left

as you sit there now, and over to my right, - do you understand that? A. I see.

Q. You came from over this way and going to the Washington place elevators you passed the spade opposite the Washington place door, did you not? A. I did.

Q. Now, is it the fact that the first crowd that you came in contact with was in front of the elevator doors? A. There was a crowd before, over here (indicating).

Q. I am not speaking about the Greene street side, I am speaking about the Washington place side? A. Yes, sir, over there.

Q. So you did not stop at the Washington place side door? A. I did not.

Q. Because your intention was to get to the elevators and get out of the building by the elevators as fast as you could? A. Yes, sir.

Q. When you got there you found there was a crowd at the elevator doors? A. Yes, sir.

Q. And the elevator had not come up? A. No, sir.

Q. Did you stop for any length of time in front of those elevator doors, do you remember? A. About a minute.

Q. And then you left the crowd and you went to the door? A. I did.

Q. And you were the first person to get to the door? A. Yes.

THE COURT: Referring to the Washington place door.

Q. The Washington place stair door? A. Yes, sir.

Q. And when you got to the Washington place stair door then the space was perfectly empty so you could get to it readily? A. I just ran over, from the crowd there I ran over to the door.

Q. And there was nobody between that door and the crowd?

A. Nobody at the door.

Q. No, there was nobody at the door? A. Nobody at the door, no.

Q. When you got to the door did a crowd follow you there? A. They did.

Q. A big crowd? A. I don't remember, but I felt the crowd pushing me on.

Q. Pushing you on towards the door? A. Towards the door.

Q. Do you know Miss Monick? A. I didn't know anybody at all to talk to, I used to come to work and go home.

Q. How much time would you say you spent at that door? A. What door?

Q. At the Washington place door? A. I don't remember but I know I turned the knob and pulled it and it didn't open, so a couple of more men and myself knocked out the pane of glass there — I didn't knock it out, but we broke it.

Q. And it crashed? A. After hard knocking.

Q. And the glass cracked? A. Yes, cracked.

Q. Did the glass fall out? A. No, just a part of it, and it cut into my hand, and it started bleeding.

BY THE COURT:

Q. Where was that glass that cracked? A. Half way above the door, going up.

Q. Do you mean that the glass was in the door? A. In the door, yes, sir. The door consisted of part tin, I guess, and part glass.

Q. You mean that there was a glass panel in the door, that the door was partially glass? A. Not the whole door, your Honor.

Q. But a part of the door? A. Half of the door was tin and the upper part was glass
~~ a thick panel of glass.

Q. How large was the glass panel in the door? I am talking about the stair door? A. About this size (referring to the upper panes of glass in the window in the court room immediately to the south end of the jury box).

Q. Referring — A. To the Washington place door.

Q. You say that the upper part of the door leading to the stairs on the Washington place side, on the ninth loft, was made of glass? A. Not the whole door. Half of the door was tin or wood, - I don't know, but the upper part was of glass heavy glass.

BY MR. STEUER:

Q. I would like to get you to tell us that again, if you don't mind. Just what part of that door was of tin? A. I really don't know if it was of tin or wood.

Q. You don't know whether it was tin or wood? A. Or wood, but I know it was heavy, but the upper part was glass.

BY THE COURT:

Q. Do you know where the door knob was? A. I do.

Q. Was the glass all higher than the door knob? A. Yes, higher than the door knob.

BY MR STEUER:

Q. No part of the glass came below the door knob? A. I could barely reach it.

Q. You could barely reach what? A. The glass.

BY THE COURT:

Q. You mean to say that when you were standing on the floor in the ninth loft you could hardly reach to the glass in the door? A. I could reach it, you know; it was up to my head, but with my arm I could reach it.

BY MR. STEUER:

Q. Suppose you just stand up for a second. Do you remember whether your height has increased since the 25th of March? A. I don't think so.

Q. You may sit down now. Thank you very much. Do you mean to say, or did you mean to say just a second ago when you said, "I could reach it", that in order to get to the glass you had to reach? A. I lifted my arm up.

Q. Had to lift your arm above your head? A. I didn't look whether it was above my head, but I know I lifted my arm up.

Q. In order to meet the glass? A. (No answer).

BY THE COURT:

Q. That is to say, that the bottom of the glass was about on what level, as compared with your head? A. I really didn't look, your Honor.

Q. Could you, standing on the floor, look through any glass that was in that door? A. You couldn't look through that glass, because it was a thick pane of glass.

Q. Was the bottom of that glass as far from the floor as the top of your head when you were standing in front of it? A. I couldn't exactly say, your Honor.

Q. What is your best recollection? A. never thought of looking at that.

BY MR. STEUER:

Q. Now, while you were at that door, you say two men came over? A. I didn't say two men; a couple of men were in back of me.

Q. When you say a couple you don't mean two, then? A. Well, there were not only men, there were girls in the back of me also.

Q. Oh, yes, you have stated that there was a crowd of girls and that they were pushing forward on you.

MR. BOSTWICK: I don't recollect that testimony.

MR. STEUER: I regret that.

Q. Did you say that there was a crowd of girls behind you and they were pushing forward? A. I said when I went to go to the elevator, I felt myself pushed forward towards the door.

Q. Which door do you mean? A. Washington place door.

BY THE COURT:

Q. They were pushing you in the direction of the fire escape wall? A. No, sir, your Honor, towards the Washington

place door.

BY MR. STEUER:

Q. When you started for the Washington place door the crowd was behind you?

A. Yes, sir.

Q. And without knowing that anybody in particular was pushing you you did know that you were being pushed toward the Washington place door? A. I was being pushed, yes, sir.

Q. That is, you would have moved along because of the force behind, even if you had not wanted to walk? A. I don't know what you mean — moved along where to?

Q. Well, I mean you would have been brought forward? A. Well, I was bound for the door.

Q. And the crowd was behind you? A. Yes, sir.

Q. And you felt that the crowd was pushing you? A. Yes, sir.

Q. Very much towards the door? A. They were pushing me, that's all I know.

Q. When you got to the door there was nobody in front of you? A. There was not.

Q. You were the first one to get to that door? A. I was.

Q. Then was there a rush from that door back to the Washington place elevators? A.

I don't know. What do you mean? Do you mean myself?

Q. No, the people in front of you, or the people who were -- A. I didn't look at any people, I was taking care of myself.

Q. But when you were at that door, at the Washington place door and wanted to get back to the Washington place elevators,

you had to turn around, didn't you? A. Yes, sir.

Q. And then the people who were in back of you while you were at the door were in front of you, were they not? A. They were.

Q. And did those people while you were trying to make your way to the Washington place elevator door, were they also making their way to the Washington place elevator door? A. They were, yes, sir.

Q. And they got there before you? A. They did.

Q. And when it came your turn to get into the elevator, the man said it was too late for you, and he would takes you on the next trip? A. He did.

Q. And he started down, is that right? A. Yes.

Q. And when the elevator started down your recollection is that you continued on until you got to the fifth floor, - you have a recollection? A. I don't know what you mean? Will you please say that over again.

Q. You recall as you were racing down and were sliding on the cable that you saw the figure 5? A. I did.

Q. Which conveyed to you that at that time you were at the fifth floor, and from that time on you really don't remember anything until you got out of the building.

Q. But while you were going down and before you reached the fifth floor there was nobody between you and the roof of the elevator? A. I don't know, - the roof of the elevator was down stairs.

Q. The roof of the elevator was all the way down? A. I suppose so, because I rang the bell while waiting, and he wouldn't come up, and I didn't see that cable moving.

Q. And did you wait until the elevator got down before you started? A. Yes, sir, till it got down. I rang the bell and he didn't come up.

Q. Oh, I see. After he said he would take you on the next trip, then you didn't take hold of the cable right away to get down? A. I did not.

Q. You waited until there would have been time for the elevator to come up, or at any rate you rang, and after you rang and the elevator didn't come up, then it was that you took the cable? A. I did.

Q. Did you see anybody while you were standing there touch the cable before you touched it? A. I did not.

Q. And while you were going down you didn't see anybody below you, but you remember that when you saw that figure 5 at that time that you think something struck you and that was the last that you recall? A. I felt something strike me and I "went off".

Q. And that is the last that you recall? A. That's all.

Q. You worked on that floor a year and a half, I think you said, and then the strike broke out? A. Yes, sir.

Q. And you went out with the strikers? A. I didn't. I left and I worked somewhere else at the time of the strike.

Q. You went to work some other place during the time of the

strike? A. Yes. I left Harris and Blanck place to work at some other firm.

Q. And then after the strike you left this other place and came back to work for Harris and Blanck? A. Not right after.

Q. But some time after? A. I did.

Q. So that the situation was with relation to the time you had worked about a year and a half for Harris and Blanck before the strike? A. I did.

Q. And then when you came back it was about six months that you had worked up to the day of the fire? A. That's right.

Q. During the year and a half that you worked before the strike broke out do you say that that door was never open? A. I never saw it open.

Q. Not even in the summer time? A. Never.

Q. So that it is not a fact that the door during July and August was wide open during working hours? A. I never saw it open.

Q. Did you look in the direction of that door? A. I never looked, I never thought of that door.

THE COURT: Pardon me a moment.

BY THE COURT:

Q. When you say that you never saw it open, do you mean by that that you don't know whether it was locked or unlocked? Or do you mean that you never saw the door so that you could look through into the hall? A. I never saw the door open.

Q. And by open you mean not merely so that you could turn

the knob and open it — or what do you mean? A. I never went near the door to try the knob.

BY MR. STEUER:

Q. You never went near the door to try to open it? A. No.

Q. But from where you worked you couldn't see that door at all, could you? A. I could not.

Q. Well, now, do you recall that during the summer months between July and August, when it is hottest, did you ever go in the direction of the Washington place windows? A. I never used to go there.

Q. During July and August, were you were in a position where you could readily and easily have seen that door? A. When I passed by from Greene street to my table, and if I looked in that direction, it was closed. That was the only time I saw it, of if I came in to work.

Q. When you came in to work? A. Yes, sir.

Q. In the morning? A. Yes, sir.

Q. And that is the only time you had an opportunity to look at that door. A. To look at that door.

Q. Then you were unable to tell us whether during July and August, during the day-time that door was kept open all the time? A. Of course not, I never saw it.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. You have been sick for a week, haven't you? A. I have.

Q. Now, all this that you have testified to happened in a

very short space of time, did it not? A. At the time of the fire, do you mean?

Q. Yes. A. Yes, sir.

Q. Now, when you say you were the first person at that door, you don't know who had been at that door before you had gotten there?

MR. STEUER: Objected to as leading and suggestive. I think she has described the position there thoroughly.

THE COURT: I think I will sustain it.

Q. When you were at the elevator, you don't know whether anybody was at that door, do you? A. Towards the stairway?

Q. Yes. A. I do not.

Q. And when you were jumping over the table, or when you were going to the Greene street side, you had your back to the door, didn't you? A. I did.

Q. So that at that time you don't know who might have been at the door? A. I don't.

Q. Now, I show you People's Exhibit No. 22, which purports to be a picture of the door on the sixth floor, and I ask you to look at the door with the glass in which is broken, and ask you whether the door on the ninth floor was anything like that, or if not to state the difference? A. It was.

Q. I show you some glass, and I ask you whether the glass that you have testified to as having been in the door was anything like that in character? A. It was that color, I don't know how thick it was.

MR. BOSTWICK: I ask that a piece of that be marked for identification.

(Marked for identification People's Exhibit 28.)

Q. If I understood you correctly, you said you did not know whether the lower part of the door, or the part other than glass, was made of tin or wood? A. I did not.

Q. You are not clear about that? A. I am not.

Q. There were how many passenger elevators? A. Two.

Q. And do you know whether you went down the one nearest the street, or the other one? A. Nearest the door towards the dressing room.

Q. Did you go down the cable of the elevator nearest the Washington place side, or the other one, or don't you remember? A. I remember that I went down towards the door, towards the dressing room.

Q. The one nearer to the dressing room? A. I can't explain.

Q. In other words, showing you again People's Exhibit 22, you mean the one indicated as being nearest to the door? A. Yes, going in.

Q. Do you know how many people were found on top of that elevator with you? A. I do not.

Q. You have been asked whether you ever saw that door open by his Honor; did you ever see anybody go in the door, through the door, or come in the door, through the door? A. No, sir.

MR. STEUER: She has already answered that.

THE COURT: I will let it stand.

RE-CROSS EXAMINATION BY MR. STEUER:

Q. Your mother sued Harris and Blanck, did she not? A. Yes, sir.

Q. Brought two cases against them, one for you and one for herself? A. One for herself? Not that I know of.

Q. You only know the one that she brought for you, is that it? A. I don't understand. I never heard of that before.

Q. What do you mean, you don't understand it? You never heard that your Mother sued Harris and Blanck? A. My father is suing for me, because I am under age.

Q. Oh, yes, pardon me. I mean your father, Abraham Walker? A. Yes, sir.

Q. He brought a suit for you and you didn't know that he brought one for himself? A. I did not.

MR. BOSTWICK: I understood your Honor to rule that all witnesses would be excluded from the room. Was I correct in that?

THE COURT: Yes.

MR. BOSTWICK: I would like to know whether there not been present this morning witness for the defendant.

MR. STEUER: Certainly none that I know of.

THE COURT: All witnesses in the case on either side will step outside.

LILLIAN WEINER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 338 South 3rd street, Brooklyn.

Q. Miss Wiener, on March 25th, 1911, were you in the employ of the defendants, Harris and Blanck, were you not? A. Yes, sir.

Q. And you were employed on the ninth floor? A. Yes, sir.

Q. And what was the nature of your work? A. Examiner.

Q. How old are you? A. Twenty-two.

Q. How long have you been in the employ of Harris and Blanck? A. In their employ three years.

Q. How long have you been in this country? A. Fifteen years, that is all.

Q. Now, I show you plaintiff's Exhibit No. 2, which is a diagram of the ninth floor (exhibiting diagram). This (indicating) is the ninth floor, and inside there (indicating) ~~ A. What do you mean?

Q. This is a diagram, a picture of the ninth floor. This is Washington place running along here (indicating), and this is — these are the Washington place windows, these places (indicating). And there is the Greene street indicated over there (indicating). That is the corner of Washington place and Greene street (indicating). If you were standing on the corner and should walk uptown, along Greene street,

you would come to the entrance an Greene street. Do you understand that? A. Yes.

Q. If you talked west toward Washington Square, practically, you would come to the entrance on Washington place. Now, over here are the Washington place elevators (indicating) just as you come in the door from Washington place stairway. On the ninth floor there was the elevators, the stairway, and then there were two dressing rooms, and right behind the dressing room the ladies toilet (indicating), and the men's toilet, and rows of tables with machines on, at which the operators worked are set forth by these lines. Is that correct? A. It is set forth -- the lines to the Washington windows --

Q. Running to the Washington place windows? A. Yes, sir.

Q. Here are the Washington place windows, that line here indicates to those windows (pointing)? A. This is Washington place windows, yes?

Q. Yes. A. That is the way they run.

THE COURT: Perhaps if you turn it around she will understand it better.

(Diagram turned around.)

Q. Is that better for you? A. Yes, sir.

Q. There are the windows (indicating)? A. Yes, sir.

Q. The fire-escape was right hare (indicating). A. On back of the court.

Q. In the court? A. Court.

Q. And in here (indicating) is the court, see? This is the court here (indicating) and here is the fire-escape? A. There is the fire-escape.

Q. This was the corner of the room? A. The court yard.

Q. Now, do you see the words "examining tables" there (indicating)? You see those words, "examining tables"? A. Yes, sir.

Q. Now, in here (indicating) between the end of these tables having the machines on them and the fire escape, there were examining tables were there not? A. Where, at the machines?

Q. Between the fire-escape and between the tables on which the machines were? A. I don't quite recollect just now.

Q. These here are the tables (indicating) A. Yes, sir.

Q. And this is the fire escape (indicating)? A. Yes, this is the fire escape.

Q. And between these two —— A. The fire-escape is.

Q. You know that at the end of the table there were examining tables were there not? A. Yes, sir.

Q. How many? A. There were five.

Q. And were there any over here (indicating) near the men's toilet? A. The men's toilet, there were two tables there.

Q. Two there? A. Yes, sir.

Q. Now, at which of these examining tables were you working at the time of the fire? A. I was in the courtyard.

Q. Nearest the men's toilet? A. Not near the men's toilet.

Q. Near the court? A. Near the courtyard. I faced Washington windows, that is where I was standing.

Q. You had your back to the court? A. Back to the court.

Q. Where you between the corner of the room and the fire-

escape? A. I was right in the centre, right between the fire-escape right in the centre.

Q. Right near the fire escape? A. Yes, sir, right near the fire escape.

Q. Where, out near the examining tables, right near the fire escape? A. Yes, sir.

Q. Now did you first know there was a fire? A. I heard them say smoke.

Q. You heard them say smoke; where did you go to? A. I ran onto the table, and found myself in the centre of the room.

Q. That gentleman over there (pointing to the twelfth juror wants to hear you) and I want to hear you? A. I went outside and found myself in the centre of the room, and then I ran to the elevator, the elevator did not run. I ran to the Washington door.

Q. You say you ran to the elevator, do you mean the freight elevator or the passenger elevator? A. The passenger, Washington elevator, the right-hand side.

Q. The Washington place elevator? A. On the right-hand side, I saw there was no use going, trying to get out there, there was a lot of people there.

Q. And you went to the Washington place, Washington place passenger elevator, - where did you go? A. I went to the Washington door.

Q. You mean the door on the ninth floor leading to the stairway? A. Yes, sir.

Q. When you got to the door what did you do? A. I tried to turn the handle and it would not bend, it was locked.

Q. Did you see anybody else try that door? A. There was a lot more girls before me.

Q. After you failed to get out that door where did you go? A. I ran to the Washington window, I wanted to jump, and when I saw the flames, I ran back to the door, and tried again, and there was no use, it was locked; and then I ran to the elevator. I seen the elevator come up on the tenth floor, and then when I saw the elevator come down again, I knocked at the door, and he opened the door and I fell into the elevator, and a whole lot of more girls fell in on top of me.

Q. You got out through the Washington place passenger elevator? A. Yes, sir; Washington place passenger elevator, through the elevator.

Q. Did you see any of the girls run to the fire-escape? A. There is one girl, a friend of mine, Mrs. Gussie Rosenfeld, I saw her at that time.

Q. Was Gussie on the ninth floor? A. Yes, sir.

Q. Where did you last see Gussie? A. At the time of the smoke when we heard of smoke, that is the last time I saw her.

Q. On what part of the floor was that? A. It was in the same — it was in the same court, there is a table right in front of me where I worked, facing Washington place.

Q. Now, at night. when you left the ninth floor of the factory, by what way did you go out? A. The Washington side

elevator.

Q. And how did most of the operators go out at night? A. I don't recollect that now; you asked me at the time of the work?

Q. After the bell sounded, the quitting bell to stop work?

A. Yes, sir.

Q. And the employees, the operators started to go home A. Yes, sir.

Q. — by what way would they go out? A. To the Greene street.

Q. To the Greene street entrance? A. Yes, sir.

Q. And at Greene street was there stationed a man or a watchman? A. A watchman.

Q. And what would the employees do as they passed the watchman going out of the Greene street way? A. They used to examine the girl's bags to see if there is any stolen goods.

Q. You worked there for the defendant for how many years? A. I worked there for about, - I don't recollect, about three years or three and one half years, I should say.

Q. While you were there did you see people going in and out of the Washington place door? A. Never.

CROSS EXAMINATION BY MR. STEUER:

Q. You worked so that you had your back to the window that led onto the fire-escape, is that right? A. Yes, sir.

Q. And did you mean that you were right in the centre of that window when you heard something said about smoke? A. Yes, sir.

Q. And you could have stepped right out of that window at that time, couldn't you? A.

No, I could not.

Q. Why not? A. Because the windows were closed at the time.

Q. The windows were locked? A. They were closed.

Q. Could you open it? A. Well, I didn't try it at that time, to open it, I was so excited, and I ran outside.

Q. Right away, just as soon as you heard smoke, you got so excited that you ran outside, is that right? A. Outside of the centre of the room.

Q. How long had you been working right alongside of this window? A. This window, — since I was employed there.

Q. That is either two or three years or more? A. Three and one-half years.

Q. They kept the windows closed all the time? A. They have it a little bit up on the bottom open ~~ I mean top, and the bottom was closed.

Q. All the time? A. Yes, sir.

Q. Winter and summer? A. Well, I don't remember that.

Q. What? A. I don't know that whether in the winter.

Q. Why don't you know? A. Sometimes used to have it open and according to the weather used to have it open and have it closed.

Q. Was there any difference between the window in that building and any other window, was it harder to open that window in that building? A. Well, I never tried it, to open it.

There was a man always used to open it for us.

Q. You were standing alongside of that window for three years and cannot tell this jury whether it was easily opened or not? A. We never tried to open it.

Q. Never tried. So you don't know? A. They never allowed us to open the window.

Q. They would not even allow you to open the window? A. No, sir.

Q. Did Mr. Blanck ever tell you not to open the window? A. Not Mr. Blanck.

Q. Mr. Harris told you that? A. Mr. Bernstein.

Q. Which Mr. Bernstein? A. Yes, sir, Mr. Bernstein did.

Q. Which Bernstein told you not to open the windows? A. Bernstein the superintendent.

Q. So you stood right alongside of the window and you tell us you were not allowed to open the window? A. Yes, sir.

Q. They kept watch of you all the time so you should not open the window? A. Yes, sir.

Q. When you considered that your life was in danger, were you waiting for anybody's permission to open the window? A. I did not think at that time to open the window.

Q. Didn't think of it at all. You walked around the table? A. I walked outside the table, and found myself in the centre of the room.

Q. You found yourself in the centre of the room. From the centre of the room you were between tables, weren't you?

A. Well, not exactly, there were a lot of boxes standing around, you know.

Q. Well, weren't you between the tables when you were in the centre of the room, between the sewing machine tables? A. There is sewing machines, there was the table right between it, yes, sir.

Q. between which tables were you, do you know? A Well, right the front table at Washington place.

Q. The first table? A. The first table; my table is right in the back, and there is a table before mine.

(The map is exhibited before the witness.)

Q. Now, which way did you understand this better? This way (indicating). Now, your table was over here, wasn't it (indicating) towards the Washington window? A. Toward the Washington window?

Q. Yes. A. Yes.

Q. And there is the fire-escape (indicating)? A. Right back of me.

Q. And that was right in back of you? A. Yes, sir.

Q. Now, you say you came out — A. I say the fire-escape is right in back of me.

Q. Yes, I understand you say so. Now, you say you came out into the centre of the room? A. It was in the centre of the room.

Q. You found yourself in the centre of the room? A. Yes, sir.

Q. Tell us where was the centre of the room? A. Right by

the machines and the tables.

Q. Here are the machine tables (indicating), you see them here, do you not? A. The line goes this way (indicating).

Q. Eight of them. Where is the centre of the room where you found yourself after you came out from your table? A. Well, there was the front table, (indicating), and there was the machine.

Q. Then what? A. The first line of these machines are two.

Q. Yes. Do you want this explained to you any more? A. Yes, sir, explain it. I cannot make it out.

Q. Start with this, with your table, your table is over here, you see (indicating)? A. I worked at the front table.

Q. Yes, Madam, which front table, do you mean? A. There is one table in front of me.

Q. The examining table in front of you, an examining table? A. Yes, sir.

Q. You say your table is in there near the window, that is your window? A. Yes, sir.

Q. Then there is another table. A. In front of me.

Q. In front of you? A. Yes, sir.

Q. First tell us what did you do? You walked which way, around your table? A. Around my table, outside.

Q. Did you walk towards Greene street or towards the other way? A. Well, when I walked out I walked towards Greene street, and then again around in the centre.

Q. Then you case from this window, around this way (indi-

cating), around this way? A. Around this way.

Q. Did you also walk around the table in front of you? A. I stood right there.

Q. You stood there? A. Right near the window.

Q. Right near the table that was in front of you? A. Yes, sir.

Q. Then that did not bring you as far as the operators' tables, did it? A. It is not far.

Q. Not far? A. Not far.

Q. It brought you near to where the operators' tables were?

Q. Is that right? A. Yes.

Q. Is that what you mean when you said the centre of the room? A. Yes, sir.

Q. Now, then, there was an open space between you and the Greene street door, wasn't there? A. What do you mean, there was an open space?

Q. There was nothing between you and the Greene street door at that time, was there? A. There was tables standing there.

Q. What kind of tables? A. Well, they had there trimmings there at them which they gave out for the work, which did not belong to the examiners.

Q. Where were those tables? A. Right in the court here too.

Q. In the courtyard? A. Right side of the girls, on the same table where I stood.

Q. Where were they? A. They were right back of this fire-escape, this table.

Q. Back of the fire-escape? A. The line gives the courtyard (indicating), - you understand what I mean?

Q. The fire-escape went into the courtyard, didn't it? A. Yes, sir.

Q. Where that table went? A. The same line as my table I worked at.

Q. Was it to your right-hand or to your left-hand as you worked? A. The table?

Q. Yes, Ma'am. A. It went to the Greene street, left-hand.

Q. To the left-hand? A. Yes, sir,

Q. Hers is your table in here (indicating). Now windows away from you was that trimming table? A. Where I worked how many windows?

Q. Yes, ma'am, towards Greene street? A. About three windows, or so; I don't recollect; about three.

MR. RUBIN: Speak up, so that this twelfth juryman and the sixth juryman can hear what you say.

Q. About three windows? A. Three windows.

Q. Are you sure there were three windows between you and the Greene street door?

A. I don't recollect, I don't remember now. I never counted the windows.

Q. Now, the table, that is the trimming table, was near the same wall where your table was, wasn't it? A. On the same line.

wall where your table was, wasn't it? A. Same line.

Q. On the same line? A. Yes, sir.

Q. It was no nearer to the wall than yours and no father away from the wall than yours?

A. Just the same.

Q. So when you came out from in front of the examining tables and go near the machine tables there was nothing between you and the Greene street door? A. The Greene street door, there was the partition.

Q. You could look right into the door, couldn't you? A. Which, the Greene street door?

Q. Yes. A. There was a door, a partition.

Q. You could look into the door of the partition, couldn't you? A. Sometimes you could and sometimes not. The door was not always open.

Q. The Greene street door was not always open? A. There was a partition with a door.

Q. Was the door open or closed? A. At the time we worked the door used to be open.

Q. You were working there at that time that we are speaking of, weren't you? A. Certainly.

Q. At that time there was nothing between you and the Greene street door, was there? A. There was a lot of people in the door.

Q. A lot of people in the Greene street door at the time? A. At the time of the fire.

Q. But when you saw the smoke, Miss, and came out front,

from behind the table, and walked away from the window, where you were standing, and stood in what you call the centre of the room —— A. Yes, sir.

Q. ----- did you look at the Greene street door at all?

A. Well, I looked, there was a lot of people in the door; no use of my going over there.

Q. You looked and saw a lot of people, and it was no use for you to go and you turned away? A. I turned away.

Q. The door that was nearest to you at that time was the Greene street door, wasn't it?

A. The Greene street door, yes, sir.

Q. Tell us what you did after you got out here in the centre of the room, tell us what you did? A. I found myself in the centre of the room, and I ran to the Washington door.

Q. What do you mean when you say you found yourself in the centre of the room?

Why do you always use those same words? A. What same words?

Q. "I found myself in the centre of the room"? A. When I did find myself I was in the centre of the room, that is why I say so.

Q. Will you please tell us then just what you did from that time on? A. I went to the Washington door, it was locked, I turned the handle and it was no use, I saw, the handle it would not turn, it was locked.

Q. You ran to the door and the door was locked and you turned the handle and there was no use turning the handle?

A. Yes, sir.

Q. And it took you some time to go around to the Washington place door, didn't it from where you were? A. I had that time.

Q. What do you say, did it take you some time to go to that Washington place door, it was not a few steps away, was it? A. It was the nearest for me to get out because the Greene street was jammed with people.

Q. When you ran around there to the Washington place door did you meet any people? A. At the Washington street door?

Q. No, by the way you were going, did you meet any people?

THE COURT: That is to say, were other people going in an opposite direction from you?

THE WITNESS: There was a lot of people passing up and down.

Q. Did you at the time when you were coming from over here (indicating), going through the Washington place door, did you meet any people running, run into any people? A. Yes, sir.

Q. Which way were those people running? A. They were running all to the Washington door.

Q. They were running the same way that you were? A. They were.

Q. There were no people running towards the other way? A. They were all running towards the Washington door.

Q. Were they all in the same crowd that you were in, were you all in one crowd? A. What do you mean, they were all in one crowd.

Q. Were you all together running over towards the door? A. They were running different directions.

Q. Now, where did the people come from that ran into you? A. They ran from all over, all the operators, I don't recollect who they were, people which worked there.

Q. Well, then you got around to the Washington place door did you? A. Yes, sir.

Q. And you stopped there? A. Well, you see there was a lot of people there by the door when I got around there.

Q. Before you? A. Yes, sir.

Q. Well, didn't they find the door locked? A. Well, they found -- certainly they did find the door locked.

Q. And you say there was a lot of people in there and they all found the door locked? A. Yes, sir.

Q. And you went over and found it locked too? A. Yes, sir. I tried the handle too.

Q. You would not take their word for it that the door was locked? A. No, sir.

Q. You did not believe them when they said the door was locked? A. I tried the handle myself.

Q. Then you entered the Washington place elevator, did you? A. They didn't say anything, all stood near the door, I suppose they was all trying to see if the door was locked. I went over and tried It and saw it was no use.

Q. They were all by the door, they did not say anything? A. No, sir.

Q. You suppose that they saw that the door was locked so you went over and tried it and saw that it was locked? A. Yes.

Q. The people that were standing there which you say that you suppose had tried the door, they did not say anything at all? A. No, sir.

Q. Just kept standing there? A. Yes, sir.

Q. And while standing there you went by them and tried the door anyway? A. Yes, sir.

Q. You pulled and pushed the door and turned? A. Yes, sir.

Q. Just the same as everybody else did? A. Yes, sir.

Q. You saw others pull and push and turn, didn't you? A. I don't know; I did not see they did; everybody stood there trying, I suppose, trying to get out of the door.

Q. Didn't you see them try? A. There was a crowd, it was crowded and so I tried to get right in there.

Q. Crowded in front of the door? A. Yes, sir.

Q. And they let you get up there too? A. I got through the crowd.

Q. These girls, all excited there and running, they let you get through them, didn't they? A. I got right through, and I pushed right through to the door.

Q. You pushed them to one side? A. Yes, sir.

Q. And you got right through them? A. Yes, sir;

Q. And then you got your hand on the knob? A. Yes, sir.

Q. When you got in near to where they were, by the door, these girls and men, they allowed you to push through them,

down near by the door, so that you got your hands on th
of the door? A. They did; I had my hands on the door;
had their hands on the door.

Q. You saw them pull, didn't you? A. I didn't see much pulling of them. I only know
that I tried the door myself.

Q. And the door would not open? A. No, sir.

Q. And you pushed your way through the crowd till you got to the door, did you? A.
Yes, sir, till I got to the door.

Q. And then you left that door, the Washington place door? A. Yes, sir.

Q. Then you hadn't once gone near the Washington place elevators, had you? A. At the
time the elevator did not run, I passed the elevator, but the elevator did not run.

Q. Did you know it was not running at all? A. I knew It was running, but I did not see
it.

Q. Didn't see it? A. Yes, sir.

Q. Was not there a crowd in front of the elevator doors? A. I don't remember; it was
kind of a darkness and full of smoke at that time.

Q. You don't remember whether there was a crowd in front of the elevator doors? A. I
ran to the Washington window, and I wanted to jump, and I ran back to the elevator.

Q. Which window did you run to? A. Right the first window, right to the left-hand
side of the elevator and Washington.

Q. And then you ran back? A. I ran back to the door, the

Washington door and tried it again.

Q. Weren't you satisfied with the way you had tried it the first time? A. No, sir, I thought it was kind of closed after I tried it again.

Q. The first time when you went to the door, and you tried to get out and you saw there was a crowd in front of it that was also trying to get out, you were not yet satisfied that you had tried enough? A. Yes, sir.

Q. So you went back and tried it again? A. I went back and tried it again.

Q. And after you tried it again, after the first time you went to the Washington place elevator? A. Yes, sir.

Q. And then you got into the elevator and went downstairs? A. The elevator went on the tenth floor and I knocked at the door to stop the elevator, and he didn't, he went on to the tenth floor, then when he saw no one was at the tenth floor, so he came down to the ninth floor and opened the door and I was the first one that fell into the elevator, and a lot of more girls fell on me, on top of me, and that is the way I came down.

MR. BOSTWICK: The diagram not any longer being used, I suggest, not being used any longer for any purpose, that it be taken away so that we can see the witness.

MR. STEUER: I think that every one of the jurymen could see the witness, your Honor. I think you are making suggestions which are entirely uncalled for and unwarranted. Constantly, when you have been using that

diagram I have never made a suggestion or any insinuation that you were blocking the view of anybody.

MR. BOSTWICK: I suggested that if they were through with the diagram, it be put away.

MR. STEUER: May I suggest that any time I am in the way of the jury my attention be called to it and I will step right back and very greatly oblige.

Q. Then you must have been the first one to get to the Washington place elevator there? A. It was the last trip, the first one.

Q. You were on the last trip also? A. Yes, sir.

Q. The first one who happened to get it, but it was the last trip? A. When I got down stairs —

Q. How do you happen to know this was the last trip? A. Why, Mr. Zitto, the fellow that took me down, he told me it was the last trip, they did not go again.

Q. Zitto told you this is the last trip? A. Yes, sir.

Q. Do you know as a matter of fact one of these elevators went up to the tenth floor and there was not anybody near the elevator, and that he came down with one person in the whole car? A. (No response)

Q. Don't you know that the elevator made a trip and brought only one colored man, one colored porter down from the tenth floor?

MR. BOSTWICK: I object to that.

THE COURT: If she knows, yes or no. Do you know

that? Repeat the question.

(Question repeated) A. I don't know that.

Q. Now, you went down, you say, on the last trip of the elevator, and I asked you the question not whether you went down on the last trip, I asked you the question whether you were not the first person in front of the elevator, the Washington place elevator doors? A. Yes, sir.

Q. Well, now, they had made trips before from the Washington place side, hadn't they? A. I don't know.

Q. Did you have to fight your way in order to get in front of the Washington place elevator doors? A. I was the first one there to get into the elevator.

Q. Did you have to fight your way through any girls to get to this Washington place elevator doors? A. No, sir, at the time when I went near the elevator there was no one.

Q. There was no one in front of the be elevator doors? That is, you had been to the Washington place side doors twice, had actually gotten to the door twice? A. To the door, not near the elevators.

Q. You had been to the Washington place door twice? A. Yes, sir.

Q. And you had been to the Washington place window? A. Yes, sir.

Q. And opened the window on the Washington place side? A. It was open.

Q. And you had looked out? A. Yes, sir.

Q. And then came back to the Washington place doors, that is right, isn't it? A. Yes, sir, to the elevator doors.

Q. First, when you came back —

THE COURT: She said she did.

Q. You went back to the Washington place side door, the stairway, and tried it again, didn't you? A. Yes, sir.

Q. And then went over to the Washington place elevator doors and did not find anybody in front of these elevator doors? A. Well, I was the first one there.

Q. How do you write you name? How do you spell it? A. W-i-e-n-e-r.

Q. Are you a relative of the girl who testified here this morning? A. No, sir, no relation whatever.

DORA AXLEROD, a witness called on behalf of the People being first duly sworn, testified as follows: (through the official interpreter)

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 276 Madison street.

Q. On March 25th, 1911, you were in the employ of the defendants Harris and Blanck, were you not? A. Yes.

Q. And you are a waist maker? A. Yes, sir.

Q. Employed on the ninth floor? A. Yes, sir.

Q. Now, when you heard the cry of fire where were you standing? A. At my machine.

Q. And in what part of the floor was your machine? A. The

Greene street place.

Q. Now, at the cry of fire where did you go? A. To Washington place.

Q. When you got to the Washington place door — when you got to the Washington place side, where did you go, to the Washington place elevators, or to the Washington place door? A. To the door.

Q. When you got there were there any other people there at that time? A. I could not get near it because the crowd of people were there already.

Q. Could you see anybody — could see what anybody did with the door or at the door?

A. No, I could not see anything. Q. Did you hear anybody crying anything?

MR. STEUER: I object to that as incompetent.

THE COURT: I will allow her to answer yea or no.

MR. STEUER: I take an exception.

THE COURT: Not what they cried, yes or no, did you hear anything?

A. Yes.

Q. What they cried out, did it have anything to do with the door?

MR. STEUER: I object to that as incompetent.

THE COURT: Sustained; I will allow you to ask what they called out.

MR. BOSTWICK: I won't press the question, your Honor, with this witness,

because —

THE COURT: Oh, very well.

Q. Now long have you worked for the defendants? A. Six months.

Q. During that time did you see people go in or out of the Washington place door? A. No, I did not see.

Q. Did you ever see anybody go in or out of the Washington place door during the time you worked there? A. No, I never saw.

Q. When you quit work at night how did you go out from the factory? A. They used to go out through the door to Greene street.

Q. As you went out through the Greene street door, did you see a watchman there? A. Yes, the watchman used to stand there.

Q. And as the watchman stood there as you passed out what would you do? A. He used to tell me to open my pocket book and see whether I didn't take anything.

CROSS EXAMINATION BY MR. STEUER:

Q. Did you go out to lunch while you were working there? A. No, never.

MR. STEUER: That is all.

BECKIE BURSKY, a witness called in behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK: (Through Official Interpreter)

Q. Where do you live? A. 262 Prospect Park West, Brooklyn.

Q. On March 25th, 1911, were you in the employ of the

defendants Harris and Blanck? A. Yes.

Q. And on what floor did you work? A. Ninth floor.

Q. What were you, an operator? A. Yes.

Q. Now, in what part of the floor did you have your machine.? A. The second row of machines from the Greene street side.

Q. That is at the first table, is it not? A. The second table.

Q. There were two rows to each table? A. Yes.

Q. And you were on which the second table? A. The second table.

Q. The one facing Greene street, or did you have your back to Greene street? A. No, with the face towards Washington place.

Q. (Producing map) This is Washington place (indicating) and this is Greene street (indicating)? A. Yes.

Q. And this is the first table right next to the Greene street window (indicating)? A. Yes.

Q. And this is the second table next to the Greene street window (indicating). A. Yes.

Q. Now, you worked at this table (indicating)? A. Yes.

Q. Now, you either sat with your face to Greene street or with your back to Greene street? A. With the back towards Greene street and the face towards Washington place.

Q. Did you see the — when, you say Washington place, you mean where the dressing rooms were? A. Yes.

Q. You understand that this is Washington place (indicat-

ing)? A. Yes.

Q. So that you had your back to Greene street and had Washington place windows to your side? A. I don't understand the diagram, because I am not so well educated, but I can explain exactly how it was.

Q. What was the first thing that happened that made you aware of the fact that there was trouble or a fire? A. It right after the bell had rung; I had taken my coat and hat from the dressing room, and then I heard the cry of fire.

Q. As soon as you heard the cry of fire where did go? A. Then I put on my hat and coat and ran towards the Greene street side.

Q. Were there any people near the Greene street door? A. A great many people; it was crowded there.

Q. Did you go down the Greene street way? A. No, there were too many and I ran back.

Q. Where did you go then? A. Then I ran to the fire-escape.

Q. Did you go out on the fire-escape? A. Yes, I got on the table, and I was about to run to a door, because I didn't know whether there was a fire-escape, than I heard the girls ~~

MR. STEUER: Wait a moment, I object to what she heard as being incompetent.

THE COURT: Sustained. Well, you heard something. After you heard that something what did you do? A. (Continuing) Then I saw girls crawling, or creeping out of the window and I did the same.

Q. How did you get on the fire-escape? A. Through the window.

Q. Well, now, was there anything in front of the window which led out to the fire-escape? A. There was nothing there, the people were there. Then I slid down on the fire-escape because I could not walk down, the flames were there.

Q. I want to know whether in front of the fire-escape on the inside of the loft there was anything standing? A. I didn't see it. It took one second as I get down, as the flames was big.

Q. Did you stand on anything to get to the fire-escape?

MR. STEUER: I object to that as highly leading and suggestive.

Q. Did it take from --

THE COURT: I will allow that question.

MR. STEUER: I take an exception.

A. There was standing a table and a desk and I got on the desk.

Q. Then what was on top of these tables, if anything? A. On the tables was lying goods which would -- which were to be examined and on the desk were lying books.

Q. Now, on these tables or on this table, whatever it is, were these finished goods or unfinished goods?

MR. STEUER: Objected to as immaterial.

THE COURT: I will allow it.

MR. STEUER: Exception.

A. This I cannot know because I did not exactly notice that, I did not observe it.

Q. How high above the tables did the goods extend? A. It was very high, just as this table (indicating the table of the stenographer).

Q. You mean that the table was this high? (indicating the table of the stenographer)? A. Yes, but the desk was higher.

BY THE COURT:

Q. How high was it from the floor to the top of the goods? A. This I did not see exactly; I did not observe exactly, because I had no time to look at it.

Q. At night, when you were going out, when you operators went home, they went home by what door? A. Greene street door.

Q. And was a watchman there? A. Yes, sir; all the time.

Q. And what would he do at night? A. He used to examine the pocket books of the girls and see whether they are taking anything along.

Q. Do you know where the Washington place door is on the ninth floor leading to the stairway? A. Yes, sir, - I had never seen it or had never passed through there.

Q. Did you ever see anybody else go in or go out through that door?

MR. STEUER: I object to that. She said she never knew there was a door there and could not have seen it.

THE COURT: I sustain the objection. Is there any

cross examination?

CROSS EXAMINATION BY MR. STEUER:

Q. When you say a pocketbook you mean one like that you have now (indicating)?

A. Yes, that is what I mean.

Q. MR. STEUER: That is a book about the same size as the one that was measured this morning, is that right, Mr. Bostwick?

MR. BOSTWICK: Yes.

Q. Did you ever go to work while you were working there? A. I used to eat inside and sometimes I used to go downstairs, but not through that door.

Q. Not through what door? A. Not through the Washington place door, but through the Greene street door.

Q. I didn't ask you anything about the door. I asked you if you went to lunch? A. I did not go out after lunch; I had my lunch in the place and once in a while I used to go down stairs during the lunch time.

Q. When you went downstairs during the lunch time did you ever take your book with you, your pocket book? A. No, I only used to take my coat.

Q. You were always sure to leave your pocketbook behind? A. Yes, I worked for a contractor, and he used to be inside, and I used to leave my pocketbook there.

Q. That is, by that you mean you did not work for Harris and Blanck; you worked for somebody whom they hired? A. I worked in the place, but I used to work — but he used to

have people who had three or four machines, and we worked for them.

Q. You mean the man whom you worked for had three or four machine.? A. Yes.

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Do you know Anna Gullo? A. Yes, sir.

Q. Did you see her at the time of the fire?

THE COURT: Yes or no. A. No, I did not see her all the time.

MR STEUER: No further questions.

ROSE GLANTZ, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. Where do you live? A. 92 Lewis street.

Q. You are in the employ of Harris and Blanck? A. No, sir.

Q. You were in the employ of Harris and Blanck? A. Yes, sir.

Q. On March 25th, 1911? A. Yes, sir.

Q. And up to what time? A. Until two weeks ago.

Q. Until two weeks ago? A. Yes, sir.

Q. And in March, the date of the fire, March 25th, the day of the fire, you were an operator on the ninth floor? A. Yes, sir.

Q. Where were you at quarter to fire when the bell sounded to quit work? A. I was attending to my machine.

Q. And your machine was in what portion of the loft? A. It was the second table from the Greene street window.

Q. The second table? A. The second table.

Q. From the Greene street window? A. From the Greene street window, yes, sir.

Q. Were you nearer to the freight elevators, or the Washington place window? A. Nearer the Washington place window.

Q. Now, what was the first that you heard or knew that there was a fire in the factory? A. Well, I was standing near my machine, and I heard the man I was working for told me there was a fire.

Q. And as soon as you learned there was a fire where did you go? A. I ran to the wardrobe to get my clothes.

Q. Did you keep your clothes in the Greene street clothes closet, or in the Washington place dressing room? A. Greene street clothes closet.

Q. And that was right near the freight elevators? A. Yes, sir.

Q. Now, after that where did you go? A. I ran to the Greene street door.

Q. Were there any people at the Greene street door? A. Yes, sir, very many.

Q. Where did you go? A. I ran to the Washington street door.

Q. Did you see any people there? A. There was a lot of people there.

Q. And when you got to the Washington street door, did you hear people crying out?

A. Yes, sir.

Q. Did you see anybody trying the door? A. No, sir.

Q. Did you try the door? A. No, sir, I did not.

THE COURT: When you say the door, was it open or closed?

THE WITNESS: I did not see the door at all; there were so many people there I did not take time to look at it.

Q. Those that were standing nearest to the door, did you hear any cries from them? A.

Yes, sir, I heard cries.

MR. STEUER: Wait a moment, I object to that as immaterial.

THE COURT: I will allow "Yes" to stand.

MR. STEUER: Exception.

Q. I will ask you what you heard them cry?

MR. STEUER: I object to that as incompetent.

THE COURT: I think I will exclude it.

Q. That night, when you went out, how did you get out? A. Through the Greene street door down the stairs.

Q. Was there a watchman as you passed out to the elevator? A. Yes, sir, there was.

Q. What would you do every night when you passed out? A. We had to open our books every night.

Q. You know where the Washington place door next to the Washington place elevator was, do you not? A. I didn't know

there was a door there at all.

Q. When did you first learn there was a door there? A. At the time of the fire.

Q. About how long had you been in the employ of these people? A. About two and one half years.

Q. Was there any superintendent on the ninth floor at the time of the fire? A. No, sir, not at the time of the fire.

Q. The time for closing on Saturdays was what time? A. Quarter to five.

CROSS EXAMINATION BY MR. STEUER:

Q. In your work you had absolutely nothing to do with Harris and Blanck, did you? A. No, sir.

Q. You were working for an entirely different man, weren't you? A. Yes, sir; I was working for a contractor.

Q. Where did you tell the jury you were sitting? A. Right at the second tattle from the Greene street window.

Q. And about what part of the table, Miss? A. Well, there was the table, you see the table had a break, and I sat about two or three machines from the break in the table.

Q. I think you said, but I am not sure, that is why I am asking, did you state that you sat near the Washington place windows? A. Near the Washington place windows, nearer than the other.

Q. Nearer the Washington place than the other? A. Yes, sir.

Q. Now about the break, - were you nearer the Washington place window than the break in the table on the other side?

A. Nearer the Washington place window than the break.

Q. You were between the Washington — between the break and the window, you were nearer the Washington place window, -- is that right? A. Yes, sir.

Q. Which way were you sitting, were you facing to Greene street? A. Yes, sir.

Q. Did you ever walk around that loft that you worked in for two and one half years? A. Certainly.

Q. A good many times, didn't you? A. During the noon hour. Q. During the noon hour? A. Yes, sir.

Q. You would go around and visit with the girls? A. Yes, sir.

Q. Did you go around and visit with the girls that worked on the Washington place side of the shop? A. Yes, sir, I did.

Q. Did you go over and visit with the girls that worked near the Washington place elevators? A. No, sir, I had nothing to do with the girls there.

Q. Did you ever go to the Washington place elevators? A. Yes, sir.

Q. During the two and one half years you worked there? A. Yes, sir, every morning when I went to business.

Q. You used to go up that way? A. Yes, sir.

Q. On the Washington place side? A. Yes, sir.

Q. Which way did you go to your place from the Washington place elevators in the morning? A. I went through the Greene street wardrobe; I put my clothes there.

Q. To the Greene street wardrobe? A. Yes, sir, because

that was nearest to me going home.

(Diagram is placed before witness)

Q. This diagram has been explained to you, hasn't it? A. Yes, sir, it has.

Q. Just so that you and I will understand each other I will call your attention again to the fact that where you are looking, right now, that is the Greene street elevators, is it? A. Yes, sir, Greene street.

Q. And that full wall there is Greene street, you understand that, don't you? A. Yes, sir, I understand it, yes.

Q. This wall over here (indicating) Miss Glantz, is the Washington place wall, you see? A. Yes.

Q. You see these marks, these marks in here are supposed to be windows (indicating) in the Washington place wall. A. Yes.

Q. Now, these two square that you see here (indicating), where I have got my fingers, those are supposed to be the elevators which you came up by in the morning? A. Yes, sir.

Q. The Washington place elevators, do you see that? A. Yes, sir.

Q. Now, the Greene street elevators are away over here (indicating), you see? A. Yes, sir.

Q. You know what a bias is, don't you? A. Yes.

Q. You know what it is to cut goods on the bias? A. Yes, sir, I know.

Q. If a person was looking from the Greene street elevator over to the Washington place elevators, or from the Washington

place elevators to the Greene street elevators, he or she would be looking on a bias, wouldn't they? A. Yes, sir.

Q. Could you reach from where you are sitting over here, Miss Glantz? A. (Witness reaches).

Q. Will you just use your finger and show us how you walked in the morning when you came in? A. (Witness draws finger on diagram.)

Q. Now, you have drawn —

MR. STEUER: I suppose it would not be right to draw a line there ~—

THE COURT: I see no objection to it, do you?

MR. RUBIN: He can state it to the jury.

THE COURT: She has indicated with her finger that she passed from the Washington place elevators somewhat towards the first table nearest the Washington place elevators, and then in a direction of the wall in which the fire-escape is, between the first table and the dressing rooms which are on the side of the toilet, and then around the end of the other tables, nearest the fire-escape wall, down to the clothes closet on the Greene street side.

MR. RUBIN: That is perfectly satisfactory.

Q. When you drew your finger, did you draw it around the way I am drawing it now (indicating)? Is that the way you went? A. Yes, sir. (Witness does it again)

Q. And you passed in front of the first table of machines, and when I say in front I mean by that that you went between

the first table of machines and the passenger elevator? A. Yes.

Q. And you went between, at that time, the first table, and the Washington street door, did you not? A. Yes, sir.

Q. And you used to pass there for two and one-half years, didn't you? A. I did not go that way every morning most of the time.

Q. Very often? A. Very often, yes, sir.

Q. For two and one-half years? A. I did not; I worked for the firm two and a half years, but not on the ninth floor two and one half years. I only worked there on the ninth floor for six months.

Q. Well, we will reduce it to six months, but let me ask you before were reduce it at all, were you working on the eighth floor of that building? A. No, sir, I worked in University place.

Q. You did not work in that building but six months, is that the idea? A. Yes, sir.

Q. Then we will reduce it to six months, now. Then you used to go over by the Washington place passenger elevators for six month nearly every morning? A. Yes, sir.

Q. And you used to walk to the place that is marked over here "Clothes closet" (indicating)? A. Yes, sir.

Q. And that clothes closet marked there, you see, that is along the line of a partition that ends at the Greene street wall (indicating)? A. Yes, sir.

Q. So you used to walk around the first table and in front

of the two Washington place dressing rooms until you got to the open space in front of the examining table, and then you kept on walking in front of the examining tables, between the examining tables and the machine tables, until you got to the clothes closets on the Greene street side? A. Yes, sir.

Q. And during any one of those days, one of those mornings, when you walked on by that door, did you ever notice it? A. I never took a notice of it; never did take notice.

Q. Never did take notice of it, or time to notice the door? A. Never to take any notice of it.

Q. And because you did not have occasion to take notice, that is why your eyes never happened to see it, is that right? A. No, sir.

THE COURT: We will adjourn now until 10:30. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you; not to talk about the case with any one, or let any one talk with you about the case; and not to visit the scene of the occurrence.

(Adjourned to Wednesday, December 13th, 1911, at 10:30 o'clock a.m.)

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LIBRARY NOTES

The People of the State of New York vs. Isaac Harris and Max Blank before Hon. Thomas C.T. Crane, Judge, New York, November 20, 1911. For the people, Charles S. Bostwick and J. Robert Rubin. For the defendants, Max B. Steuer.

Under certificate filed Sept. 1, 1900 in the County Clerk's Office, the following is a direct quote:

“We are now conducting and intend hereafter to conduct our business under the name of Triangle Waist Company and that we are the sole persons conducting or transacting business under said name at #158 Worster Street, Borough of Manhattan, City of New York, State of New York.”

James P. Whiskeman, called as a witness for the people, identified himself as a civil engineer. Page 28: What was the height of the sewing-machine tables? 2'4" above the floor.

Page 29: The machines rested on the table and it was the height of the machine, which is about 12". Of the 3 tables which are near the Green Street side of the building on the diagram, the total under the first table is

LIBRARY NOTES

Page 677: Ida Schwartz. Worked on the 9th floor as an operator.

Page 679: Describes the arrangement for the 9th floor.

Page 691: About the fire escape I didn't know up til the time of the fire.

Did you ever look out of the window at all in the year and a half that you worked there?

Answer: that window was obstructed by the tables of the examiners.

Page 698: She says that Becky Bursky sat at her left hand. Now this is Rose Glantz testifying: My boss was Abraham Binowitz. You did not work for Harris and Blank at all, did you? No, for Abraham Binowitz.

Page 703: I was the first at the door.

Page 710: Ida Singer, who worked on the 9th floor. Did you know there was a fire escape? No. I saw the crowd running toward the window and I ran after them to the fire escape. She worked for Harris and Blank six weeks.

Page 713: I was thrown down over the fire escape

(30)

and I remained hanging somewhere. Did you lose consciousness? Yes.

Page 718: No matter how many times you walked from the third table to your dressing room where you had to pass at least six windows, you never looked out of them? Never. You never even glanced as you walked by? No. Did you carry money in your pocketbook? No, my stocking. Even the money for your lunch? Yes, I was ashamed because they looked into the pocketbooks. I didn't carry my pocketbook. I didn't take any along with me, not even for lunch.

Page 722: Sarah Friedman.

Page 723: Worked on the 9th floor.

long

Page 727: I went to the Washington elevator. I was waiting there and I nearly got choked from the smoke, because the smoke came up from the floor below and then I slid down the cable.

Page 732: The watchman used to come 15 minutes before we used to go home.

Page 733: She apparently was in a position ready to go down by the Greene Street elevator. He didn't come up. We had to push because there was too many girls waiting for the elevator, and I didn't want to walk the stairs. That night was no different than any other night.

Page 734: She made no attempt to go down the Greene Street stairs. She ran after the girls to the fire

escape window.

Page 743: When you came all the way around to go to the toilet you passed the windows on your side, didn't you? Yes, sir. But you never looked out of those windows? No, sir. It never snowed when you went to the toilet, did it? No. And it never rained when you went to the toilet? Well, if it did rain I didn't come near to look at it.

Page 746: Fannie Selmanowitz, examiner, 9th floor, Greene Street side.

Page 750: Born here.

Page 752: Never used the elevator - always walked down nine floors - never walked up. I never walked up, I waited downstairs for the elevator, the freight elevator on the Greene Street side. It took very long for him to come up.

Page 757: It is natural for a girl standing in examining to look up once in a while? Answer: it is when you are not caught.

Page 763: I was over at the windows and I seen the doorway open. I didn't know what it was, whether the staircase or the elevator. Suddenly, he had started away. I just got in. If he had closed the door I would never have gotten in that elevator. I was rubbing against the walls going down the shaft. As the elevator was going

down slowly in the dark I was rubbing against the walls, I was so far on the end.

Page 765: Could anybody else get into that car after you got in? Answer: not even a pin. Washington Place side door.

Page 766: I seen those awful flames from the Greene Street side, sound so loud and the glass coming out with something, and the girls around the windows jumping, all around, it made me think I was - my last moment had come then.

Page 771: Mary Damsky, who worked on the 9th floor as an operator, 18 years old.

Page 775: I went down the steps because I always used to go down the steps.

Page 776: Whenever I passed I showed my pocket-book to him and every other of the girls when they passed they showed their pocketbooks. She is asked: if a girl wanted to she could put three waists in one of those pocketbooks, could she not? And she answered: how could a girl do that, because the waists were counted by the dozen, and when they were brought back the bookkeeper used to count them over.

Page 781: Ida Deitschman, an operator on the 9th floor. She is given a piece of fabric to examine by Mr. Steuer and says we worked on Longerine, and Mr. Rubin takes

the pocketbook from Mr. Steuer, looks in it, and Steuer says, Go ahead, see how many there are in there. And Mr. Rubin does that, whereupon Bostwick acknowledges that it is self-evident, and it is conceded that the bags that were carried by the employees could have carried four shirtwaists in them. Mary is asked about the embroideries. It was counted exactly how much was needed for the waists, and sometimes it happened that if a little piece was missing there was a great deal of trouble before they could get it.

Page 788: Gussie Koppelman, worked six months, 9th floor.

Page 791: I didn't know where the fire escape was. I never saw the fire escape.

Page 795: At first I could not get onto the fire escape - there were boxes. But afterwards I got there, and then there was a crowd of people and then I fell down. I found myself afterwards in the hospital.

Page 797: Minnie Bernstein. (Instructed to skip this.) Lena Yaller, 9th floor, worked about eight weeks, was an operator.

Page 800: My dressing room was near the elevator near Washington Place, so as soon as I took my pocketbook I had heard a girl holler fire. I wanted to turn my face so then I seen this girl - you know, she was a very jolly

girl. She used to like very much to fool us, often saying here comes the boss, here comes the floorlady and there was nothing. So when I turned my face and I saw she is the one, why then I didn't pay any attention to her afterwards. Just continued my work in the dressing room. When I got near the dressing room, then smoke was coming up all around us, in my face and in all the windows, up by all the windows, so I wanted to turn my face back. I saw flames coming up from the Greene Street side. I wanted to turn around to Greene Street, so instead of going to Greene Street the girls were crowded around that place waiting for the Washington elevator, because I seen all the girls were out at that Washington Place. They pushed me into the dressing room, so I could not see anything else. It got very dark and I felt a draft so I wanted to go out, so I seen some breezes coming out from someplace, so I wanted to make my way over to see where it came from. I seen it came from the Greene Street window. Near the Greene Street it was a window and there it was near the elevator, so I wanted to and made my way through the door I wanted. As soon as I pass I seen the examining tables were all burning. As I was passing by I seen smoke. You can see everything burning and I seen the rest of the girls remained in the dressing room, so when I passed the window I opened the window. The window, I saw, opened down, so I wanted to open the window.

It opened double, and opened out, and so I burned my knee from the steam heat, so I turned back and stood there about two or three minutes. Of course it seemed more than four hours for me, but I knocked at the elevator that it should come up, so I was waiting and waiting and I was impatient about the elevator and it didn't come up, and I seen - I turned my face and I seen the door was burning from the elevator - the door was burning from the doors, that door was burning in the factory, so I wanted to jump out on the roof, to go upstairs on the roof, so I burned my arm, my head, my hair and all, but I went on the roof and then some fellows from the Washington Place took me out together on the roof.

Page 804: I went near the window and I opened the window down because I wanted to jump down. The people downstairs they shout for me to do so, but I didn't have enough courage I suppose because as I burned my knee I went back and knocked on the elevator so I could not wait. I didn't have patience enough and I heard a scream.

Page 808: She is 19 years old. All the people what I left in the dressing room are all dead.

Page 809: Here she repeats the long passage again. I did not pay any attention to this girl because I could not believe her word. I followed my way to the dressing room, and wanted to get my clothes. I could not because the smoke

was coming from the Washington Place out of the window, and I turned back to the Greene Street window. All the girls that were standing around outside of the dressing room and I pushed my way into the dressing room, and this all was smoky, I could not make out what they did say, simply. It was so many languages that they all spoke in another language. The smoke and all and some were screaming about their children and anything else, and I was standing there in the dressing room and watching them. I was sure I was going to die there. I never thought I would be out of there and I felt some breeze come out, so I wanted to see from where the breeze was coming, and I made my way over through them, all the rest of the girls were standing in the dressing room, and I followed my way to the window, when I fell over some chairs and benches which were standing around me, so I went on my way. So I went away from the dressing room and the window. The window I suppose was open. I went near the window on the Greene Street side. It was steam heat near it. It was a window near the two elevators - freight elevators, and I wanted to open the window down - I should be able to jump but I didn't have enough courage and I burned my knee. So then I turned back and I goes and knocks at the elevator and I didn't have enough patience to wait until the elevator is coming to me up, and I then went up the stairs and onto the 10th floor.

When I went up the stairs on the 10th floor I burned my arm, my face, my neck, my hair, my nose, and I went up on the 10th floor and got up on the 10th floor. I don't remember which way - it was a window or a door was leading up on the roof - whatever it was I went my way through on the roof some way around and of course I seen some people there. Now at this point, Steuer says, do you think you could tell those words over - you could tell them in the same words again? Answer: I could tell them ten times. Question: How many times have you told this in the same words before? How many times, Miss Yaller, have you told it in the same words before? Answer: I have told it about five times, first to my friends, then to the District Attorney, before the Grand Jury, and now, about four or five times. I can remember it now. Question: All right, thank you very much.

Page 814: Anna Horowitz, 9th floor as an operator.

Page 815: Harris used to stand there and Blank used to demand of the girls to show their pocketbooks in case the watchman was not there whenever the watchman was not there.

Page 820: George F. Dunn, Engine Company 33, who answered on the first alarm, says: When we arrived we took a high pressure hydrant that was on the southeast corner of

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Greene Street and Washington Place and stretched the stand-pipe connection on the outside of the building, then went to the 8th floor and connected to the outlet of the standpipe, then to the 9th floor. 72 engine was the first to get there. 72 was connecting there at the time to the 7th floor and stretching their hose to the 8th floor and intending to enter the building on the 8th floor. We connected on the 8th floor and went to the 9th floor.

Page 825: At this point, the question is raised about Chief Worth's testimony that he had said on page 93 that he saw the fire on the west wall - I saw a small spurt of flame which proved that the fire was extending up the stairways. Dunn knows nothing about that, and does not allow himself to be dragged into a disagreement with his Chief.

Page 827: Dunn: No girls were coming down the Washington Place stairway, but then he adds: I think it was between 8 and 9 minutes, that is 8 and 9 minutes after the alarm came in, and it is probable that those who could have come down from the 8th floor had already done so.

Page 833: Did you see any bodies, this is when you entered the 9th floor? Yes, sir, to the best of my opinion they were about 15 or 18 feet inside of the building to the left.

Page 835: He says that they couldn't get into the

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9th floor until they cooled it down.

Page 836: There was nothing burning on the stairway.

Page 838: This is a little hassle with Steuer. Steuer says the fire was dying down before there had been a drop of water applied to it. This comes after Bostwick asks Dunn, do you know whether the fire near the door on the 8th floor was dying down at the time, and the 9th floor was nearer to its height. Yes answers to both. Steuer then continues, do you know that the men who have testified here worked on the 8th floor and testified that the heat was so intense there that they had to work on their bellies and to stream the water in before they could go in. Bostwick objects that this was on the Greene Street side in the testimony of Captain _____ and the Court agrees with Bostwick.

Page 840: Again Steuer cites Captain Worth's testimony that the fire was raging on the 8th floor and it came from the west to the east.

Page 841: Thomas Meeham, Engine Company 33, arrived on the first alarm, entered the building from the Washington Place side and carted the hose up the stairway. I got to the 8th floor, I connected on the 8th floor and then went up to the 9th. What part of the door was left - this was the 9th floor door? The stiles, each side

and at the bottom. The two stiles each side were standing upright and the piece at the bottom was standing there, an upright panel at the bottom. I helped to kick it in.

Page 857: John D. Moore, an engineer. At the time of March 25th he was a consultant engineer, and he was employed by the District Attorney of the County of New York.

Page 863: He says: (describing the door on the 9th floor) The hinges were on the right hand side; that is to say, if you stood inside the Washington Place loft the hinges would have been on the side to the right. That is to say, if you were facing the door on the inside of the loft the handle to the door, if it had one, would be on your left hand. Now a door which moves in that direction is known as a left-handed door. So much of the inner surface, that is of the door, is charred away that I cannot state with absolute certainty just what the thickness of the door was. At this point, the Judge directs the jury to leave the box and take their places near People's Exhibit 29.

Page 868: He describes the outside of the door, the portion of the casing which is now before me, is unburnt, only the varnish being charred, being scorched, and at least half of the portion of the front door was on the southerly side.

Page 871: He says, about the staircases: They

were identical. The only difference is in the width of the stairwell, and the Greene Street end is 4|- inches wider than the Washington Place side. From the ground floors upward the Greene Street stairs were worn very much more than the Washington Place stairs. The Washington Place stairs showed substantially no wear.

Page 872: The hose was (Now here he is talking about the hose in the Washington Place stairs) - the hose was gone, burned away - it was burned or torn away - there were a few fragments of it hanging to the branch connection.

Page 874: He describes here the wood on the handrail - something more than half circled at the top so that the hand could clutch it and the fingers grasp it underneath so as to give a firm grasp, and that was fastened to the iron by a groove cut in fine wood, sunk down upon the iron and screwed on underneath.

Page 875: The handrail on the landing in front of the 9th floor door was scorched, not burnt, on the side toward the door.

Page 877: The handrail directly opposite the doorway - the horizontal handrail - was scorched on the side to the door - that's 9th floor. The hose on that landing was almost destroyed but still on the rack.

There was a hose rack to support the body of the hose, and the coupling was attached to the valve and the hose was folded flat and the edges badly scorched, so that the hose was useless. That is Washington Place, 8th floor.

Page 878: He says: These are about the tables holding the sewing machines. Yes, sir, the legs were screwed down to the floor and the table tops were attached to the legs. When you saw the premises, were the legs still screwed to the floor? Yes, sir, very many of them were still substantially upright.

Page 879: He says: This about the height of the tables. 30 inches, each table carrying a machine. The tables were about four feet wide, there were three spaces, the outer space consisted of a working table, the center space consisted of a trough into which the work fell, and that was about 10 inches deep, and the next outer space was another table.

Page 881: When we cleared away the debris, (this was again on the 9th floor) he finds that in many spots completely destroyed, burned right down to the cinder fill underneath.

Page 882: About the wall. They were 12 inch brick walls carried on steel construction - that's the outside of the wall. The floor arches were of terra cotta blocks with a cinder fill above them and topped with a

wooden-topped flooring. The fireproof arches were in very good condition. A few of the lower faces had fallen off, but probably not more than 1 percent. Then he asked what was the material of the wall on either side of Washington Place door. That was terra cotta blocks - 4 inch terra cotta blocks.

Page 883: He says: The fire escape was of the ladder and balcony open type and protected by no partition or enclosure of any kind, and the ladder from the roof to the 10th floor was known as a goose-neck ladder; that is, a ladder extending above the roof with a couple of handrails so as to make access to the roof. It was a vertical ladder leading from the roof to the 10th floor but all other ladders throughout the fire escape until one passed the 1st floor inclined at an angle of 60 degrees substantially. The platforms were 3'6" wide and 14'6" long. The ironwork, or iron floor, of the fire escape balcony was flush with the lower side of the window sill, which brought it precisely to 23' above the floor of the loft, so that in order to reach it a person would have to step about 29 to 30 inches and then step down 7 inches, and he says substantially all of the ladder was behind masonry work. The lower foot and a half of it projected past the glass. I may say these ladders are on the outside edges of the balcony, the remote side

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from the building.

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Page 887: The fire escape proper terminated at a balcony attached to the masonry directly above the 1st floor windows. There was a drop ladder which was 12 feet 9.3/4 inches long and was attached to the floor of the balcony. The ladder hung entirely free, and its bottom was 5 feet 9-1/2 inches above the glass skylight down in the yard. Then you were in a court against which every window except three on that court was barred, and there was a wall 8 feet 4-3/4 inches high on the building line.

Page 892: The area of the 2nd story and all those above it was 9,156.8 square feet.

Page 893: In talking about the elevator doors: Each had wire glass panel, one half of the door fixed and the other half sliding. They are completely metal-clad (about the freight elevators) and they are hinge doors and hinged at the outer so that the entire elevator well could be thrown open. That's for the freight. Now, the passenger elevators, two or more with ornamental canopies.

Page 894: Skylight over the stairway on the

Washington Place side. On the Greene Street stairs there was a window on each floor opening into the court.

Page 895: The machines were run by electric power; they replace four motors on the 8th and 9th floors, it says, were placed close to the Washington wall. I think they were bolted directly to the floor. There might have been a joist perhaps 2-1/2 inches high under it.

Page 897: Table #1 extended to within 15 inches of the Washington Place wall. The radiator came to the corners of those tables about 13 inches from #1 and about 9 inches from #2. The radiator was about 28 inches high, and it was under the window sill and the window sill was about 30 inches. What was the distance from motor #2 to the steampipe? About 9 or 10 inches between #1 table and the motor, counting the belt. The motor was about 25 inches high. There was a covering over it and a raised platform. The total length of the woodwork was 29 feet 6-1/2 inches. This indicates the wooden partition near the freight elevator and near the windows near the freight elevators, running in a westerly direction from Greene Street. Then he says: How much above the floor level was the top of the box over the shaft? His answer is: 12 inches. On the 8th and 9th floors did you find any oil tanks? Yes, on each floor there is an oil tank adjacent to the

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pipe shaft near the stairway.

Page 905: Did you calculate the cubic area of the loft? Yes, the height between the floor and the ceiling was approximately 11 feet.

Page 906: 11 feet 2 inches. To estimate the thickness of the hollow tile arch and cinder filling. The floor measured 13 feet 2 inches between bottom and top of the floor. From that must be deducted the thickness of the floor itself. On the windows now, the clear width of the window is 54 inches, with two windows leading to the fire escape. Between the window openings, that is between the clear position of the window, there is a space of 4 feet 5 inches. The height of the window is 8 feet 6 inches between the lintel and the ceiling.

Page 909: These windows, when opened as far as they could open, left a space of approximately 4 feet each, or 54 inches.

Page 910: The width of the platforms at the 8th and 9th and 10th stores was 3 feet 6 inches into the court. Now, that's the fire escape.

Page 911: Again on the staircase of the fire escape. In a direction parallel with the wall and moving in a westerly direction going down, in other words they slope from the east at the top to the west at the bottom. Between the 8th and the 9th and the 9th and the 10th

the ladders were, what was the distance from the wall? 20 inches on the nearest side.

Page 912: 3 feet 8 would be 44 inches and 20 inches and 18 inches, that leaves 4 inches on the far side of the ladder.

Page 913: Guiseppi Saveno. He, together with Pietro Torchin, worked as laborers on the 9th floor, and found the lock.

Page 931: Here we are back with Steuer's objection to the introduction of the lock, and this is Steuer speaking: On March 25th a fire occurred and on March 26th all the conscience of the city is stirred by the terrible catastrophe that has occurred. The newspapers published everything that can be published in the way of pictures, and on the 27th of March the theory of the locked door is already made public by every citizen. Hundreds upon hundreds of people go into that debris and seek the bodies, and the Fire Department makes a conclusive and minute and detailed search into that debris, and the whole question that is being agitated in the press day after day is locks, locks, locks, and the door was locked, and pictures of the doors, your Honor, and nothing is found, when on the 10th of April, as from a clear sky, a detective goes to the premises and as the reports show at that time within 25 minutes a lock is discovered, to show that that lock was

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the lock of the premises

when they have had the lockmaker go over it and he refuses to say that it was the lock. When they have had the man who went over every lock in that building and said it cannot be proved that that was the lock and then bring in a piece of stanchion on an alleged, or whatever you call it, on an alleged portion that somebody kicked in something on the 9th floor and seek 15 days after that fire to say that was the lock of the door. Why argue this, where is the lock of the 10th floor, where the fire did not do damage, where is the lock to the 6th floor, where the SLOS did not touch it? A most mysterious disappearance. The lock of the 6th floor which is covered by a fire door, as an exhibit in this case shows, hung with an iron door, but right after the discovery by the newspapers of this lock there is no lock on the 6th floor; and every one of the locks, may it please Your Honor, in that building were identical with the 10th floor down to the basement, and no lock on the 8th floor, Your Honor, has been discovered. Why, I ask, is there no lock for the 10th floor that has been discovered up to the present time. But the one lock that is wanted that is found on the 10th day of April, and they say that exclusive opportunity has nothing to do with this case? I don't care whether you call it exclusive opportunity or anything else, is it to be really urged upon

Your Honor that the lock that the tongue, I think you call it, has extended on the 10th day of April, 1911, is the slightest evidence that the lock had its tongue extended on the 25th day of March, 1911. Is it even to be suggested in a civilized country where the jurisprudence is practiced as it is practiced here, when everybody seeks a lock, when you find one on the 9th floor, make it competent when you find it on the 10th day of April when you had no evidence as to the condition of affairs between the 25th of March and the 10th of April. And yet the District Attorney says you do not need any evidence to fill in that hiatus.

Page 936: Mr. Bostwick makes reply: We have very clear and distinct evidence that the three locks of the dressing rooms were padlocks, not _____ locks. This is not a padlock. We have in evidence that the toilets were never locked. The only two doors that this could have belonged to were the door on the Greene Street side and the Washington Place door. Now, the Washington Place door, as has been testified to, was a left-handed door, the other was a right-handed door. If we shall obtain evidence that this is not a right-handed door, that evidence has probative force that it belonged to that door. It is found near the door. We will attempt to introduce evidence here of the putting on of this

identical lock by the identical man who put that lock on that door, and we will trace it from manufacturer to the jobber, to the workman who put it on the door, and he will identify your lock. The evidence has probative force. The locks were not all alike in that building, and this lock was put on later. Now the Court leaves the question open about admitting the exhibit.

Page 939: The Court now summarizes the arguments here. He says: One of the issues in this case is whether the death of Margaret Schwartz, named in the indictment, was caused by the omission of duty amounting to culpable and criminal negligence on the part of either the defendant Blank or the defendant Harris, as charged in the indictment. Now, he goes on, the reason he's admitting the information about the fire escapes below the 8th floor is that this in turn depends among other things on the presence or absence of other means of egress from such loft, and the nature and sufficiency.

Page 949: Francis Flynn of the Detective Bureau who on 950 looks at People's Exhibit #30 and identifies it, and says, I saw them pick it under from among the rubbish; it was on the floor. And on 951, about 11 and a half feet from the doorway.

Page 952: He admits that he made no memorandum of it in his notebook.

Page 953: John D. Moore, the engineer.

Page 972: He says: (Again, this is the Judge) I ought not now to receive this exhibit.

Page 973: Again he refuses to receive the exhibit at this point.

Page 975: On the 9th floor the movable door on the northerly passenger elevator was missing. With that exception all of the elevator doors on that floor were intact. Now, with respect to the doors leading into the two dressing rooms on the Washington Place side. Those were quite gone, Your Honor. There was nothing left there but tiny strips of wood, and the floor well short little stubby pieces of wood to indicate where they had once been.

Page 976: These partitions were all of 7/8 inch stock - very light, just merely screens.

Page 977: A mortised lock could not have been put on partitions 7/8 inch thick.

Page 978: A right-hand door is a door which when opening swings in the same direction as the hands of a clock move, and a left-hand door is a door which in opening moves in the opposite direction, that is against the hands of the clock.

Page 979: Moore says he can't tell from looking at a door whether it is left-hand or right-hand, the point

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being of course that it may be a swivel door.

Page 980: Steuer makes a point of that here, that it appears from the testimony of this witness, one presumptive (?) with the door, could not testify whether it was left-hand or right-hand unless he saw it open first, and the witness says, well it could swing both ways.

Page 984: Now, this is where Steuer is asking Moore and Moore makes a reply: The latch is provided, like most locks, with a live bolt which moves either with the action of the knob or is thrown back by coming in contact with what is known as the strike, that is the metal portion which is fixed in the jamb of the door, so that in closing the door one can either close it by holding the knob and releasing the knob when the door is closed, or else it would merely push the door and the spring actuating the live bolt will close it. In order that that can be accomplished by means of the spring, the bevel on the latch has to be such that the beveled portion will collide upon the strike and will be gradually thrown back instead of coming into direct contact with it. Unless the bevel does collide upon the strike, the door won't close into the jamb. Consequently, if the bevel was on the wrong direction, a push on the door won't close it; it won't stay shut after it is closed,

even with a knob. A push on the other side will open it.

Page 989: Bostwick offers People's Exhibit #30 for identification and sums up: It having been shown that it could not have been a right-hand door by the evidence, then it must have been a left-hand door by the evidence, it could not have been a toilet door, it could not have been on the partition which is only 7/8 inch thick, it was found on the 9th floor, in conjunction with the fact that there is some evidence in this case that the door was found locked. Taken in connection with the fact that at the time of the fire none of the dressing rooms were locked, there were nothing but padlocks on the dressing room; and also in connection with the fact that the toilet rooms were never locked, and that it was found 20 and 1/2 feet from the Washington Place doorway and that it should go to the Jury.

Page 990: Charles W. Baxter, who made repairs as a superintendent for J. W. Clark Company in 1902, and there had been a fire in the building, and he had repaired some of the doors on the floor where the fire was at that time, I think it was the 9th floor, and then we have:

Page 992: Emil Woehr, engaged in builders' hardware at 127 Murphy Street, and he says that he purchased his goods from Reading Hardware Company in 1902 and sold to Mr. J. W. Clark in December, 1902.

Page 997: He says: There may be a casting number on the inside of the lock, which he wrote down on his invoice. And then he says: Then Francis J. Kelly. He is in the hardware business, and he worked for Reading and filled the order from Woehr Brothers. He delivered those locks.

Page 999: Is it identical with one of the locks that you delivered to Woehr Brothers in 1902? Yes, sir. Is that lock of your manufacture? Yes, sir. Is that a right-handed or a left-handed lock? May I see the model? That is a left-handed lock.

Page 1000: He has been handling locks for 21 years.

Page 1003: A mortise lock is a lock which is mortised in the door and does not set on the surface.

Page 1008: He positively identifies this as one of his locks. He has handled about 2000 locks in his time.

Page 1009: Our locks were not used in the original building.

Page 1011: This is where Steuer begins his questioning, I think. Yeah, cross-examination by Steuer: Which hand lock is this, right or left? Right hand. Can you change it to a left? Yes, sir. Could you take that lock apart and make it a left-hand lock without

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failing to use every part that is in it now? The answer: You would have to use every part the same as it is now.

In other words, any one of these locks can be made either right-hand or left-hand just as you see fit to put it on. The answer is: Not after it is mortised in. Again, if they are all alike you use the same lock for left- and right-hand doors, don't you? After the latch bolt is reversed.

Page 1012: But when the lock goes out from your place of business, is it any different from the way it is now? No, we ship them all right hand. Then you don't have any such thing in your factory as a left-hand lock? Well, they are made so that they can be reversed by the carpenters at the job. There isn't any such thing as a right-handed or a left-handed door lock, is there? Yes, sir, there is. When you build them, do you build them as right-hand or left-hand locks? We build them so that they can be reversed; the carpenter reverses them. Question: The carpenter puts them on either a right-hand or a left-hand door? Answer: By reversing the latch bolt to meet conditions.

Page 1016: People's Exhibit #30 is received in evidence. Josie Nicolosi, who worked on the 8th floor near the Washington Place side; worked for 15 months, and says: I was standing by my machine, I had my back to the Greene

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Street side; I heard someone holler fire, and I turned around and I see it was at the cutting tables, and I ran to Washington Place door. There were about 30 girls when I reached the door; they were trying to open the door with all their might and they couldn't open the door.

Page 1018: She shows how she tried to open the door. We were all hollering; we didn't know what to do. Then Louie Brown hollered, wait girls, I will open the door for you. We all got on the side and he passed by and opened the door and with the key he twisted the lock, and we went downstairs and got out. There was a crowd that came down after me. I had tried the door many other times in dinner hour but it was never open. It was always kept locked.

Page 1021: I was sick seven months after the fire.

Page 1023: (Told to skip this)

Page 1025: This is the business with the phonograph. Do you remember when they had a phonograph on the 9th floor. Yes, sir, I do. Do you remember that you girls used to go up on the 9th floor and dance? Yes, sir. How did you go up on the 9th floor and dance? From the Greene Street. Always from the Greene Street? Always from the Greene Street. There was not a single girl that went up from the Washington Place side? I never went, and I never

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seen any. These people supplied the phonograph and kept the floors clean for you so that the girls could come up from the 8th or the 9th floor and enjoy themselves during the dinner hour, didn't they? But because - - . Question: Did they or didn't they? Answer: But because we had a strike. Question: Because what? Answer: Because we had a strike, and they wanted us to work for them so they treated us nice when they had the strike, not afterwards, but the doors was always locked at the Washington Place side. We went upstairs because Mr. Blank used to give prizes to the girl that used to dance better, and we went upstairs to see them. After the strike did we put in, because there were more of you girls, a phonograph on the 8th floor? Answer: No, sir, after the strike we didn't have no phonograph at all. Question: What became of them? Answer: I don't know; they didn't play no more phonographs.

Page 1029: Joseph Wexler, 8th floor. I rang the bell; I was standing by the bell near the clock on the Greene Street side. I was supposed to look in their pocketbooks, every girl's pocketbook, but I did not give it my attention.

Page 1032: Augusta Burd, worked on the 8th floor as a cutter. I was in the cloakroom when I heard the cry of fire.

Page 1036: Rosalie Panno, 8th floor.

Page 1037: Mr. Brown was washing his hands near the sink there, and when we heard the cry of fire he said wait here girls because I will open the door for you. He went away from that place and came back and opened the door. Was there any fire in the hallway when you got out there? No, sir. Then you got downstairs? Yes, sir. Did you go downstairs? Yes, sir. Did you see other girls going downstairs? Yes.

Page 2SS 1040: Celia Himmelstein, 8th floor, an operator, who worked opposite the toilet on the 8th floor "with my back turned toward the toilet. I was sitting there."

Page 1043: Dora Himmelstein.

Page 1044: She worked on the 8th floor. She was in the dressing room.

Page 1050: Irene Seivos, 8th floor. I make trimmings, braidings for dresses and waists - everything, and worked in the 5th row from the Washington Place side and the 2nd machine from Washington Square.

Page 1052: I was ready to dress myself to go home, and when I heard the scream of fire so I was looking. I thought it was maybe on the lower, maybe on the 7th floor, or where. So I jumped and I was looking where, and I saw the girls running from the Greene Street side. The other

girls was running for the Washington Place door, and I could not go because the machine was so close to go, I could not go to the door, so I jumped over the machines and I went to the Washington Street side. I saw there many girls, they were screaming the door is locked, the door is locked. I did not go to the door, I went into the partition from the elevator.

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Page 1050: Irene Seivos, 8th floor, she did trimmings, etc. in the 5th row from the Washington Place side, the 2nd machine from Washington Square.

Page 1052: I was ready to dress myself to go home, and when I heard the scream of fire so I was looking, I thought it was maybe on the lower, maybe on the 7th floor, or where. So I jumped and I was looking where and I saw the girls running from the Greene Street side and the other girls was running to the Washington Place door. I could not go because the machine was so close to go, I could not go to the door, so I jumped over the machines and I went to the Washington Street side, the Washington door. I saw there many girls, they were screaming the door is locked, the door is locked. I went in the partition from the elevator and I went from the elevator. I saw the elevator went up to the 9th floor or the 10th floor, so when he came back I saw he did not stop on the 8th floor and I was screaming. There were more girls screaming. I broke the windows on the elevators and I was screaming fire, fire, and after I jumped I saw

it was no hope. I went to the window. How did you get out of the building? With the elevator.

Page 1054: Lucy Grimaldi, 8th floor. Here, again a description of the floor.

Page 1059: Minnie Wagner, 8th floor. I trimmed and made the whole waist. In the center of the shop there were 5 lines and I was on the 5th line in the center.

Page 1060: I first ran for the elevator, and the girls were standing there and I saw that the elevator did not come up, and then I ran for the other door and there I met Eva Harris. Is that the sister of the defendant? I think so. And she tried the door. What did she say? She could not open it and she cried Mein God the door is locked. I was standing in the door, I was crying for help.

Page 1062: With your own eyes you saw Brown tear the lock out of the door on the 8th floor? Yes.

Page 1063: Rose Lepanto, 8th floor, made waists, operator.

Page 1067: She could not see Brown's hands. He stood in back of the door about two minutes and after that the door was wide open. About two minutes? Yes, sir. Have you ever timed two minutes in your life to see how long it is? Well, it seemed to me a hundred years in time there.

Page 1068: Rose Reiner, 8th floor, operator, who says:

Page 1071: Well, I ran around. I saw the girls going to the fire escape. I went to the fire escape. Did you go down the fire escape? Yes. And did you go to the Washington Place door at any time before you went down the fire escape? I never did. When you went down, did you see Mr. Brown open the door? When I was near the fire escape I saw Brown open the door. And you did not go back? No, I did not go back. You continued down the fire escape? Yes. When you got to the fire escape where did you go? I went down. About how far down the fire escape? Down to the 5th or 6th floor.

Page 1073: I was in the dressing room, I put my hat on my head and I was speaking with the girls. They said look here is a fire you don't take so slow time. Then I started to run and I ran around outside and it was the Greene Street door but I did not remember. I ran to the fire escape.

Page 1089: Christina Lang. She has some change here.

Page 1093: She says: It was a mistake. I never saw people go in and out of the door, but by the door. She apparently was the matron who sat outside the ladies' room.

Page 1096: Thomas Larkin, Battalion Chief. On November 1, 1902, he was foreman of Hook & Ladder Company 20. There was a fire on that day on the 9th floor.

Page 1112: Kate Gartman, formerly Rabinowitz, 9th floor, operator.

Page 1115: She says: I was in the dressing room. Kate Alterman, Margaret Swartz, and I were dressing ourselves in the dressing room, we ran to the Greene Street door over the machines because it was too crowded through the girls.

Page 1119: I turned back to the elevator doors. In going to the elevator doors there is a partition. I had seen Margaret Swartz grab hold of the partition. I don't know - she kind of leaned or fell toward the small dressing room. Then I have seen the elevator come up and I tried to push myself into the elevator, that is how I got down.

Page 1130: As a matter of fact (this is a descriptive question) the Washington Place stairway door, instead of being a little way out, is a little way in from the Washington Place elevator. Yes, into the loft.

Page 1131: I saw them jumping, then I reminded myself I was on the 9th floor, I will get killed. The window was cracked and the woodwork was burning.

Page 1134: She says: Well, I was cool and nice and calm, you know, if I was excited I would have jumped through the window. Question: Sure, now when you are nice and cool and calm that way, you got to a window? I was as cool and calm as you are here. Question: Now,

I'm not half as cool as you think I am. Answer: Well, this I don't know.

Page 1135: She says: I could not understand what you meant by talking because I don't think I am so excellent in the English language to understand it all. Therefore, you have to excuse me if I made a mistake.

Page 1137: The girls were all standing at the stairway door. Therefore, they were not at the elevator because the elevator wasn't up. Why should they stand there at the elevator, for to look and watch it? They can't jump into the elevator, they'll get killed just as well as from the window. They can't stand and watch the elevator. They were trying to break the door open. That is what the girls was trying to do. You are trying to tell me I don't know what. Well, I wasn't in their hearts, I don't know how they felt, but everybody wanted to open the door.

Page 1140: There was a lot of smoke when I went out of the dressing room - there was a lot of smoke.

Page 1141: Much more smoke? Answer: How should I tell you, a pound more, or a half a pound more, I don't know. Question: No, not a half a pound or a quarter pound or ten pounds. Answer: There was more smoke positively. Question: Tell me if it looked as if there was more smoke then. Answer: Yes.

Page 1142: Question: But it was perfectly easy to see all over, wasn't it?

Answer: No, it was dark by smoke. Not all over; where the flames were it was light.

Page 1147: (told to skip this)

Page 1154: Kate Alperman, 9th floor, who worked 4 months, operator.

Page 1155: (These are the long passages for comparison purposes) Was Margaret Swartz with you at this time? Yes, sir. Then I went to the toilet room. Margaret disappeared from me, and I wanted to go out the Greene Street side but the whole door was in flames, so I went and hide myself in the toilet rooms, and then I went outside away from the toilet rooms and bent my face over the sink, and then I ran to the Washington Place side elevator, but there was a big crowd and I couldn't pass through there. Then I noticed someone, a whole crowd, around the door, and I saw Bernstein, the manager's brother, trying to open the door, and there was Margaret near him. Bernstein tried the door; he couldn't open it, and then Margaret began to open that door. I take her on one side, I pushed her on the side and I said wait, I will open that door. I tried, pulled the handle in and out, all ways, and I couldn't open it. She pushed me on the other side, got hold of the handle, and then she tried, and then I saw her bending down on her knees, and her hair was loose and the trail of her dress

was a little far from her, and then a big smoke came and I couldn't see. I just knew it was Margaret, and I said Margaret, and she didn't reply. I left Margaret, and I turned my head on the side and I noticed the trail of her dress and the ends of her hair begin to burn. Then I ran in, in the small dressing room that was on the Washington side. There was a big crowd and I went out from there and stood in the center of the room between the machines and between the examining tables, I noticed afterwards on the other side near the Washington side windows Bernstein, the manager's brother, going around like a wild cat on the windows, and he was chasing his head out of the window and pulled himself back. He wanted to jump, I suppose, but he was afraid. And then I saw the flames covering him. I noticed on the Greene Street side someone else fall down on the floor and the flames covered him, and then I stood in the center of the room and I just turned my coat on the left side with the fur to my face, the lining on the outside, got hold of a bunch of dresses that was lying on the examining tables and not burned yet, covered up my head and tried to run through the flames on the Greene Street side. The whole door was a red curtain of fire, but a young lady came and she began to pull me in the back of my dress and she wouldn't let me. I kicked her with my foot and I don't know what became of

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her, and I ran out through the Greene Street side door, right through the flames, onto the roof. My pocketbook began to burn already but I pressed it to my heart to extinguish the fire. And the last time I saw Margaret Swartz was at the door, she says.

Page 1157: She screamed at the top of her voice, My God I am lost, the door is locked, open the door. That is the last I ever saw of Margaret Swartz.

Page 1161: Now, here she repeats the entire story. Now tell us what you did when you heard the cry of fire? I went out from the dressing room, went to the Waverly side windows to look for fire escapes. I didn't find any. Margaret Swartz was with me. Afterwards she disappeared. I turned away to get to Greene Street side, but she disappeared. She disappeared from me. I went into the toilet rooms, I went out from the toilet rooms, bent my face over the sink, and then I went to the Washington Place side to the elevators but there was a big crowd. I saw a crowd around the door trying to open the door. There I saw Bernstein, the manager's brother, trying to open the door, but he couldn't. He left, and Margaret was there too, and she tried to open the door and she could not. I pushed her on the side and I tried to open the door, and I could not. And then she pushed me on the side and she said I will open the door, and she tried to open the door, and the big smoke

came and Margaret Swartz I saw bending down on her knees. Her hair was loose and her dress was on the floor a little far from her. And then she screamed at the top of her voice open the door, fire, I am lost, My God I am lost, there is fire. And I went away from Margaret. I left and stood in the middle of the room, that is I went in in the dressing room first. There was a big crowd; I went out of the dressing room, went in the middle of the room between the machines and examining tables, and then I went in. I saw Bernstein, the manager's brother, going around the windows putting his head from the windows. He wanted to jump, I suppose, but he was afraid. He brought himself back and then I saw the flames cover him, and some other man on Greene Street, the flames covered him too. And then I turned my coat on the wrong side and put it on my head with the fur to my face, the lining on the outside, and then I got hold of a bunch of dresses and covered up the top of my head. I just got ready to go and somebody came and chased me back, pulled my dress back, and I kicked her with my foot and she disappeared. I tried to make my escape. I had a pocketbook on me and that pocketbook began to burn. I pressed it to my heart to extinguish the fire, and I made my escape right through the flames. The whole door was aflame right to the roof. It looked like a wall of flame? Like a red curtain of fire, she answers.

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Question: Now there was something in that that you left out, I think, Miss Alperman. When Bernstein was jumping around do you remember what that was like? Like a wild cat, wasn't it? Answer: Like a wild cat. You left that out the second time. How long have you lived in Philadelphia? Then he comes back: You did leave that out, didn't you, just now when you told us about Bernstein, that he jumped around like a wild cat? Answer: Well, I don't imagine whether a wild cat or a wild dog. I just speak to imagine just exactly. How long have you lived in Philadelphia, he asks?

Page 1165: This is the third time, and he begins it by saying: Now, could you tell us again what you did after that time. And she says, after going out from the dressing room? And he says yes, and she goes on: I went to the Waverly side windows to look for fire escape. Margaret Swartz was with me and then Margaret disappeared. I called her to Greene Street. She disappeared and I went into the toilet room, went out, bent my face over the sink, and then I walked to the door to the Washington side to the elevator. I saw there a big crowd I couldn't push through. I saw around the Washington side door a whole lot of people standing. I pushed through there and I saw Bernstein, the manager's brother, trying to open the door. He could not, and he

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left. Margaret Swartz was there; she tried to open the door and she could not. I pushed Margaret on the side and I tried to open the door. I could not, and then Margaret pushed me on the other side and she tried to open the door. Big smoke came and Margaret bent on her knees, her trail was a little far from her just spreading on the floor far from her, and her hair was loose, and I saw the ends of her dress and the ends of her hair begin to burn. I went into the small dressing room; there was a big crowd and I tried, I stood there and I went out right away, pushed through and went out, and then I stood in the center of the room between the examining tables and the machines. There I noticed at Washington side windows Bernstein, the manager's brother, trying to jump from the window. He stuck his head out; he wanted to jump, but I suppose he was afraid. Then he would draw himself back, then I saw the flames cover him. He jumped like a wild cat on the walls, and then I stood, took my coat, covered my head, turning the fur to my head, the lining to the outside, got hold of a bunch of dresses that was lying on the tables and covered it up over my head, and I just wanted to go, and some lady came and she began to pull the back of my dress. I kicked her with my foot, I don't know where she got to, and then I had a purse with me and that purse began to burn. I pressed it to my heart to extinguish

the fire. I ran through the fire, the whole door was aflame; it was a red curtain of fire. I went right on to the roof.

Page 1167: Question: (This is Steuer) What you told us here today, you didn't study that and tell it that way, did you? No, sir. You didn't study the words with which you were to tell it? No, sir. Do you remember that you got out to the center of the floor, do you remember that? I remember that I got out to the Greene Street door. You remember that you did get to the center of the floor, don't you? Question: Now tell us from there on what you did. Start at that point now, instead of at the beginning, that is the point being between the tables, between the machines and the examining table in the center. And she tells the fourth time now: In the beginning I saw Bernstein on the Washington side, Bernstein's brother going around like a wild cat. He wanted to jump out from the window, I suppose, but he was afraid, and then he brought himself back and the flames covered him, and I took my coat, turned it on the wrong side with the fur to my face and the lining on the outside, got hold of a bunch of dresses from the examining table, covered up my head, and I wanted to run, And then a lady came along and she began to pull my dress back; she wanted to pull me back, and I kicked her with my foot. I don't know where

she got to, and I ran out through the Greene Street side door which was in flames; it was a red curtain of fire on that door, to the roof. Question: You never studied those words, did you? Answer: No, sir. Question: Now, Miss Alperman (This is by Bostwick), each time that you have answered Mr. Steuer's questions you have tried to repeat it in the same language that you first told it here in Court, have you not? Yes, sir. And you remember every detail of that story as well today as it happened yesterday? Yes, sir. And it is all true? All true, yes, sir. Steuer on re-cross: Can you tell that story in any other words than those you have told it in? Answer: In any other words? I remember it this way just exactly how it was done. Will you please answer my question; could you tell it in any other words? Probably I can. Then Bostwick: Will you state to the jury why you try to repeat the last time what you told Mr. Steuer in the same language that you used the first time you told Mr. Steuer. Answer: Because he asked me the very same story over and over; I tried to tell him the very same thing because he asked me the very same thing over and over. Question: And did you think you had to tell it in the same words? Answer: No, I didn't think, I just it the way he asked me to say it, over and over, and I told him in the same words.

Page 1170: Charles Lazarowitz. He was on the 8th floor, and he went down the Washington Place stairs. He saw policemen and Brown save two girls from jumping out the window. I was still inside.

Page 1173: James C. Whiskman, again.

Page 1182: Bostwick ties up several exhibits so that placing these exhibits 31, 39, 40, 41 and 32, they now represent the order being first opposite the door of the landing on the 8th floor to the 3 pieces going up the stairs to the 9th floor, and People's Exhibit #32 being the piece directly opposite the door on the 9th floor on the 9th floor Washington Place side.

Page 1183: Was every point in that three feet 9 inches from the door on the 8th floor? No, sir, the nearest point was 3 feet 9 inches, yes, sir.

Page 1185: This is where The People rest.

Page 1198: Bostwick: I suggest that Mr. Steuer open to the jury this afternoon. Steuer: I have no opening to make, Mr. Bostwick. It is a case that to my mind is perfectly clear. There is not anything that I know about the manufacturing business. Court: You do not propose to open, Steuer? No, I am going to put witnesses right on, and I wish to get through just as quickly as possible, and I respectfully ask that we now adjourn. Bostwick: I think it may be within the province and privilege of counsel to

determine the extent to which he likes to open to the jury. I think he ought to outline the theory of his defense. Court: It is entirely optional. Steuer: If you want me to, if you think it will help the People's case or will clarify the subject, I will be delighted to do it, though I do not consider that my kind of talk is at a premium anywhere. Do you want me to tell you what my defense it?

Page 1199: He does open, and he says: Mentions the fact that these lofts were put in - no, no. Steuer: We intend to show that the tables and machines that were put into these lofts were put in by the Singer Sewing Machine Company, that they supplied the whole table, that we did not make them, had nothing to do with making them, that they are standard, highest class, best improved machine used in any shirtwaist factory in the country. We propose to show the same thing with relation to the cutting tables.

Page 1201: We propose to show people walked up through that door and equally so on the 9th and 10th floors, that the steps on the Washington Place side were very, very rarely used, that there was not the slightest occasion for the use of that door except by following people, painters who were there in September 1910. There was not a machine running on the 9th floor at that time, there was not a girl working on the 9th floor. Everything was moved down to the 8th floor and the landlord made a new floor for us,

and we had the place painted up on the 9th floor. Here he talks about the plumbers and the painters and the carpenters, all of whom apparently used the doors during that period. So what?

Page 1206: We will tell you that he turned the key in the door. He will tell you that the key did not turn, and he will tell you how he opened that door and went down with the girls to the street and got a policeman and came back with the policeman, and that at that time the door was wide open, and he saw two girls in their excited condition that were attempting to leave the building by jumping out of the window and he dragged one back, and the police officer dragged the other, and then they took the 2 girls down. He will tell you, as will the colored man who sweeps the place every day, that year in and year out on the Washington Place side on the 8th and 9th and 10th floors the key was all the time in the lock, and that it was never without the lock.

Page 1207: I myself have seen and spoken to two girls who will take the stand before you and who will testify that this first girl to whom I referred went with one of them to the Washington Place doors and the Washington Place elevator did not stop at the 9th floor, and that for that reason they went to the Washington Place door on the 9th floor and they opened the door without any difficulty,

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and that they walked out into the hallway near the 9th floor and that they saw the smoke coming up and the flames coming up, and they looked down and they saw the girls going down the stairs from the 8th floor, and that they then turned back and went downstairs on the Washington Place elevator at the Washington Place doors. And I will show you that these girls sat all year in close proximity to the 9th floor on the Washington Place side. These girls were called to show you that the key was always in the Washington Place door, in the lock on the 9th floor, and that the floorlady and others would come and go out by that door.

were piece workers. By the week there was perhaps a hundred in the whole building. No method of keeping a record of those who actually come? Answer: No, sir, didn't come today, come tomorrow - didn't come tomorrow, come next day, or something like that.

Page 1888: About the machines. This is a detailed account of how many machines in a row.

Page 1890: There is a figure of 278 machines, and this may be the figure for the 9th floor.

Page 1891: There was a break in the row of machines, and the 4th table from Washington Place - there were 3 breaks on the 9th floor; either on this side of the post or on this side of the post.

Page 1892: This simply says that they added machine tables as they needed them.

Page 1896: In the corner at Washington Place on the 9th floor a couple of girls sat there and cut out laces. There were small chairs and dress figures there and nothing else.

Page 1904: Herman Hurwitz, locksmith and electrician.

Page 1940: He is asked by Steuer: I ask you now at the time when the lock was heated through could the heat — the heat — and would the heat shoot the bolt?
Answer: Providing the lock is handled around

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when the heat is through the lock, and if it is nothing inside, any obstruction, the lock is dead; the springs get soft, hard steel, soft steel, it turns soft. If it is a bad spring it brittles and breaks. You can take a lock when it goes through the fire and keep on shaking it, it will shoot out the bolt just as well as with a key by shaking it.

Page 1941: The bolt is held by tumblers. In the tumbler there is a spring to it. When the spring gets soft everything is loose inside. Naturally, the tumblers keep on shaking around and the bolt shakes around.

Page 1941: Max Blank, 240 Ocean Parkway.

Apparently there is in the Court an entire section of the sewing machine plant.

Page 1943: The girl sews with the material in front of her, feeding it into the trough.

Page 1944: He spends three quarters of his time of the day in the place of business.

Page 1949: I stood at the shipping department and somebody called out, the taxi is here. I had my two children with me that day from lunchtime on, or at least 3 o'clock, I am not sure whether 2 or 3. I told them to come down that day and I will go out shopping with them because my wife was away at the time in the south, and they

said, the taxi is here. I just thought of it. I forgot all about the children and my shopping business, so I turned back. The governess was with them, so I turned right to go to the office to take my coat and take the children to go out shopping. While going into the office, the front part, somebody ran in through the rear to me and said Mr. Blank there is a little fire there on the 8th floor. I left the children and I started back to the Greene Street side, and when I got right near to the door there I thought that the children will be frightened; I wanted to take care of the children. At the front passenger elevator, while the elevator came up all the pressers, or most of them, all girls, just happened to get in there, started to scream and cry save us, save us, so in rushing into the elevator, I said to the elevator man, take down these girls, and then you will come up again. But while they were running in the little child was just swept into the elevator; she is 5 years old and I caught hold of her hand and just pulled her out of the elevator, and I said to the man take these girls down and come right up again. He took them down, as many as he could, and I stood there for about half a minute, seeing that he was not up. Well, the minutes were too big for me. I said we will go to the other side, and while going to the other side I just noticed the door and I turned the handle and opened the door thinking I will run

down to that side, that way. That was the Washington Place side door. I heard Mr. Harris say, to the roof, to the roof, out I thought I will be smarter, I will run right down here and wouldn't have to go that way. Well, I opened the door and there was so much smoke and I knew that the children will not be able to stand the smoke. I immediately grabbed the two children and ran as far as the middle of the room, and when I got to the middle of the room I was kind of mixed up, I don't know where to go because I have seen smoke and flames from the packing department right near the rear of the floor, and it didn't take a minute when young Eddie, the shipping clerk, ran up to me and just grabbed the little girl off my hands and says to the roof, Mr. Blank, and I followed him with the other girl, with the older one which was 12 years old. When we got up to the roof there was a good many girls there, about 40, and they were all running in each direction both sides to the Greene Street side. Mr. Harris was already on the roof. I have seen some people running to the other side, to the back of the building. I ran with both children to that side but I seen that the coping is so high I knew I will not be able to get up there. I didn't know there was a ladder there which I afterwards found out there was, and I ran back to the Greene Street side, and when I helped up some girls they were pulled up to the next roof. Somebody took my little girl up to the second

roof, and then I handed over the older girl and when there was about one man left, and I don't remember now whether it was Mr. Alter or Louis Senderman, I then climbed up or I was pulled up and afterwards I helped, I believe, to pull up. I believe that last party that was on the roof. And I walked downstairs from the other side of the building, the second building.

Page 1954: We have: An estimate of how much production they made In a week. 800 or 900 dozen.

Page 1957: He is asked by Bostwick: Is it not a fact that employees were searched until they did not have a stitch of clothes on them? Answer: That is not a fact.

Page 1959: There was no such thing as a locked door on our premises.

Page 1967: He describes the pressing operation. They call those the Economical Iron Company. They have installed those irons; they use with air and gas which are mixed and that makes a flame, with a rubber tube attached to each side, and there is a girl standing using that small iron.

Page 1968: About the cans of oil. Each girl had a little oil can about 4 inches large and she would get her oil from a pump, just pump it into a little receptacle and then pour it in and pour it in the little oil can.

Page 1969: They were not covered, these oil cans, but they were fixed so that the oil cannot run out unless you squeeze the bottom of the can.

Page 1972: The tanks were of the same quality, two on a floor, but the oil was different, one was heavier motor oil, the other was a lighter quality.

Page 1977: Francis J. Kelly, recalled by The People.

Page 1982: Did the fact that the lock has ashes in it show that it was attached to this piece of wood that I've got in my hand? That would be a hard assertion, is the answer. Does it show, or doesn't it, to your expert eye? The signs on the bolt indicate to me that it has been through a fire. Seeing ashes on the bolt of a lock enables your expert eye to convey to your mind the information that the lock that has got ashes on it was attached to a particular piece of wood? In this instance, yes. You mean to tell this jury that if this piece of wood had been brought in without your seeing that that particular lock was attached to this particular wood, that you could then have told that this particular lock was attached to this particular piece of wood? No, I could not. But because you found them together you say that they were together? Yes, sir.

Page 1983: Is that only reason? And on the

position of the spindle; it would have been impossible to remove that from it without breaking it off. Question: What is that? Answer: It would have been impossible to have got that through there without breaking it off. Question: It would have been? Answer: Yes, sir. Question: Mr. Horowitz volunteered to do it, in the presence of the jury. Do you still say it is impossible? Answer: Let me see one point. Question: No. Do you still say it is impossible? Answer: I want to look at that lock before I will say anything. Question: Can you say anything without looking at it? Answer: I cannot until I see the lock. Question: Now, I want to ask you to remove this screw here from this knob. Answer: I can do that. Mr. Bostwick: Let us get clear on record what is done here. Mr. Steuer: He is removing the knob that is left on People's Exhibit #30. Answer: If I should get a good hold on that screw there I will; it don't seem to move, I think it has probably got hardened in there from the fire. It don't seem to come out very easily. Question: Didn't you twist it just now? Answer: No, sir, I didn't twist it at all. Mr. Steuer addressing witness Horowitz at defendant's counsel's table: Horowitz, see if you can get it out. Don't do any damage, do it right in the presence of the jury. The witness Horowitz removes the screw indicated. Answer, witness

continuing: I didn't have hold of the key like that, you were holding it with your hand.

Question: You don't find any part of that screw melted now, do you? No, that screw ain't

melted. Question: The screw is all right, is it? Answer: The screw ain't melted, it is a little

bit burnished at the top, that is all. Question: Find it rusty? Answer: Well, as though it

can't rust, a burned screw. Question: I ask you whether you can remove that knob now?

Answer: One the one side, yes sir. Question: Well, that is the side I want you to remove.

Take it off. Or would you rather have Mr. Horowitz do it. Answer: I don't know whether I

can get a — . Question: Now, I ask you whether you can take that lock off? Answer: I can,

it being off now, but not before. Question: What did you mean by telling this jury a minute

ago that it could not be done because it was melted? Didn't you say it was so melted it

couldn't be taken off? Answer: On this side. (Indicating) Question: Did you imagine the

jury or I wanted you to pull that knob through this hole in the wood? Answer: You asked me

a question whether it could be removed from the lock itself. Question: Didn't you swear

positively that you couldn't - that that could not be taken off? Mr. Bostwick: I think that the

lock should be immediately replaced before there is any question as to the condition in

which it was before. The Court: Yes, the lock can be

put back. Question: Now, it didn't take very long to take it off or put it on, did it?
Answer: I said it couldn't be removed from the other side. The Court: Will you answer
the question? Answer: No, sir, it didn't take long. Question: That could have been
done any time between now and that fire, couldn't it, a million times, couldn't it, by a
man who is no more expert than you are? You couldn't have taken it off a million times
and put it on again, couldn't you, between the date of the fire and this time? Answer: I
could by removing that one screw, yes sir. Question: The one screw that was through
that knob, and you don't find anything melted in there that prevents its removal, do you?
Answer: Not from the one side. Question: And was it at all times perfectly easy to
remove that rod from that piece of wood, wasn't it? Answer: By taking this knob screw
off, yes. Question: It is perfectly easy to take that screw off, isn't it? Answer: Yes, sir.
Question: So that it could be done any number of times between the date of the fire and
this alleged discovery. Mr. Bostwick: It has been done here, Your Honor.

Page 1990: If the tumblers were affected by the heat, isn't it a fact that
you couldn't move the bolt backward and forward? In my opinion, yes.

Page 1991: And a metal which will melt at less

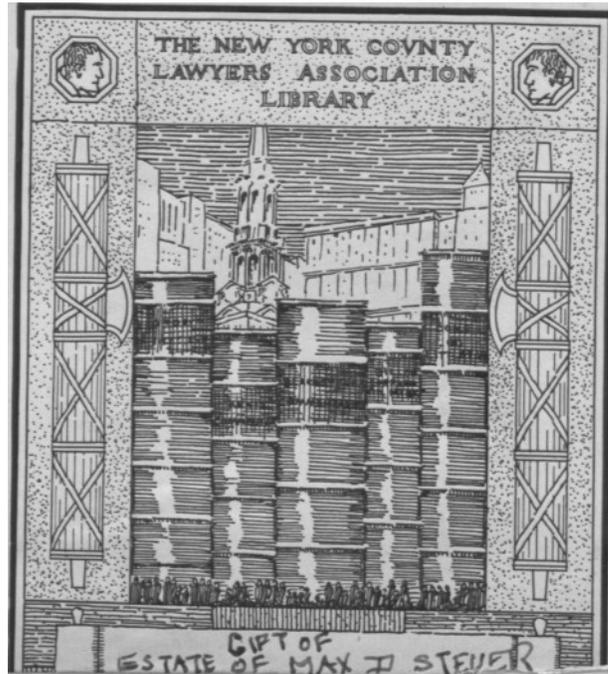
degree of heat than the tumblers, is that so? (That's about the casing of the lock) Answer: I should say it would melt with a less degree of heat than the tumblers. Otherwise, the tumblers would stand more fire pressure. The case is made of cast iron.

Page 1994: Herman Horowitz is recalled by Mr. Steuer. Mr. Horowitz, if the same degree of heat were required for the tumblers and for the case of the lock, not the face but the case of the lock, at what time would the tumblers become useless? Answer: About half a minute. Question: Have you got everything here with which you can demonstrate that to the jury? Answer: Yes, sir. Question: Within what time would it take the same degree of heat to melt the case of the lock? Answer: A couple of hours, three or four hours. Question: Have you got the materials with which to demonstrate that? Answer: I could not in the face of the lock, the method I have not. Question: What would it require in order to melt the face of the lock? Answer: Putting the door in a crucible; it would take about an hour or an hour and a half to get it to the running point. Question by The Court: If the tumblers are contained within the case, and any heat reaching the tumblers reaches them while they are in the case, would the degree of heat required to melt the tumblers be a degree of heat in excess of that required to melt the case? Answer: It would not melt the

case or tumbler at all, it would get soft, the spring of the tumbler, this part would get soft, and then it is useless, the whole tumbler would become so you could shake it around, and that would take about half a minute. And this is the spring that would yield before anything else would? Naturally. That is the first thing and it is one of those latch springs.

Page 1996: Now, when that yields to the heat would the bolt after that catch? It is useless, you can shake it all around.

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Volume III

Eva Kaplan 1731-1737
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Sam Oranstein 1824-1826
Dave Puser 1827-1838
Abraham Bernstein 1839-1846
Isaac Harris 1846-1904

New York, December 19th, 1911.

TRIAL RESUMED.

THE COURT: At the conclusion of the People's case and before your motions, Mr. Steuer, it was my intention to strike out one or two things regarding absence of fire drills. I find that by inadvertence I omitted to do that. Do you know at what pages of the record it occurs?

MR. RUBIN: I will find it for your Honor.

THE COURT: I think it will be sufficient for the present purpose to say to you gentlemen that here and there in the testimony there are some references to the absence of fire drills. That reference was made perhaps by one or two witnesses. That testimony is stricken out and you are instructed to disregard it. Mr. Steuer, your motions are considered as having been made after I make that disposition.

MR. STEUER: I call Mr. Williams.

JOHN WILLIAMS, called as a witness on behalf of

defendants, being first duly sworn, testifies as follows: (The witness states that he resides at Albany, New York)

DIRECT EXAMINATION BY MR. STEUER:

Q. Are you the Commissioner of the Department of Labor of the State of New York? A. I am.

Q. And since when have you been the Commissioner of Labor

of the State of New York? A. Since October 3rd, 1907.

Q. As part of your duties have you supervision of the various factories throughout the City of New York? A. I have supervision over the inspection of factories.

Q. That is what I mean, over the inspection of factories. Will you explain to the jury how the inspection of factories in the City of New York is conducted by your office? A. The inspection of factories is made by persons appointed to the position of factory inspectors.

Q. Have you appointed or designated men as factory inspectors in the City of New York, with relation to the Borough of Manhattan? A. I have appointed factory inspectors, not specifically for service in the Borough of Manhattan, however, but for general service wherever they may be detailed so to work.

Q; Who details them? A. Ordinarily they are detailed by the Chief Inspector.

Q. And who is the Chief Inspector? A. At the present time Mr. John S. Whalen, of Rochester.

Q. And who has been the Chief Inspector say for the last twelve months? A. Prior to March 1st, 1911, Mr. William W. Walling was the Chief Inspector.

Q. Prior to March 1st, 1911? A. Yes.

Q. Then Mr. Whalen's incumbency is since the 1st of March 1911? A. No, Mr. Whalen was appointed to take office during the last days of March.

Q. 1911? A. Yes.

Q. And up to that time this other gentleman whose name you have mentioned was the chief inspector? A. No, there was a short interim during which the Department was without a Chief Inspector.

Q. What is that other gentleman's name again? A. Walling.

Q. And the first name? A. William W.

BY THE COURT:

Q. Do you recall the date on which Mr. Whalen was appointed? A. I think it was either the 27th or the 28th of March.

BY MR. STEUER:

Q. Have you any means of telling us who were the inspectors that were designated to make the inspection in the City of New York, or in the Borough of Manhattan, or that portion of it which would include a building at the northwest corner of Washington place and Greene street? A. I can tell you who made the inspection of the factories in that building during the early part of 1911.

Q. And who made it in 1910, can you tell us that? First tell us about 1911, and then we will go backwards. A. In 1911 the inspections were made by Mr. Gilbert I. Harmon, whose home is in Hoosic Falls.

Q. I don't suppose you need any other address, - New York? A. No.

Q. Just Hoosic Falls, New York, will do. That was in 1911? A. It was.

Q. Prior to 1911 who made the inspection of factories in

that same district? A. There were inspections made in 1910 by Inspector O'Rourke -- Joseph O'Rourke, whose home is in Utica, New York, and by Inspector James Davie, whose resides in Manhattan.

Q. In Manhattan? A. Yes.

Q. Do you happen to know where? A. 26 Manhattan avenue; and one inspection, that is, an inspection of one establishment in that building was made by the Chief Inspector — by the then Chief Inspector, Mr. Walling.

Q. Have you given us the names of all the men who made inspections now in 1910, and 1911? A. So far as the records in my office show, I have.

Q. With respect to the address of Mr. O'Rourke, how would you reach him, Commissioner? We just have Utica, New York. Now we want to get him by subpoena? A. I can't offhand recall the address, but I can supply it, for we have it in our records.

Q. I wish you would make a note of that so as to do it for us. A. I shall do so.

Q. And communicate it to me? A. Yes.

Q. Have you the record of the inspections of these same factory buildings in 1909? A. I assume we have, but the subpoena did not call for the records beyond or further back of March 25th, 1910.

Q. You have no personal knowledge of any of these inspections, have you? A. I have not.

Q. So that the only information that you could furnish

us would be the list of names of people who made the inspections? A. I might be able to interpret the inspections from the records.

Q. Well, are their reports made in such a way that it requires a scientific interpretation to understand them? A. They are made in such a way that it requires a person to be familiar with the method.

Q. Well, have you here those reports to which you have just made reference and the names of the inspectors that you have furnished us with? A. I have.

Q. Will you produce those please? A. Will you permit me to make one correction?

Q. Certainly? A. I omitted to mention the fact that in 1909 another special inspection was made of one establishment in the building by Inspector S. J. Owen. I will have to furnish you with his address upon consultation with our office here in New York, because he is a resident of the Borough of the Bronx.

Q. So far as you know, neither the defendants nor the counsel for the defendants has ever seen those reports? A. I am not aware that they have.

Q. Now, will you produce them, please. A. In what order do you wish to have them produced?

Q. We are only interested, Commissioner, in the three top lofts of the building known as 23 to 29 Washington place ~ the three top lofts? A. That would be the eighth and ninth and

tenth floors?

Q. Yes, sir, what are the dates of the inspections during the period covered by you from March 1910 to March 1911? A. On examination of these records I find that the inspection of James Davie was made on January 10, 1910.

Q. 1910? A. 1910. The inspection by Inspector Joseph O'Rourke was made on January 19, 1910. Will you permit a correction?

Q. Yes. A. There are two dates on the card, and I mistook one for the other. The inspection of James Davie, I should have said was made on January 6th, 1910, and by Inspector O'Rourke on January 13th, 1910. The inspection by G. I. Harmon was made on February 27th, 1911. The inspection by Chief Inspector Walling was made in the fiscal year of 1910, but as a matter of fact it was made on November 2nd, 1909.

Q. What is the fiscal year, Commissioner? A. October 1st to September 30th.

THE COURT: Mr. Steuer, would you like to elicit from this witness in a general way the character of the inspection?

MR. STEUER: Yes, I would, Judge. There is one that the Commissioner has not told us about -- the inspection by S. J. Owen.

A. (Witness continuing) I find that the inspection by S. J. Owens, while it covered a part of this building, had no reference to the eighth, ninth or tenth floors.

Q. I understood you to say Gilbert I. Harmon --- I think in giving your testimony just now you referred to him as G. I.? A. G. I. ~ I simply gave the initials.

Q. Will you tell the jury please what the general character and nature of these inspections are? A. Shall I give ——

BY THE COURT:

Q. In other words, the points to which the attention of the inspector are properly directed?

A. Yes.

Q. Shall I give this statement in chronological order?

MR. STEUER: Yes, if you can, certainly.

A. Beginning with the inspection of Mr. Walling, made on November 2nd, 1909, this is not a detailed report but a special observation of the establishment of the Triangle Waist Company—

THE COURT: I think it is important to ascertain,

perhaps, Mr. Steuer, not merely the matters reported upon but the general scope.

MR. STEUER: I think the Commissioner misunderstood both your Honor's suggestion and my question.

Q. Independent of these reports, if you could tell us, we would like to hear you tell us what is the general duty of the Inspector if he were discharging his duty properly? What should he do in the making of an inspection? A. It is his duty to observe conditions generally, to know whether or not there is compliance within the establishment with the provisions of the Labor Law.

Q. Is there any way, Commissioner, in which these inspectors

are made familiar with the provisions of the Labor Law before they start on their inspecting tours? A. They are appointed from civil service lists. These lists are established as the result of competitive examinations and the civil service examinations cover essential points of the law.

Q. Essential points of the Labor Law? A. Of the Labor Law. So it is to presumed, at least, that unless they are quite familiar with the Labor Law they cannot find a place on the Civil Service list.

Q. So that the examination made of each factory is to see to it that the particular factory is conducted in strict compliance with the provisions of the labor law? A. That is the purpose of the inspection.

Q. Now, you will proceed to tell us what the reports are?

BY THE COURT:

Q. And in the event that the inspector discovers something which he considers to be a non-compliance with a provision of the labor law, what then becomes his duty? A. It is his duty immediately to call to the attention of the persons who accompanied him other persons in authority in the establishment with whom he may come in contact, to the conditions existing in violation of law. Further than that he is required to incorporate in his report recommendations tending, if complied with, to a proper remedying of defects so that the law may be complied with.

BY MR. STEUER: Q. And these recommendations, are they

contained in the recommendations which you hold in your hand? A. So far as any were made, they are.

Q. Well, I mean that whenever an inspector -- whenever it has relation to this particular building or any other building — makes a report, is it a report of the kind and character that you have in your hand? A. It is.

Q. Well, now, will you take up the first of these reports. which is the report of Chief Inspector Walling, I think, in 1909?

MR. BOSTWICK: No, I object, on the idea that it would be better to bring that out when Mr. Walling and the other inspectors who made these reports are called to the stand, the Commissioner having testified that he has no knowledge whatever of these inspections at all.

MR. STEUER: These reports as I understand it, are evidence as a matter of law. You will find, if you examine the Labor Law that there is a provision which directs the Commissioner of Labor to designate these inspectors for the purpose of making these reports and that they are required to file their reports with the Commissioner of Labor. They are therefore a public record, your Honor, and under the section of both the Civil and Criminal Code, public records are evidence upon the trial of either kind of a case.

THE COURT: I am inclined to think that that is so.

MR. STEUER: Public officers are presumed to properly and lawfully discharge their duties.

THE COURT: What section of the Labor Law is it that requires the filing of these reports?

MR. STEUER: I think it is one or two beyond or before 80 — it is either 78 or 79 or 81 or 82 —

Q. Do you happen to remember it, Commissioner, the section which authorizes you to appoint inspectors? A. I think it is section 62, but I am not quite sure.

THE COURT: I do not find that provision, Mr. Steuer, but you might look. I do not find a provision requiring the filing of reports ~

Q. Oh, that is a provision of the Department, isn't it? A. It is.

MR. STEUER: There is a statutory provision requiring him to designate inspectors.

THE COURT: But your contention was that to make these reports evidence there was likewise a statute, as I understood you providing for the filing of reports.

MR. STEUER: No, your Honor. Just, for instance, in any of the departments of the Federal Government, their reports are required not by Federal statute, but it is an ordinance of the Department. For instance, let me state you a reported case —

THE COURT: In the regular course of their business?

MR. STEUER: Yes, take for instance, the Federal Department of Revenue, that originally had charge of the Probable Crop Reports, and one of the employees of that

Department was charged with having formed a conspiracy with a very prominent cotton broker in New York, furnishing that cotton broker the information in advance of the probable cotton crop, and of course that gave him a splendid opportunity. That is the Price case. Now, on that indictment we contended that there was no statute which prohibited the issuance of that information, and then the Government produced a regulation of the department requiring that no reports upon this subject should be circulated, although the report must be filed with that Department of the Government, and it was held that that was a regulation which bound and that the reports were evidence, and that it would be a crime to circulate the contents of those reports other than through the Government channels.

THE COURT: That case held that those reports although not required to be made by statute were evidence?

MR. STEUER: Yes, sir. It is inconceivable that in a State of the size of New York, which has by a provision of law one Commissioner of Labor, that if the inspectors did not report to the Department, and if those reports did not become the documentary evidence of the factory conditions in the Department's records, how you could otherwise maintain and conduct them. What possible means —

THE COURT: I think I will receive it.

Q. I call your attention to the report of Mr. Walling,

which seems to be the first one in the order that you mentioned —

THE COURT: I take it that these are originals.

Q. Are these the originals? A. They are the originals as submitted to the Department by the inspectors.

Q. And you brought those from the Department pursuant to an order signed by his Honor, Mr. Justice Crain? A. I did. Mr. Walling made this inspection in November 1909, to observe general conditions in the establishment of the Triangle Waist Company, with a view to a proper enforcement of certain provisions of the law. I have no means of gathering what the conditions were except as indicated in the recommendations of the Chief Inspector.

THE COURT: I think I shall receive the report without comment, except that it may be necessary for a witness to interpret something.

MR. STEUER: All right, suppose we proceed this way: I will first offer the reports in evidence without saying what they were, and then if they require any explanation, let the Commissioner make it.

MR. BOSTWICK: In the meantime I would like to strike out the answer of the commissioner.

THE COURT: Yes, strike it out, and the jury will disregard it.

MR. STEUER: I offer in evidence the report mentioned by the witness in so far as it has reference to the Tri-

angle Waist Company lofts (handing paper to Mr. Bostwick).

Q. While we are waiting I would like to ask you a question. Is there any notice given to the proprietors of the various factories that an inspector is coming down to inspect their premises? A. Not with our consent.

Q. How? A. Not with our consent.

Q. You mean, if it is given you don't know anything about it? A. I do not. Moreover, we punish if we find out that that is done.

Q. The very intent of the inspection is that the proprietor should not know that it is to be made, is it not?

MR. BOSTWICK: I object to the question.

THE COURT: Well you have got the answer of the witness.

MR. STEUER: All right.

MR. BOSTWICK: I object to the report made by Mr. Walling in 1909, as not bearing upon the issues in this case.

THE COURT: I will receive it. I presume this paper will have to be returned and if you want the substance of it incorporated in the minutes, that can be done.

(Paper received in evidence and marked Defendants' Exhibit E.)

MR. STEUER: Well, I will read this (Defendant's Exhibit E.)

THE COURT: I take it really that all you want from

that is the absence, the negative fact that it does not appear from that report that the inspector made any note respecting doors or other means of exit from any of the floors, isn't that so?

MR. STEUER: That's right/ yes, sir.

THE COURT: And I suppose that will be conceded. In this particular report the inspector makes no comment regarding exits. Now, I think that you want for your purposes a brief statement of the matters apparently looked at by the inspector as indicated by that report plus the number of operatives said to be upon those floors at that time.

MR. BOSTWICK: I think the entire report should go in.

THE COURT: Very well, spread it on the minutes.

MR. BOSTWICK: That is, if it is admissible at all, which of course we do not concede. I am perfectly willing that the stenographer after adjournment shall copy that in, and then they can be commented upon.

THE COURT: If Mr. Steuer reads it the stenographer will be taking it down at the same time.

MR. STEUER: (Reading Defendant's Exhibit E) "No. 12,887; name, Triangle Waist Company; compliant, verbal, subject, tenant factory, No. 23 Washington place, City of New York, County of New York; owner of building J. Asch, address, South Norwick, Connecticut; eighth, ninth and tenth, ladies waists; visits made as result of telephone

conversations complaining as to lack of toilets, water, and so forth; three children under sixteen illegally employed; prosecution to ensue; there are no wash sinks on any of three floors; filtered drinking water is provided and proprietor claims this is used for washing; several girls stated they knew of no wash room or sink; strike on at present; about half the force working; usual number of females, ninth floor, 200; eighth floor 160; orders: tenant remove obscene markings from floors of all water closets, private dressing rooms for females on eighth, ninth and tenth floor. Owner: Provide suitable wash rooms on all floors occupied by Triangle Waist Company. Owner, provide three additional toilets on ninth floor and two additional on eighth floor for use of women. Owner, lime wash or paint walls and halls of stairways. All statements on this card are correct. William W. Walling, 2nd of November, 1909.”

Q. What does this mean, “Examined by H. B., November 4th, 1909”? A. It means that the card passed through the hands of our examiner.

BY THE COURT:

Q. That is a person inside the offices of your Department at Albany? A. It is.

BY MR. STEUER:

Q. And then "Notice sent November 5th, 1903". What does that mean? A. It means notice to Harris and Blanck in respect

of orders to occupants and to Joseph Asch, in respect to orders to owner.

Q. Now will you take up the next report, please?

MR. BOSTWICK: Just a minute.

THE COURT: You may interrogate upon all, Mr. Bostwick, when the examination is completed.

MR. STEUER: I don't think I have omitted anything, have I?

MR. BOSTWICK: I would like you to read the last printed line.

MR. STEUER: (Indicating on Exhibit E) This here?

MR. BOSTWICK: Yes.

MR. STEUER: At the bottom of the card there is printed the following note, "This form to be used when reporting special visits where full inspection is impracticable or unnecessary."

Q. Now, has that any special significance? A. Only as a matter of instruction to the inspectors in the use of the card.

MR. STEUER: I didn't read these blanks where there was nothing filled in, but I did read everything where there was anything filled in.

Q. Now, the next inspection? A. (handing card to counsel).

MR. STEUER: I offer it in evidence.

MR. BOSTWICK: We make the objection that this report having been made over one year before the matter mentioned in the indictment —

THE COURT: Does it antedate any testimony given by any employee? You see you have some evidence in the case by employees relating to conditions as they observed them during the entire period of their employment.

MR. BOSTWICK: I don't think it touches any matter brought out by the People in regard to any matters antedating that matter referring to the physical conditions of the factory.

THE COURT: My recollection is that you had some employees who had been there three years or about three years at the time of the fire.

MR. BOSTWICK: On the question of their use of the doors.

THE COURT: And what they had observed.

MR. BOSTWICK: As to the use of the doors.

MR. STEUER: This has direct reference to the issue in this case.

THE COURT: Pardon me. I will look at the card. (Card handed up to the Court by Mr. Steuer.)

THE COURT: I will receive it.

(Received in evidence and marked Defendant's Exhibit F.)

MR. STEUER: (reading Defendant's Exhibit F) "12,886, Inspection No. 586; tenant, factory; name, Triangle Waist Company, Harris and Blanck, Nos. 23 to 29 Washington place, City of New York, County of New York; owner of building,

Joseph Asch; [...] eighth, ninth and tenth; ladies shirtwaists –”

THE COURT: I think I will ask the witness, Mr. Steuer, a question:

BY THE COURT:

Q. Upon this Exhibit which Mr. Steuer is reading now, which has been received in evidence (Defendants' Exhibit F), on top of certain printed matter, there are little nick marks, little marks with a pen, check marks; what do those indicate? A. In some cases it indicates an affirmative, while I think there are a few instances where the opposite is the case.

Q. Do you determine what it indicates from the character of the mark? A. We do.

THE COURT: Proceed.

MR. STEUER: In this square, in black type; “persons employed, exclusive of working managers and so forth, males 18 years or over, in the two shops, 44; total number employed 44; regular weekly hours of labor in two shops, 52; males 16 to 18 years none; females, 18 years or over, 315; regular weekly hours of labor, 52; females 14 to 16 years, none; total employees 359; largest number of employees at any time in past twelve months 400; number of owners or proprietors of work, one; children none;”
Underneath it says, in print, “76, register properly kept, 70 all certified fire, none missing; 77, not working over six days weekly; 77 not working

and after 5 p.m.; 78, number apparently under 16”, and those ore all left blank. That is just the print that I am reading. Then the next line also is blank, "81, employed in April, the trades or occupations, nothing” —

THE COURT: Suppose you just direct your attention to those items on the report which you consider to be significant.

MR. STEUER: All right.

THE COURT: Then Mr. Bostwick will do the same.

BY MR. STEUER:

Q. The word "structure” appears on this card, and net to it is the “walls”, then you have the letter “G”; what does that stand for in the report? A. It stands for “Good”.

Q. "Walls, G, floors G, roof G, windows G, drainage and plumbing G; doors open out ‘practical’? and then you have a check mark over that; what does that mean? A. It means that in the judgment of that inspector it was practicable to have doors open outwardly.

Q. And the next is "Unlocked during working hours”, and a check mark over that; what do you mean by that? A. It means that the inspector found doors unlocked, if the check is over “unlocked”.

BY THE COURT:

Q. Are there not two separate and distinct heads on that card, one being “doors open out”, and the other “practical”?

A. Well, that follows after.

Q. In other words, two separate and distinct heads there, one being “doors open out,” and the other being “practical”, referring to a situation where it is conceived that where the doors do open out or not it is nevertheless practical that they should? A. Yes.

Q. Now, your check upon this particular card is over what heading (on Defendants’ Exhibit F)? A. Seems to be between "out" and “practical”, your Honor.

BY MR. STEUER:

Q. “Unlocked during working hours”, and a check mark over that; what does that mean?

A. Is the check over “Unlocked”?

Q. Yes, the check is directly over “unlocked”? A. It means that the inspector found the doors unlocked.

MR. STEUER: The date of this inspection is January 6th, 1910, your Honor, and “Examined January 11th, 1910”, “Notice sent January 19, 1910”.

Q. Now, will you take up the next report? A. (Witness handing a paper to Mr. Steuer).

MR. STEUER: I offer it in evidence.

MR. BOSTWICK: Objected to on the ground that it is one year prior to the matters mentioned in the indictment, and so far as it touches any matters excepting those brought out by the People, and it should not be admitted in evidence unless the whole of it goes in.

THE COURT: Well, I will receive it. If you want the entire report — I mean to say if you desire, in view of the fact that I am receiving a part that all should go in, I will receive it.

MR. BOSTWICK: My objection, if your Honor please, is that only that portion should go in which in any manner meets any of the evidence offered by the people.

THE COURT: You have introduced some testimony here at this trial by witnesses who have testified that during the period of their employment they never knew, if you please, the Washington place door to be used, or open.

MR. BOSTWICK: I think it is entirely admissible so far as any matters brought out by the People are concerned.

THE COURT: I will receive it to that extent.

MR. STEUER: That is all I am offering it for. (received in evidence and marked Defendants' Exhibit G)

MR. STEUER: (reading Defendants' Exhibit G) The report is dated January 13, 1910, where it says "Doors open out," there is nothing written, and over the word "practical" is written the word "not", "Unlocked during working hours —"

Q. Now, the mark being over the word "unlocked", means what? A. An affirmative.

Q. That the doors were unlocked? A. Yes, sir.

(The witness now produces another report.)

MR. STEUER: I offer it in evidence.

(Received in evidence and marked Defendants' Exhibit H.)

MR. STEUER: This report is dated the 27th of February, 1911. Opposite the word "doors", over the word "practical" appears "No".

Q. What are the marks over the words "open out" opposite doors? A. "in", "open in".

Q. Meaning that the doors open in? A. Yes.

Q. Over the words "unlocked during working hours" -- over the word "unlocked" appears a check mark; what does that mean? A. It is an affirmative statement.

Q. Meaning what? A. That the doors were unlocked.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. What is your present business, Commissioner? A. Commissioner of Labor of the State of New York.

Q. There is nothing that you know of in the statute that requires the making of these reports to the Department, is there? A. I don't think that there is specifically.

Q. And these reports are not made pursuant to any specific law? A. They are not.

Q. There are matters in these reports, are there not, over which you have no jurisdiction in the City of New York? A. Yes.

Q. You are familiar with the case of the trustees of Sailors Snug Harbor, are you not? A. I am.

Q. And by a construction of the Appellate Division you ceased to have any jurisdiction of some of these matters which

are mentioned in this report? A. That is true.

Q. If I understood your testimony correctly, when the inspector had made his inspection, he would make verbal reports of any violation that he found in addition to what was put in those reports, or including what was in those reports? A. He would make no verbal reports to his superiors in the Department.

Q. No, I am speaking now about what instructions he would leave at the factory to some person connected therewith? A. The practice is and has been to advise as to what needs to be done in order to conform to the law.

Q. And is it not a fact that advice may be given to those persons in charge of the factory and it never appear in any my upon any of these reports? A. I can't say whether that happens or not. If it does it is contrary to instruction..

Q. Some of the cards are yellow? A. Yes.

Q. And some are blue? A. Yes.

Q. Will you tell us what the difference is? A. That is a color scheme that we have to distinguish between cards covering general inspections and special inspections.

Q. That is what I meant when I asked Mr. Steuer to read this line: "This form to be used when reporting special visits where full inspection is impracticable or unnecessary" appearing upon Defendants' Exhibit E. That is a special report, isn't it? A. It is.

Q. And that was not a general report? A. No.

BY THE COURT:

Q. That was a report made in consequence of communi-

cation received by the Department and not of the Department's own initiative? A. That is correct.

BY MR. BOSTWICK:

Q. Under Section 68 of the Labor Law, it was required of you to furnish these people copies of the Labor Law, was it not, for posting? A. It was.

Q. And did you do so? A. Are you asking a question generally or with respect to any particular inspection?

Q. With regard to these tenants? A. I will examine the card and I can tell you.

Q. No, I mean without the card? A. I can't tell you.

Q. You are familiar with Section 68? A. I am.

Q. It was your duty under Section 68 to furnish copies of the law, was it not? A. It was.

Q. For posting. Now, I show you Defendants' Exhibit H, and ask you to look after the words "68, posted on each floor", and ask you what you find there? A. That the law was not posted.

Q. I show you Defendants' F and ask you if you did not testify in regard to that that the check over the words "open out, practical", that that meant that it was practicable? A. I did, before I examined the card.

Q. Well, I have it on my notes that you testified that that report indicated to the Department that it was practicable? A. I did, because according to the reading by Mr. Steuer I was lead to believe that the check was over the word "practical"

regard? A. I don't want to indulge in any misunderstanding, Commissioner, I simply want your best understanding of this evidence. A. I am answering now as to what it means, that the check appears to be between the words "out of" and "practical".

Q. So that now, after looking at that card, you cannot say whether it was reported whether it was practicable or impracticable? A. So far as this inspection is concerned, that is so.

BY THE COURT:

Q. So far as that inspection card is concerned can you say whether or not that is a report that in point of fact the doors did open outward, or merely a report that it was practicable that they should open outward? A. I regret to say that I do not quite catch the question.

Q. Are you able upon an examination of that report to determine whether the inspector reported that as a matter of fact the doors did open outwards or whether he merely reported that it was practicable that they should open outward? A. May I express my opinion?

Q. I ask you whether you are able to determine? A. My opinion is that that inspector meant to say that in his judgment it was practicable to make the doors open outwardly.

BY MR. BOSTWICK:

Q. And that is your idea of what the inspector reported to the Department? A. Precisely.

Q. And you as head of the Department would act as head of this report? A. If it were brought to my personal attention I should.

Q. Well, whether brought to your personal attention or one of your subordinates, you would expect them to act upon this report? A. Either that or to return it for more specific information.

Q. I ask you to look at it again: was this card ever returned to the Department for any more specific information than that? A. There is nothing upon it showing that that was done.

Q. And so far as you know there never was any further information received on that subject by the Department? A. No.

Q. I show you defendant's Exhibit G and ask you whether that inspector did not report that it was not practicable to have the doors open out? A. He did.

Q. I show you Defendants' Exhibit H and ask you if that inspector did not report on the same subject that it was not practical to have the doors open out? A. I beg pardon, but this is the report that I just looked at, I know the handwriting quite well.

Q. Refer to Defendants' Exhibit H. Now, I ask you to look at Defendant's Exhibit G, and state whether he did not report that it was practical to have the doors open out? A. He reported that it was not practical to open out.

Q. You don't know whether it was practical to have these doors open out? A. I do not.

Q. Would you think that any reliance could be placed upon reports of this character if now they do open out?

MR. STEUER: I object to that as incompetent, immaterial and irrelevant.

THE COURT: Objection sustained.

Q. Would you think it probable that an inspector in your Department would report that it was impracticable to have the doors open out, if they now opened out?

Objected to as incompetent. Objection sustained.

Q. In answer to Mr. Steuer's question you said that you could tell, - or the Judge's question, I think, - that you could tell from the character of the marks over these printed words. whether they meant the affirmative or the negative; did you mean that? A. I meant that, with perhaps this qualification, not only as to the character, but as to the location.

Q. Is there anything in the character of the marks that would indicate to you whether it was an affirmative or a negative bit of information to the department? A. No, but there is —

Q. No. So that you would like to take that back, wouldn't you? A. If that is the sense in which my answer is taken, yes.

Q. There is nothing then in the character of the mark over those words that will tell you whether it is an affirmative or a negative information to the Department? A. No, because all checks look alike.

Q. Is it not the location of the check in its location to the printed matter that determines whether it is negative or

affirmative information given to the Department? A. That is correct.

Q. And if the check is placed between two words which are part and parcel of the same subject matter, and to receive one bit of information it would be impossible from the location of the check marks to tell whether the information was affirmative or negative? A. True.

BY THE COURT:

Q. These various exhibits you recognize as being in the handwriting of the different persons whom you have mentioned? A. I do.

Q. Was there at the time of the making of these several inspections any rule of your Department regulating the hours between which they should be made? A. No special rules, your Honor. Our general instructions have been that the inspectors are to be in their assignments not later than nine o'clock in the morning, -- that is, to start on their field work not later than nine o'clock in the morning.

BY MR. BOSTWICK:

Q. The only instructions your Department gave to your men were to go to work not later than nine o'clock in the morning? A. By no means.

Q. I mean in regard to the hours when the inspection should be made? A. They were instructed to continue to working the field until a full day's work was done.

Q. In regard to the time that they should start to make

their inspection, the sole instruction of the Department was that they should commence their work not later than nine of clock in the morning? A. That is correct, substantially.

Q. Over the words, after the word "doors", and over the words "unlocked during working hours" on Defendants' Exhibit H. there is an ink mark? A. Yes.

Q. Apparently a small line; and I think you testified that meant that the Inspector had found the doors unlocked? A. That is the case.

Q. If he had found the doors locked how would he have made the indication upon that card? A. He would have written a negative instead of the check.

Q. You have testified that the inspectors -- do you call them deputy inspectors? A. They are now factory inspectors.

Q. What were they at this time? A. Deputy factory inspectors.

Q. You said that the deputy factory inspectors were told to go to work not later than nine o'clock in the morning, and to continue until they had done a full day's work. Were there any instructions that they should cease before any particular time named? A. No.

Q. Would these reports show whether the inspection was made before any particular time, on any particular day? A. No.

BY THE COURT:

Q. What is meant by the use of the words "working hours" on the cards? A. In that column there, your Honor?

Q. Where the words “working hours” occur on the cards, does that include or embrace a period of time after the ringing of the closing bell, of the stopping of the machinery, for leaving the building? A. In preparing this card with respect to that particular point, we followed the language of the statute which prescribe that doors shall not be locked, bolted or fastened during working hours.

BY MR. BOSTWICK:

Q. In view of the last answer you made to me, there is nothing on these cards which would show that they were not made earlier than 5:45 on Saturday, or as early as 4:45? A. On Saturday?

Q. Yes. A. Saturday is a half holiday, and our inspectors don't work after twelve o'clock.

Q. These blue pencil marks, do they indicate that the matter which was required to be done by order had been done (showing witness Defendants' Exhibits F, G and H)? A. No, these blue marks are the marks made by the card by the examiner

Q. On these reports here they are required to make returns as to the person in authority seen by the deputy, what are meant by the words "person in authority"? A. A. person holding some authoritative relation to the concern inspected.

Q. You would not suppose that to mean a telephone operator, would you, in a factory? A. Ordinarily, no.

Q. You would expect it to be some one who had some connection with the establishment in some superior position, would you not? A. Yes.

Q. I ask you to look at Defendants' Exhibit H and ask you to state who the inspector reported in that instance to have seen as a person in authority? A. The inspector reports having seen Edna Barry, telephone girl.

Q. Then you had knowledge after this report was made to your department that it was a telephone girl that was the person in authority that he had seen? A. Yes.

Q. Was this report perfectly satisfactory to you after you that that knowledge? A. Yes, sir.

Q. You inspect a number of factories, don't you? A. You mean personally?

Q. No, your department? A. We do.

Q. Do you know, as a matter of fact, that this was the largest shirt waist manufactory in New York State? A. I do not.

Q. Do you know anything about the various sizes of the shirt waist factories of the state of New York? A. Not specifically.

Q. Do you know anything about it generally? A. In a very general way.

Q. Well, in a general way, as the Commissioner of Labor of the State of New York., don't you know that that is one of the largest factories in the State of New York? A. I know nothing of the kind.

Q. Don't you know that this was the largest factory engaged in this line of business in the State of New York? A. I do not.

Q. Are you surprised to learn that fact, if it is a fact?

MR. STEUER: I object to that; he could not learn it— it is not the fact.

THE COURT: Objection sustained.

Q. Do you know how many employees are employed in a large shirt waist factory in the State of New York? A. I do not, except as I may occasionally examine the record of inspection.

Q. Well, from that knowledge what would you consider to be a large shirt waist factory in the State of New York? Employing how many people?

MR. STEUER: I object to that as immaterial.

THE COURT: Objection sustained.

BY THE COURT:

Q. Returning for a moment to the phrase "working hours" as used upon your cards, are those words used with reference to the statutory number of hours fixed by the labor law, or are they used with respect to the actual number of hours that the

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people in the given factory may be called upon to work? A. The actual time during which the employees are engaged at work in the factory.

BY MR BOSTWICK:

Q. You have put those words on your card of information, taking them directly from Section 80 of the Labor Law, have you not? A. Yes.

Q. And you intended to give them no other interpretation and meaning than that which the law has given them, did you? A. We did not.

Q. In the report of January 11, 1910, which is Defendants' Exhibit F, I see the word "law", and then a little below it "68; posted on each floor," and a check mark; what does that indicate?

THE COURT: You had better speak now as of the report of January 6th.

MR. BOSTWICK: I will speak of it as the report of January 6th.

A. The check mark being placed over the word "posted" means that the law was posted upon that day.

Q. So that from the report of January 6, 1910, the law was posted, according to that inspector? A. Yes.

Q. I show you Defendants' Exhibit G, and I ask you to look at the word "law" there and the words "posted on each floor", and an ink mark, and ask you what that indicates? A. It indicates that the law was posted on January 13, 1910.

Q. Again I show you Defendants' Exhibit H, and ask you to look at the figures "68 posted on each floor", and state what that indicates? A. It indicates that the law was not posted on February 27, 1911.

Q. And was that the last report made to your department prior to that fire? A. It was.

Q. I think you stated in answer to one of my prior questions that the inspector gave instructions to the person accompanying them through the factory? A. Not necessarily to the person accompanying them through the factory.

Q. I thought you said that on your direct examination? A. Either to the person accompanying them, or to someone in authority connected with the business.

Q. Wouldn't it be the person who appeared on these cards, since you had the practice of putting on who the person was who accompanied the inspector? A. Ordinarily that is the case.

Q. And therefore in this case in the report of February 27, 1911 those instructions would have been given to Edna Barry, the telephone operator? A. I don't know whether in that case that was done or not.

Q. Just look at that exhibit and see if you cannot answer that then? A. I cannot answer the question any different, for this does not convey any information other than that the inspector was accompanied by Edna Barry.

Q. Didn't you say a moment ago that the inspector would give the instructions ordinarily to the person in authority

who accompanied then? A. Ordinarily, yes.

Q. And therefore, ordinarily would he have, in this instance given the instructions to Edna Barry? A. He might have.

Q. Well, if he followed the general course and custom he would have?

MR. STEUER: I object to that as immaterial. We are talking about a question of law, and that is not an issue in this case at all.

MR. BOSTWICK: I withdraw the question. That is all.

MR. STEUER: That is all.

THE COURT: If there is no objection these records can be taken back by the Commissioner. Mr. Bostwick, have you any objection to their being taken back by the Commissioner?

MR. BOSTWICK: None whatever.

THE COURT: Mr. Steuer, you do not want them any longer?

MR. STEUER: No, your Honor.

ISAAC STERN, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows: (The witness states that he resides at 49 East 88th Street).

DIRECT EXAMINATION BY MR STEUER:

Q. What is your business? A. Steam contractor.

Q. Have you any relation at all to the building located

at Nos. 23 to 29 Washington Place? A. Yes, sir.

Q. And is that a part of your steam contracting business, or independent of that? A. That is part of my steam contracting business.

Q. What was your relation, if any, to the premises 23 to 29 Washington Place, for the last five or six years? A. Steam contractor and superintendent of the building.

Q. As superintendent of the building how often were you at it? A. Every day,

Q. Do you know the premises that have been occupied by the defendants Harris and Blanck? A. Yes, sir.

BY THE COURT:

Q. What were your general duties as superintendent of the building? A. Well, to look after the steam plant, the elevators, and general cleaning of the building, and almost everything connected with it—repairs and such like.

BY MR STEUER:

Q. Do you know the Washington Place elevators in that building? A. Yes, sir.

Q. And for how long have you known then? A. Since 1903,

Q. Did your connection with that building start in 1903? A. July, 1903.

Q. And has it continued up to the present time? A. Yes, sir.

Q. Do you know the Washington Place stairway in that building? A. Yes, sir.

Q. And the doors leading from that stairway into the various lofts in the building? A. Yes, sir.

Q. During the time of your connection with that building did you ever go to the premises occupied by the defendants, Harris and Blanck? A. Yes, sir.

Q. Will you tell the jury, please, with what frequency you went to the lofts occupied by them? A. Well, occasionally, sometimes two or three days in succession, sometimes twice a week, sometimes once a week, and just as the occasion required it.

Q. And was that so during the whole period of time that you were connected with that building and they occupied those lofts? A. With the exception of about one month.

Q. Is that when you were away on a vacation? A. When I was in the hospital.

Q. How did you go up to their premises, Mr. Stern? A. Generally went up on the elevators.

Q. Which elevator? A. Sometimes the Washington Place elevator and sometime the Greene Street elevators.

Q. Was it a matter of method at all as to which elevators you took in going up? A. No.

Q. You never walked up the stairs at any time that you recall, did you? A. Oh, yes.

Q. To their lofts? A. Yes, sir.

Q. Did you ever go up the stairs on the Greene Street side? A. Yes, sir.

Q. Did you ever go up the stairs on the Washington Place side? A. Yes, sir.

Q. When you went up the stairs on the Washington Place side did you ever enter the loft of Harris and Blanck on the Washington Place side? A. Yes, sir.

Q. And when you went up the Greens Street side did you enter the loft of Harris and Blanck from the Greene street side? A. Yes, sir.

Q. When you went up the Washington Place stairs and entered the lofts of Harris and Blanck, how did you get into them? A. I got in through the doorway.

Q. Was there any other way to get in except through the one door on the Washington Place side? A. Only the elevators.

Q. The elevators or the stairway door? A. The stairway door.

Q. How did you generally go up when you went up on the Washington Place side? A. Generally went up on the elevators.

Q. And on what floor did you get off at? A. Generally get off on the tenth floor .

Q. Was that the office floor of Harris and Blanck who had the three floors? A. Yes, sir.

Q. What, if anything, did you do in their premises, what called you to their premises on the different occasions when you went there? A. Well, general supervision, looking at the repairs and going down the hallway to see if they were clean.

BY THE COURT:

Q. Can you give us an approximate idea of about how many times you visited any part of their premise. during the year immediately preceding March 25, 1911? A. Well, on an average I should say about four days a week.

BY MR STEUER:

Q. Considering there are fifty-two weeks in the year would you then say that as near as you can approximate it, you were in their premises two hundred times during that year? A. I could safely say that.

Q. When you went to the lofts occupied by Harris and Blanck and went by the elevator and got off on the tenth floor, will you tell the jury, please, what, if anything, you did in order to get into the lofts occupied by them, and below the tenth floor? A. Generally walked down the stairway, opened the door and went down the stairway.

Q. Which stairway did you walk down? A. Sometimes the Greene Street, sometimes the Washington Place.

Q. Did you have any rule or method with relation to whether you walked down the Greene Street stairway, or whether you walked down the Washington Place stairway? A. No, sir.

Q. In going down the Washington Place stairway from the tenth floor did you enter the ninth floor? A. Yes, sir.

Q. And on such occasions how did you get into the ninth floor? A. Opened the door.

Q. Did you ever find on any occasion when you went up

either by way of the stairs or when you went up in the elevator and came down on the Washington Place stairs and attempted to enter the ninth floor that you couldn't get in? A. I couldn't recall that.

Q. Did that ever happen? A. I don't know as it did, I can't recall it.

BY THE COURT:

Q. Do you recall any instance in which you passed through the loft door on the ninth floor on the Washington Place side, either going in or out? I don't mean as to the dates, but the fact that you did it? A. Yes, sir.

BY MR STEUR:

Q. Did you do that many times, Mr. Stern? A. Quite often.

Q. Did does that apply equally to the eighth floor? A. Yes, sir.

Q. And did you go up and down from the eighth floor in the stairway that you have indicated on the ninth floor? A. Yes, sir.

BY THE COURT:

Q. On those occasions when you say you passed through that door how did you open the door? With what? A. Just turned the knob.

BY MR STEUER:

Q. At the present time you are still connected with Mr. Asch in your relation to that building? A. Yes, sir.

Q. And Mr. Asch is at present in litigation with these de-

defendants trying to compel them to occupy those lofts, is he not? A. I think they are.

Q. Well, you know that, don't you? A. I have never got no positive facts, only what I have read in the papers.

Q. Weren't you in court when the case was partially tried? A. No, sir.

CROSS EXAMINATION BY MR BOSTWICK:

Q. You were hired by Mr. Asch, or under contract with Mr. Asch? A. Yes, sir.

Q. Which? A. Under contract.

Q. You weren't in his employ, were you? A. I don't know how you would define that. I don't know. As long as I have got a contract with him I think I am in his employ.

Q. Well, was it a part of your contract to supply steam heat to that building? A. Yes, sir.

Q. And was it a part of your contract to turn the elevators in that building? A. Yes, sir.

Q. There was a law suit brought because of an accident in those elevators, was there not? A. Yes, sir.

Q. Were you the defendant in that suit? A. One of the defendants--

MR. STEUER: I object --- objection withdrawn.

THE COURT: Possible bias?

MR. STEUER: All right, that was not an action with relation to these defendants.

THE COURT: I don't know anything about it, Mr. Steu-

er, I don't know what may develop.

Q. You had under your contract the entire charge of this building, did you not? A. Yes, sir.

Q. And under your contract you had charge of the halls, did you not? A. Yes, sir.

Q. And under your contract you had charge of the stairways, did you not? A. Yes. sir.

Q. It was your duty, under the law, was it not, to inspect the hose that was in those hallways? A. Yes, sir.

Q. And did you do it? A. Yes, sir.

Q. And it was part of your duty to test the standpipes, was it not? A. No, sir.

Q. Whose duty was it? A. I don't know.

MR. STEUER: I object to that as immaterial.

THE COURT: I will receive it as bearing on his knowledge of the building, and the extent of his supervision.

MR STEUER: I except.

Q. Did you ever test the hose? A. What do you mean by testing?

Q. I mean testing? A. In what way?

Q. Did you ever test the hose? A. I don't know what part could be tested.

MR STEUER: I object to that as immaterial.

THE COURT:

Q. Did you ever see whether water would pass through the hose in the condition in which it was? A. No, sir.

MR. BOSTWICK: Your Honor, that breaks my cross examination. This witness had testified that he tested the hose, then I asked him, and he gives—

A. I have tested the hose.

Q. Did you test the hose?

MR. STEUER: I object to that as immaterial.

THE COURT: I will receive it.

MR. STEUER: May I ask if the witness were absolutely delinquent—

THE COURT: Do you want to know why I receive it?

MR. STEUER: I would like to state why I object to it, if you don't mind hearing me now.

THE COURT: No, I do not.

MR. STEUER: I object to it because if it were to develop that the witness were ever so delinquent in his management or supervision of that building, I take it that that would not have anything to do with these defendants.

THE COURT: No, but it might afford some possible reason for testimony. In other words, it is proper that the jury should understand the general situation and relation of the witness to the premises so that they may draw a conclusion as to whether he is or is not an unbiased witness, that's all.

Q. I ask you if you ever tested the hose? A. Well, I don't understand the question. What do you mean by testing?

Q. When you were before the Coroner you understood it,

didn't you? A. I examined the hose.

Q. No, I ask you whether when you were before the Coroner you knew whether you had tested it or not? A. I explained then I never tested them by water.

Q. Didn't you explain in this language. When asked "How many times a year did you test the stand-pipe and see that the tank on the roof was sufficiently supplied with water? A. I never tested the stand-pipe, I knew the tank had water in it. Q. You never oiled up the valves? A. I didn't have to do all that; they were in good condition; I tried the valves and they were opened up. Q. You never tested them in eight years? A. I never had to. Q. Generally those were tested three or four times a year?" You knew what tested was under those circumstances, didn't you? A. Not-the question you asked me was did I ever test the hose.

Q. Yes, you knew what the word "test" was on April 10th? A. There are different kinds of tests.

Q. You tell us the different kinds of tests? A. Well, the only test I made on that hose was to examine them, take them off the reels and see there were no holes in them, or anything like that.

Q. Do I understand you that you could test the stand-pipes without turning the water on?

MR. STEUER: I object to that, the witness has not said anything about the stand-pipes, on the contrary, sir- -

THE COURT: Objection sustained. I think we will not

go into that any further.

MR. BOSTWICK: Will you hear me for a moment on this important question of bias?

THE COURT: Yes, I will hear you.

MR. BOSTWICK: It may be, if I can show it, that this witness may exculpate himself from liability under the law by talking a certain stand upon his answers to these questions, and I think that nothing could be greater bias generally in a witness than that state of facts. The duty under the law was imposed upon this witness, and I think that I have a right to show that there was a duty devolved upon him in these various matters that are now involved in the controversy under litigation.

THE COURT: He has been asked certain questions on the direct examination, and if his answers to any one of those questions -- in other words, the matter brought out on the direct examination -- furnishes the basis for your examination now, why, of course it is proper. You proceed to examine him on something else, I think you have gone about as far as I will let you.

MR. BOSTWICK: May I ask as to whether transactions where the made statements which I have not touched yet? I shall put my question, with your Honor's permission?

THE COURT: Yes, I will hear the question.

Q. Did you not appear at the District Attorney's office on April 3, 1911 and before me, in answer to this question, make

this answer—"Same hose? A. Yes. Q. Never has been changed? A. No, sir. Q. Never tested? A. Not that I know of."? A. I believe I did.

Q. You knew what the word "tested" was then, didn't you? A. Not well. I don't understand v/hat the word "tested" means, not the way you put it to me, I don't understand.

Q. Now, Mr. Stern, you saw other people going in and out the Washington Place door?
A. No.

Q. It was not used, was it? A. Not as I know—I don't know anything about it. I went in and out of the doors.

Q. But you never saw anybody else go in and out of that door, did you? A. No, sir.

BY THE COURT:

Q. Did you maintain an office in the building? A. No, sir.

Q. You had no room in which you had a desk in that building? A. No, sir.

Q. And you would visit the building at about what time in the morning? A. Oh, around ten in the morning, eleven.

Q. And you would customarily remain in the building until what time? A. Probably an hour, sometimes three or four hours.

Q. And your ordinary course was to go through the building, was it, from top to bottom? A. Yes, sir.

Q. Irrespective of whether there was any matter to which your attention had been directed on any particular floor? A. Yes, sir.

Q. Did you carry with you on those tours a bunch of keys? A. No, sir.

Q. And on those tours were you accompanied by any one? A. No, sir. Sometimes by the engineer, sometimes by the porter.

Q. But sometimes you went alone? A. Sometimes I went alone.

BY MR BOSTWICK:

Q. There was natural light on the Greene Street stairway, was there not? A. Yes, sir.

Q. And there was artificial light on the Washington Place stairway? A. Yes, sir.

Q. How long before the fire had the artificial light been put in there? A. Probably about twelve days—ten or twelve days before.

Q. And were those lights kept burning? A. Yes, sir.

Q. They were? A. Yes, sir.

Q. Isn't it the fact that before the Coroner's jury you were asked this question: "Don't you know it is necessary to have a light on each stairs? A. Yes. Q. Why did you neglect it? A. They never used the stairs"? A. I don't remember saying it.

Q. It is a fact that there were not lights there because the stairs were not used, or there were lights there because the stairs were used, or what is the fact? A. There were lights put there about ten days before the fire. We got an order from the factory inspectors to make a light in the halls, and with that we went ahead and put them in there.

Q. Will you state that you did not make that answer be-

fore the Coroner's? A. I don't remember.

Q. My question is, will you state you did not make that answer before the Coroner, or do you want to limit it by saying you don't remember? A. I don't remember it, it is so long ago.

Q. If you made that before the Coroner which was shortly after the fire, which would be the more correct., what you then stated or what you now state?

MR. STEUER: I object to that. He has not stated anything in conflict with it. He has not said he saw any people occupying those stairs or going up and down those stairs.

THE COURT: No, but the query, as I recollect it, was as to the presence or absence of lights.

MR. STEUER: No, may it please your Honor, as to the presence or absence of lights his testimony has not been properly put before the jury. He didn't give such testimony with respect to the presence or absence of lights. He testified most positively that the lights were there at—

THE COURT: Pardon me. What do you contend that he has now said that is at variance with his statement before the Coroner that the stairs were not used? Because that is the point.

MR. BOSTWICK: He now states that the lights were lighted. Before the Coroner he stated the reason that they were not lighted was because the stairs were not used.

THE COURT: He says now the lights were lighted for some ten or twelve days before the fire. He means now they were burning ten or twelve days. I really do not see what the difference is between the two statements.

MR. BOSTWICK: The reason they didn't have the lights was because the stairs were not used, he said that before the Coroner. He states now that they were used. I think that is sufficiently brought out, I will continue on another line.

THE COURT: Very well, some thing else.

Q. The stairs on the Washington Place side were very dark, were they not? A. Do you mean were the lights burning?

Q. No, I asked whether the stairs on the Washington Place side were dark or not? A. No, sir.

Q. Why not? A. Because the lights were burning.

Q. Burning all the time? A. Yes, sir.

Q. When were those fixtures put in? A. The fixtures were always in.

Q. They were put in when the building was erected, were they not? A. Yes, sir.

Q. Why didn't you light the lights before? A. Because we didn't have any bulbs in them.

Q. Why didn't you put bulbs in them?

MR. STEUER: I object to that as immaterial, nothing of that sort has gone in on direct, and it has absolutely no reference to these defendants.

THE COURT: Yes, I sustain the objection.

Q. She day of the fire could these people get down these stairs? A. Positively,

Q. Wasn't it pitch dark? A. No, sir.

Q. Weren't the lights out? A. No, sir.

Q. In your examination before me on April 3rd, 1911, wasn't this question put to you and didn't you make this answer: "Q. When were they installed? A. The fixtures were in the building when the building was put up, but for a long time there was—we didn't light them because they didn't use the stairways much, except to the eighth, ninth and tenth floor them people used it, and there was light enough from the sky-light, but we got an order from the factory inspectors to keep the lights burning in that hallway"? A. Yes, sir.

Q. During the two hundred times that you were in the place of Harris and Blanck during that year., did you ever see one of the help ever go in or out of the Washington Place stairway? A. No, sir.

Q. And were the stairs not so located in regard to the factory, that if you had gone in or out of the Washington Place door that anybody in the factory looking that way could have seen you? A. Yes, sir.

Q. (Showing witness People's Exhibit 2) This is the Washington Place side of the building? A. This is the Washington Place side? The elevators are in the wrong position there if this is the Washington Place side of the building.

Q. Where should the elevators be? A. Oh, yes, here is the entrance, this is the elevator, that is right. The entrance to the elevators is omitted here.

Q. This is a diagram of the ninth floor; this is the Washington Place side of the building?

A. I understood you to say this was the Washington Place street entrance.

Q. Well, this is the Greene Street side? A. Yes, sir.

Q. These are the freight elevators? A. Yes, sir.

Q. Do you remember ever seeing a screen in front of the passenger elevators on the Washington Place side? A. On the ninth floor?

Q. On the ninth floor? A. I can't recall it.

Q. So that if you stepped out of the Washington Place door you don't know whether there was a partition or a screen or what was there? A. You are speaking of the elevators now?

Q. I am speaking of the passenger elevators on the ninth floor? A. Well, I don't recall it.

Q. And yet you have been 200 times in that loft? A. Yes, sir.

Q. And you don't know whether you stepped out into the loft, or whether you stepped into a room, what what you stepped in? A. I can't recall it. I go into so many buildings I can't recall all of them.

Q. And you were at this building every day? A. Yes. sir.

Q. And you had charge of the steam fittings? A. Yes. sir.

Q. Do you know how many dressing rooms there were on that

floor? A. No, sir.

Q. Do you know where the steam pipes were on that floor compared to the dressing room? A. Yes, sir.

Q. Where were they? A. They had risers running up to different parts of the building, all around.

Q. Do you know whether there were any in the dressing rooms? A. No, sir.

Q. You don't know, or you say there were not? A. I don't think there was.

Q. Will you say there was not? A. There was one pipe running up, yes, sir.

Q. You said you didn't know where the dressing rooms were? A. This was in the toilet.

Q. Well, I asked you about the dressing room? A. I don't know anything about it. A toilet and a dressing room to me is two different things.

Q. Do you know where the gas meter was? A. No, sir,

Q. Did you go in that building on Sunday? A. No, sir.

Q. Did you go in the shop on Sunday? A. What shop?

Q. Harris and Blanck's shop? A. No, sir.

Q. And yet you were in that factory two hundred times in that year? A. Yes, sir.

Q. Do you know how many rows of machines there were there? A. No, sir.

Q. Do you know whether they did a clothing business or a paint business? A. They didn't do either one.

Q. Do you know what business they were engaged in? A. Shirt waists.

Q. And did you ever see any operators on the floor? A. Yes, sir.

Q. How many operators did you see on the ninth floor? A. I didn't count them.

Q. Do you know whether they were men or women? A. Men and women.

BY THE COURT:

Q. What were the occasions of your visit to the ninth floor? How did you happen to go to the ninth floor? A. Well--

Q. Now, in a general way, how did you happen to go on to the ninth floor? A. I used to go to every part of the building f not alone that floor.

Q. Well, why did you go? What was it that took you to the ninth floor of the building? A. Well, I used to go up the stairways or look down the stairways, I would go from the ninth floor down. There would be a leak in the steam pipe, or they would call my attention to a part of the floor broke, or something like that, different occasions, different topics come up about what ought to be done, probably, and look from the ninth floor to the eighth floor and from the eighth floor down to the seventh—I would go up and investigate.

Q. In other words you mean to say that it was because your attention was called to something from time to time on the ninth floor that you went to the ninth floor for the purpose

of making some investigations regarding that something? A. Yes, sir. And they used to have a habit of putting bottles and tin cans on the windows, which used to be found down on the sky light over the store tenants, and break the glass, or something like that; I used to go on the roof and look down to see where these tin cans and bottles were located, and then go down and take them from the windows.

Q. So that it was when there was a leak or when there was some repairing to be done to the floors or when you wanted to observe whether there were bottles on the window sills that you went to the ninth floor? A. Well, in fact, your Honor, a general supervision; there wasn't any particular thing brought me there, but just to go through the building and see the condition of things.

Q. Irrespective of any complaints? A. Irrespective of any complaints.

BY MR BOSTWICK:

Q. Were you down to this court house yesterday? A. No, sir.

Q. Did you attend to your business yesterday? A. Yes, sir.

Q. How many lofts did you go in in the Washington Place building yesterday? A.

Three.

Q. What floors? A. Eighth, ninth and on the fourth.

Q. Who occupies the eighth? A. Nobody.

Q. Who occupies the ninth? A. Nobody.

Q. Who occupies the fourth? A. Harris Brothers.

Q. So you were in one occupied loft? A. Yes, sir.

Q. What did you do on the eighth floor? A. I looked around the eighth floor, stepped in there.

Q. What is there to look at on the eighth floor now? A. There is a prospective tenant going in there, and he got his desk in there yesterday, and I went in there yesterday and he wanted to know where to locate his telephone; I told him the best place to put it.

Q. When you were looking for these tin cans and bottles was that over on the Washington Place side? A. No, sir.

Q. It was on the north wall, wasn't it? A. Yes, sir.

Q. And nearer the Greene Street elevators than it was to the Washington Place side? A. Yes, sir.

Q. Then why did you go over to the Washington Place stairway to go down when you were looking for bottles from the roof? A. I don't say I went down the stairway.

Q. It is one of the explanations that you offered as to why you had taken the Washington Place stairway, because you had gone to the roof to look for bottles and tin cans.

MR. STEUER: I object to that, he didn't say anything of the kind.

THE COURT: Objection sustained.

Q. With the exception of the leak, will you state any other specific purpose that ever took you to the eighth ninth or tenth floors on the Washington Place side? A. Yes.

Q. What? A. Probably went up there to get some shirt waists.

Q. You probably did? A. I did.

Q. Are you in the shirt waist business too? A. No, sir.

Q. Did you ever see a postman go in or out of that Washington Place door? A. No, sir.

Q. Did you ever see any engineer besides yourself go in or out of that Washington Place door? A. No, sir.

Q. Did you ever see porter go in or out of that Washington Place door? A. Only when he was with me.

Q. Did you ever see any neighbor in that building go in or out of that door? A. Any who?

Q. Any neighbor? A. No, sir.

Q. Did you ever see any one of the elevator boys go in or out that door? A. No, sir.

Q. Did you ever see a gas inspector go in or out that door? A. No, sir.

Q. Did you ever see any electric light inspector go in or out that door? A. No, sir.

Q. Did you ever see a milkman go in or out that door? A. No, sir.

Q. Did you ever see the phonograph operator go in or out that door? A. No, sir.

Q. Did you ever see a labor inspector go in or out that door? A. No, sir.

Q. Did you ever see anybody go in or out that door,

yourself during the two hundred times you were in that loft? A. No, sir.

Q. Now, if you happened to be on the Greene Street side of the building on the ninth floor and you wanted to go to the eighth floor in search of a leak, would you go over to the Washington Place door to go down? A. Sometimes.

Q. And would you find the key there in the door? A. Never looked, never found a key in the door.

Q. There never was a key in the door, was there? A. Not that I knew of.

Q. And you did look to see whether there was a key? A. No, sir.

Q. You never noticed a key in that door? A. No, sir.

BY THE COURT:

Q. What was the last time, so far as you can recall, before March 25, 1911 that you passed through the Washington Place door on the ninth floor? A. Probably the week beginning—probably that week. I never was upstairs on a Saturday unless something special called me up there.

BY MR. BOSTWICK:

Q. Were you ever there at the closing time when they went to go out? A. No, sir.

Q. And you don't know whether that door was ever locked at the time the people went home at night, do you? A. No, sir,

Q. And you don't know whether this door was locked at 4:45 on March 25, 1911, do you? A. No, sir.

MR. STEUER: Hasn't he testified he never went up on a Saturday?

THE COURT: Now, you have got that.

RE-DIRECT EXAMINATION BY MR STEUER:

Q. Now, Mr. Stern, you went to the District Attorney's office. as I gather from Mr. Bostwick's questions, sometime in April, 1911? A. Yes, sir.

Q. And you were also a witness for Mr. Rubin on April 19th, 1910?

MR. RUBIN: He was not any witness for me, Mr. Steuer. He was called by the Coroner.

MR. STEUER: He was called by Mr. Rubin.

MR. RUBIN: He was called by the Coroner.

MR. STEUER: You are mistaken.

MR. RUBIN: I knew more about it than you do.

MR. STEUER: You may think so. He was called by Mr. Rubin and interrogated by Mr. Rubin.

Q. Is that the fact, or isn't it? A. I can't remember that.

Q. You remember being a witness and being interrogated by Mr. Rubin before the Coroner? A. Yes, sir.

Q. And there was no other lawyer that interrogated you? A. No, sir.

Q. And Harris and Blanck were not represented, were they? A. Not as I know of.

Q. Do you remember at that time having been asked these questions and having made these answers (page 134, Coroner's Minutes): "Q. Did you ever notice the condition of the doors on the eighth and ninth floors on the Washington Place side? A. I would go up on the elevator sometimes Greene Street, sometimes Washington Place. I would go to the ninth and tenth floors and down the stairway. Q. How did you find the door when you came to the eighth and ninth floors? A. I always found them open. Q. On the Washington Place side? A. Usually I found them whenever I wanted to go down. BY MR. RUBIN: Q. What time did you ever go down from one floor to the other on the Washington Place side? A. At nine or at ten." Then Mr. Rubin interrupted you— "Q. Did you ever go down at five in the afternoon? A. Yes. Q. Have you seen the Washington Place door open since the strike? A. Yes. Q. Can you tell me one single day" --

MR. BOSTWICK: I object to this method of re-direct examination of a witness.

THE COURT: I think it is objectionable, Mr Steuer.

MR. STEUER: I think not, your Honor.

THE COURT: I do.

MR. STEUER: If that is intended to be a ruling then ay thoughts on the subject are entirely unimportant, I recognize that.

THE COURT: Temporarily so,

ME STEUER: I am entirely willing to bow to your

Honor's ruling, I must, whether I will or not.

THE COURT: Yes, I do not think it was called for by the cross examination.

MR. STEUER: Well, I respectfully except. I thought that by referring your Honor to part of it and making it appear that he had given testimony in conflict with what he has now given, I wanted to show that he had testified to exactly the same thing then that he has now.

THE COURT: I think his attention on the cross examination was merely directed to the testimony which he gave before the Coroner in the matter of lights. Anything relating to lights you may call his attention to, on the Washington Place stairway.

MR. STEUER: All right, I will limit myself to that with respect to the lights on the Washington Place stairway.

Q. Beginning at the bottom of page 135, the last question: "Q. Did you ever go out of the Washington Place door on the ninth floor? A. Yes. Q. When? A. Probably two or three weeks before the fire. Q. Why did you walk downstairs? You had passenger elevators, didn't you? Was there my particular purpose? A. Yes, to inspect the condition of the stairs, the fire hose and the lights. Q. Were the lights going on the Washington Place structure? A. On the day of the fire, yes. Q. How long had they been going? A. All day. Q. How long had there been lights on the Washington Place side? A. We

never used them. Some of the globes were missing and out of order—Mr. Rubin (Interposing)
Q. How long before the fire did you first begin to light them? A. Probably ten days.”

MAX HERSCH, called as a witness on behalf of the defendants, being first duly sworn,
testifies as follows:

(The witness states that he lives at 2981 Briggs Avenue, Bronx.)

DIRECT EXAMINATION BY MR STEUER:

Q. What is the nature of your business? A. I am the manager of the embroidery department of M. H. Pulanski & Co., corner of Broadway and Broome Street, at the present time.

Q. How long have you been with them? A. Fifteen years.

Q. Do you know the defendants here, Harris and Blanck? A. I do.

Q. Did you know the premises that they occupied when they were at 23 and 29 Washington Place? A. I did.

Q. Did you ever visit those premises? A. Very often.

Q. When you say very often, just tell the jury what you mean that? A. For the last four or five years it was my custom to be at their place of business every morning at half- past nine before I would report to my place of business, because they were very large factors for us, and it was necessary for me to be there mostly every morning, and when I found that there was nothing doing, so to speak, in a matter of business, I would come back to my place, unless I was telephoned, but invariably I would be there mostly every day during the season.

Q. When you went to their place of business how did you go up to their loft? A. Through the elevator.

Q. Which elevator? A. At the Washington Place entrance.

Q. And where would you go to on the elevator? A. To the uppermost loft in the office.

Q. That is the top loft where the office was? A. Yes, sir, exactly.

Q. With whom in the firm of Harris and Blanck was your business? A. Mainly with Mr. Harris.

Q. He was the man who had charge of the placing of the orders and the purchasing from your concern? A. Yes, sir.

Q. When you got there did you always find Mr. Harris on the tenth floor? A. No.

Q. In your calls to their place of business did you ever have occasion to go from the tenth floor to any of the lower floors? A. Quite often.

Q. And your purpose for going to the lower floors was what? A. Well, especially when Mr. Harris had a telephone call for me, when I was called up there by telephone, only at those times would it be necessary for me to go down, that is, when I didn't find him in the main floor, and then the girl who had charge of the telephone would inform me that Mr. Harris was downstairs there at the ninth floor, in which case I would go down.

Q. How did you go down to the ninth or the eighth floor, as the case might be? A. Well, if the elevator was not at the

loft just as I wanted to go down I would take the next step and take the—go down through the doorway that was right along side of the elevator.

Q. Which elevator are you speaking of? A. The elevator at the Washington Place side.

There were two elevators.

Q. Two elevators at the Washington Place side? A. Yes, sir.

Q. When you went down, if you did not go down with the elevator, did it ever occur when you didn't go down by the elevator and went down by the stairs that you went into the ninth loft? A. Oh, yes.

Q. Did it ever occur that you went in the same way up the same stairs to the eighth floor?

A. If I didn't find him at the ninth, and they would tell me he was down at the lower floor I would go down the same way.

Q. To the eighth loft? A. To the eighth loft.

Q. On those occasions how did you make your entrance into either the ninth or the eighth loft? A. Through the doorway that was leading from the loft to the stairway.

Q. And will you give the jury an idea with what frequency you did that during the year, say, prior to the fire, from the 25th of March, 1911, back? A. Oh, I couldn't confine myself down to an accurate time.

BY THE COURT:

Q. About how many? A. About possibly, fifty, possibly seventy five.

BY MR STEUER:

Q. Other than selling these people merchandise for your firm, had you any other relation or association with them of any kind? A. Absolutely none, sir.

CROSS EXAMINATION BY MR BOSTWICK:

Q. Were you in the room during the examination of the last witness? A. No. sir.

Q. How long have you been the manager for K. H. Pulaski & Co.? A. As manager? I have been with the firm as manager since June. I have been away from my concern for a period of about six months, and I came back to them again, but before that, before I left them I had been with my house for about thirteen or fourteen years, approximately.

Q. Where were you during the period of six months between the fourteen years and--
A. I was in a domestic embroidery line.

Q. Same line of business? A. Similar line, only this is import, the present concern, and the concern I went with was a domestic organization.

Q. How long have you been selling goods to Harris and Blanck? A. Ever since they started in business.

Q. Good customers? A. Yes, sir.

Q. What portion of your sales did the business of Harris and Blanck constitute? A.
About twenty-five per cent.

Q. Was that the proportion of your particular sales?

A. Yes, sir.

Q. And what proportion of the sales of your house would you say they constituted? A. Of the entire business of the house? Possibly three per cent, two and a half or three per cent.

Q. During the last year you estimate that you looked for Mr. Harris on a floor up on the tenth floor about how many times? A. No more than a half dozen.

Q. In other words, you transacted your business with Mr. Harris on the tenth floor? A. As a general rule.

Q. And only a half dozen times you did not? A. Yes.

Q. And you found him on that floor every day excepting a half a dozen times, is that what I understand you to say? A. Yes, I should imagine, that is what I construe your question.

Q. I thought when you gave your testimony you said it was about seventy-five times? A. That was all the period of time I was doing business with him.

Q. Oh, but you were asked to confine your answer to one year, and you said possibly seventy-five times? A. I didn't understand the question that way.

Q. You would like to correct your testimony in that regard? A. In that regard if that was the way the question was put.

Q. So that during the last year instead of seeing Mr. Harris on a floor other than the tenth floor seventy-five times.

THE COURT: You mean the year prior?

Q. I mean the year prior to March 25, 1911, you want to

now say that it was probably a half dozen times? A. Half a dozen times within the year, yes, sir.

THE COURT: We will suspend now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you.

Do not speak to any person, Mr. Witness, until you go upon the stand again.

(Recess until 2 p.m.)

After Recess. Trial Resumed.

MAX HIRSCH, resumes the stand and further testifies

BY THE COURT:

Q. When you say "within the year", do you mean dating back from March 25th? A.

Yes, sir.

BY MR BOSTWICK:

Q. During the six months that you were not with the present concern, did you do any business with the defendants? A. No, sir.

Q. Was there any other reason that induced you to go from the tenth floor to a lower floor than to find Mr. Harris? A. Yes, sir.

Q. What? A. In the event of a complaint regarding my merchandise, when they would have it down on the cutting table or in the embroidery department, in order to investigate or in-

spect the material, in that event I would be called upon to go on the different floors, wherever it may be.

Q. Do you remember how often among these six times you went down on that purpose and not on the purpose of finding Mr. Harris? A. I recall once very distinctly.

Q. Barring the once that you went down for that purpose -- and by the way, did you go alone upon that occasion? A. My best recollection is that I did go alone, but I think in one instance I went down with Mr. Meyer, who was at that time a member of our concern, at the present time not.

Q. During the times you went down there how did you know Mr. Harris had gone downstairs? A. I was informed of that fact by the telephone girl, who would know the movements of Mr. Harris.

Q. And then on each of these instances Mr. Harris had gone downstairs before you went downstairs? A. I presume so.

Q. And you don't know whether Mr. Harris unlocked the door when you went downstairs, or not? A. I do not.

Q. You didn't see whether there was a key in the door? A. No, I did not.

Q. You say that you usually got there about half past nine in the morning? A. Usually, yes, sir.

Q. And you would finish business up about what time? A. That all depends, sir, I couldn't state exactly, because it all depended upon what business we had in hand.

Q. Would it last as late as three or four o'clock in the afternoon? A. No, sir. I would have to call back in the afternoon frequently.

Q. Have you ever been there at the closing time? A. Yes.

Q. Have you seen them go out? A. Yes, sir. Who do you mean?

Q. The operators? A. No, not on the floor.

Q. So when you were there at closing time you were there on the tenth floor? A. Usually, yes.

Q. When you were not usually on the tenth floor were you on the eighth or ninth? A. Not at any time during closing hours.

Q. When you say "usually" you mean you were always on the tenth floor when you were there at closing time? A. Well, I wasn't there very often at closing time.

Q. But when you were there at closing time you were always on the tenth floor? A. Yes, sir. I don't recall of being on the eighth or ninth floor during closing time.

Q. You have no knowledge whether the door was locked before the closing time on the eighth and ninth floor, or not? A. No, sir.

Q. During the six trips that you made from the upper floors to the lower floors, did you ever see anybody lock or unlock any door? A. No, sir.

Q. Did you ever see a key in any door that you can now recall? A. Not positively, sir.

Q. Well, have you any indefinite recollection of having

seen a key? A. I have not, no, sir.

Q. How long have you known Mr. Harris? A. Nigh on to the time I have been doing business with him.

Q. And that is how long? A. Stretching over a period of nigh fifteen years.

Q. How long have you known Mr. Blanck? A. Some time.

Q. Has your relations with them been wholly that of a business relation? A. Absolutely.

Q. Never met them socially in any way? A. No, sir.

Q. And during that period of time you would say that you had sold them a great many goods, would you not? A. Yes, I have.

Q. And are you doing any business with them now? A. No, not very much--very little.

Q. Have you sold them any goods since the 25th day of March, 1911? A. Oh, yes, the nature of the goods they are using at the present time—I qualify that statement: The nature of the class of goods that they are using at the present time is different than what we are handling.

Q. Did you ever go from any floor down the Greene Street stairs? A. Yes, sir.

Q. Don't you think you could be mistaken in regard to your recollection as to which way you went downstairs? A. At what time?

Q. At any one of those six times that you went from an upper floor to a lower floor? A. I can't see why I should be mis-

taken as between the Greene Street side and the Washington Place side.

Q. Your idea of the office—the plan of the ninth floor, is quite distinct and clear? A. Yes, sir.

Q. On the ninth floor, do you know what was situated right next to the passenger elevators? A. There was a— the last time I was down there I recall there was a wooden partition.

Q. Right next the passenger elevators? A. Right off the elevators; sort of a room separating the partition.

Q. So that when you stepped out of the passenger elevator the first thing that you saw in front of you was a partition? A. The very last time I had been down there, yes, sir.

Q. Was there an open space in that partition through which people could pass? A. Yes, sir.

Q. Was that partition solely in front or was there also some to the right side as you stepped out of the elevator? A. Well, it was enclosed.

Q. On the left hand side of the elevator as you stepped out what was there? A. It was the same thing, covering the entire length of the elevator.

Q. And then as you passed through this opening and into the loft what would you find next to the passenger elevators? A. On the other side of the partition?

Q. On the court side or on the north side? A. A doorway alongside of the elevator, that what you have reference to?

Q. A doorway. A. Yes, sir.

Q. Next to the doorway, what did you find? A. I don't recall that I found anything there. I never had any business to go further. I know there there were a set of toilets. I think that the arrangement of the ninth floor is about the same as the tenth. There were toilets right on the north of the doorway, some little distance further, above the doorway.

Q. Were there tables and machines on the ninth floor? A. There were machines, quite many.

Q. Any cutting tables? A. In the rear I think on the Greene Street side, if I am not mistaken, they have some cutting tables, if I am not mistaken.

Q. How many cutting tables would you say were on the ninth floor in the rear by the Greene Street side? A. Oh, I wouldn't qualify that by any amount — I couldn't positively say.

Q. Were there as many as twenty? A. No, there were not, to my recollection.

Q. Were there as many as three? A. Oh, yes.

Q. More than three and less than twenty? A. Yes.

Q. Would you say there were five? A. Yes.

Q. How large were those tables, would you say? A. Quite long, possibly the length of the entire loft running north and south.

Q. That was on the ninth floor? A. Yes.

Q. I show you diagram, People's Exhibit No. 2, and it appears from this diagram that the whole of the ninth floor was

taken up by machines and there were no cutting tables on that floor; I show you People's Exhibit No. 1, which shows that there were five rows of tables and machines and then rows of cutting tables on the Greene Street side. Haven't you by accident been describing the eighth floor instead of the ninth? A. I don't think that I have; I don't think that I have, no, sir.

Q. You still think that the ninth floor had cutting tables on the Greene Street side? A. To my best recollection, yes. Whether they were cutting tables or whether they used them to put material on, I don't know.

Q. If it appears from the diagram in this case — this is a picture of the ninth floor, being People's Exhibit No. 25, and that corner shows a machine, right in that corner of the room (now indicating on diagram People's Exhibit 2), on the ninth floor? A. Yes, sir.

Q. Now, would you still think there were cutting tables there? A. To my best recollection there were some tables, cutting tables, or tables where they spread out their materials on the ninth floor, yes, sir.

Q. If it appears in this case that there were nothing but machines on the ninth floor and that they extended up to within a few inches of the Greene Street wall, would you still persist that you mean the ninth and not the eighth floor? A. I still mean, to my best recollection, that there was some tables on the ninth floor; whether they were used for cutting or spreading out the material, I don't know.

Q. And if you were mistaken in that you might be equally mistaken about the Greene Street and Washington Place stairways? A. If that was a positive case, yes.

Q. So that if it should develop that there were no cutting tables on the ninth floor and that they were on the eighth floor, your recollection as to the stairways, as I understand you might be equally indistinct? A. Well, I couldn't be mistaken regarding the stairways, sir.

Q. Do you know where the passenger elevators were situated on the ninth floor? A. The same as they were on the tenth floor and the eighth floor, the same—you mean on the Washington place side?

Q. Yes. A. Yes, sir.

Q. They were situated in the same position in regard to the ground plan? A. Yes, sir.

Q. When you stepped out of the freight elevator on the tenth floor? A. I never came up the freight elevator.

Q. Did you ever see the freight elevator on the tenth floor? A. No, I never had any occasion to see the freight elevator, to use the freight elevator.

Q. Did you ever go to the Greene Street stairway on the tenth floor? A. Yes.

Q. Do you remember what enclosed the hall immediately preceding the freight elevators, right next to the freight elevators? A. I do not, no, sir.

Q. Do you know whether there was a partition there or not? A. I couldn't tell you.

Q. Coming close to the ninth floor, if you passed through the doorway of the ninth floor on the Greene Street side as you entered the loft, were you in an enclosure, or in the loft? A. I can't recall, sir.

Q. So that you don't remember the appearance of the Washington Place or Greene Street stairways? A. Washington Place I do, but not the Greene Street.

Q. Was the floor on which you saw a partition when you stepped out of the passenger elevator the same floor on which you saw the cutting tables? A. You mean on the ninth floor, this partition I spoke about?

Q. No, I am asking you—

THE COURT: Repeat the question, Mr. Stenographer?

Q. (Question repeated by the stenographer as follows:)

Was the floor on which you saw a partition when you stepped out of the passenger elevators the same floor on which you saw the cutting tables? A. The tables that I saw on the ninth floor, the floor that I saw this partition, is the floor that I had reference to where I saw these tables, yes, sir.

Q. So the partition which stood directly in front of the passenger elevators was on the same floor that they had these cutting tables on, which extended quite the length of the factory? A. Those that I have reference to, yes, sir. I can recall them.

Q. Do you know whether the stairway between the eighth and the ninth floors on the Washington Place side was dark or not? A. It was not very light, sir.

Q. Do you know whether it had artificial light, or whether it had natural light? A. If I recall, there was electric light there. I wouldn't swear positively to that fact, sir.

Q. Was this electric light there during this period of time this year from March 25, 1910, to March 26, 1911? A. I wouldn't so state, sir.

Q. When was the last time you think you ever went down stairs on the Washington Place side? A. I should imagine in the month of December, 1910.

Q. Was it very dark at that time? A. Light enough for one to see his way.

Q. Were there any windows of any kind giving any light in that stairway? A. I can't recall.

Q. If there was any light at all by which you could see to go down, and that was proven to be in one stairway or the other, would that aid you to determine which stairway it was? A. No, sir, it would not.

Q. Is it your best recollection that there was or that there was not any light in that stairway at the time you last went down that stairway? A. My best recollection is that there was a light there.

BY THE COURT:

Q. When you say that there was a light there do you mean

that it was lighted? A. Yes, sir.

BY MR. BOSTWICK:

Q. As you stepped out of the Washington place elevator on either floor, the eighth or the ninth, were there any figures there? A. The ninth floor I believe had some figures ~ forms.

Q. Forms? A. Yes, sir.

Q. In what part of the loft did you see those forms? A. Right at the right-hand side, coming into the partition, into the loft proper.

Q. As you entered the loft through the entrance in the partition? A. Yes, sir.

Q. That would be on the right-hand side? A. Well, I would say they would be more inclined to be placed there. because the designers table was situated in that situation, to my best recollection.

Q. Is that the only reason you think they were on the right-hand side? A. No, not necessarily. I say I recall them there oftener than I would on the left side.

Q. Now, let us look at People's Exhibit No 2. I ask you to tell me without reading the words around there what was the place where these three squares are? A. Is this the elevator? A. There are the two passenger elevators, and here is the stairway? A. Yes, sir. Now, coming in from the elevator, this room here was the enclosure I speak about, then I would come right through, here, and here was where I would invariably find the firms ordinarily situated, or placed, as I said before.

Q. I am not asking that question. My question is, if the forms were placed there where you have indicated with your hand, which is close to the initials K. G., and a circle, what was where these three squares, or parallelograms are? A. I can't positively state.

Q. Can you state at all that there was anything there? A. No, I can't recall.

Q. Did you have any business with any other concern in that building? A. No, sir.

Q. So that when you went to the building corner of Washington place and Greene street, it was your invariable rule to always go to the tenth floor first? A. Yes, sir.

Q. And you always went by the passenger elevators? A Yes, sir.

Q. And you never had occasion to use the stairs going up or the stairs going down, excepting upon the occasions when you went to find Mr. Harris, and the occasion when you went down upon one occasion during the year 1910 to 1911, dated from March 25th, in regard to your goods? A. Yes, sir.

Q. What was the nature of the business that you transacted with Mr. Harris? A. Selling him embroideries.

Q. Would he look at samples? A. Yes, sir, examining samples of embroidery sometimes.

Q. You would make prices? A. Yes, sir.

Q. Then he would give you orders? A. Yes, sir.

Q. Was it customary for you to go down to the factory,

when the factory was in operation?

A. Sometimes.

Q. Why wouldn't you send for Mr. Harris to come up to the office, that you were there? A. I never found that Mr. Harris would come up if you would send down for him.

Q. Could you transact your business with that noise that was going on in the factory? A. It didn't disturb me in the least.

Q. When you did go down to meet Mr. Harris did you transact your business on the ninth floor, or did you both go back to the tenth floor to transact your business? A. It all depends, sir. I wouldn't say positively that we consummated a deal down there or upstairs.

Q. Have you any recollection of ever consummating a deal with Mr. Harris in the factory? A. Very frequently.

Q. Have you any recollection of ever having gone from the factory back to the tenth floor to consummate a deal? A. Very frequently.

Q. And when you went back with Mr. Harris how would you go? A. Up the stairway or up the elevator, as it depended; not always up the elevator, but up the elevator as often up the stair.

Q. Let us confine ourselves from March 25th, 1910, to March 25th, 1911. Of those five times that you testify you went down to find Mr. Harris on business, how many of those five times do you suppose you came up the passenger elevators,

and how many times do you suppose you came up the stairway? A. I should imagine I came up possibly three times by the elevator, and twice by the stairway.

Q. So that you come down to the fact that probably twice you came up this stairway, and upon those two occasions do you think you came up with Mr. Harris, or both times without him, or one time with him and one time without him? A. Yes.

Q. Yes does not make any answer to my question. A. Yes, you are correct in your statement.

Q. My statement asks you which of those three —

THE COURT: repeat the question.

Q. (Question repeated by stenographer as follows) So that you come down to the fact that probably twice you came up those stairs, and upon those two occasions do you think you came up with Mr. Harris, or both times without him, or one time with him, and one time without him?

A. I will not say positively, sir.

Q. As a matter of fact your recollection is quite hazy about it, isn't it? A. No more than it would be about any other ordinary person; I wouldn't lay particular stress about it.

Q. You are not any more positive about that than you were about the eighth or ninth floors? A. I wouldn't be positive that I would come up with him or without him, but I do know that I came up, but whether with him or not, it wouldn't make any difference.

Q. And you do know that the cutting tables were on the ninth floor? A. To my best recollection, yes, sir.

MAY CALIANDRO LEVANTINI, called as a witness on behalf of the defendants being first duly sworn, testifies as follows:

(The witness states that she resides at 98 Christopher street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Have you ever seen me in your life? A. Not that I remember.

Q. Where do you work? A. Where do I work now?

Q. Yes. A. On 26th street.

Q. Have you ever worked for Harris and Blanck since the fire? A. No, sir.

Q. Have you ever seen Harris and Blanck to speak to since the fire? A. No, sir.

Q. Have you ever been to the District Attorney's office? A. Yes, about three weeks after the fire.

Q. Did you work for Harris and Blanck at the time of the fire? A. Yes, sir.

Q. And what floor did you work on? A. The ninth floor. Q. What did you do while you were working for Harris and Blanck on the ninth floor? A. I was an operator on the machine.

Q. Whereabouts on the ninth floor was the machine at which you sat located? A. It was just on the Washington place side, the first machine on the lower part of the first row.

Q. When you speak of the lower part of the first row do you mean the part that was nearer to the Washington place win-

dows, or nearer to the cutting tables? A. Well, there was no cutting tables there, but it was nearer to the dressing room.

Q. There were examining tables, I think you call them? A. Yes.

Q. They were nearer which? A. To the examining tables?

Q. Which way did you sit at machine, where were you looking? A. Towards the Greene street side.

Q. So that you would have your back towards the passenger elevators and the dressing rooms? A. Yes, sir.

Q. Where were you at the time you first learned there was a fire? A. I was just in the dressing room, coming out of it, when a girl that was just right near the Washington place elevators called me, she says, "May, May, I think the elevator must have dropped, because I hear girls screaming." I ran to it.

Q. How many dressing rooms were there there? A. Well, there was one large dressing room, but it was divided in two entrances.

Q. Did it have a partition through it? Is that how it was? A. Yes.

Q. So that it was two separate rooms? A. Two separate rooms, yes.

Q. In which one of those two rooms were you when you first had somebody speak to you about a fire? A. In the dressing room that was on the Washington place side, the door that was right in back of my machine.

Q. The one that you had your clothes in, was that nearer to the passenger elevator or further away from the passenger elevator? A. Near to the passenger elevator.

Q. Tell the jury what you did, where you went, if any place, after this girl talked to you? A. When this girl called me and said, "May, May", she says, "I think the elevator dropped."

Q. I didn't ask you what the girl said; I want to know where you went, and I want you to please answer the questions that I put, if you can. A. All right. I went to the elevator and I listened.

Q. Which elevator? A. The Washington place side — that is the passenger elevator; I listened, I didn't hear no screaming in the elevator, then I ran to the door and I opened the door. The key was right in the door tied to a string. I turned the key, I opened the door, I looked out and I seen the girls running down from the eighth floor, and as I looked over that way flames and smoke came right up and they made me turn in. I didn't look who was or was not there, I turned right in and ran to the elevators where I thought I could get down much quicker. Then girls coming --

Q. Now, wait a moment. When you went to a door which door was that that you went to? A. To the Washington place side.

BY THE COURT:

Q. You mean the door going to the stairs? A. Yes, sir.

BY MR. STEUER:

Q. How far out of that door did you get? A. Right over

to the railing.

Q. And did you look over the railing? A. Yes, sir.

Q. Were there other girls with you at the time you went to look over the railing? A. Well, there must have been a lot of girls in the back of me, because I didn't look.

Q. I ask you do you know whether there were any girls with you when you looked over the railing? A. Well, I don't know who they were; there must have been girls in back of me because there was an old man standing there when I looked out and there was a girl named Tiny Frecko —

MR. ANSWER: I move that the answer be stricken out.

THE COURT: I will leave in that there was an old man standing there and a girl named Tiny Frecko. The fact that the witness says there must have been girls there is stricken out.

Q. What did you do after you looked over the rail? A. After I looked I seen the girls running and then of course the smoke and flames come up which prevented me to try to go back, and I turned back.

Q. Where did you go? A. Right to the passenger elevator.

Q. What happened then? A. Then that is the time that the excitement started on our floor, that the girls from the Greene street side rushed to this Washington place side and then of course the elevator didn't come and stop on that floor, it went up and down but never stopped there; they rushed back

again, then they come back again, back again they go to the Greene street side. Then they didn't come back any more. But a crowd did remain to the Washington place side.

Q. Then what happened? A. After a little time, I can't say how long, the elevator came up once. Well, that crowd rushed into the elevator.

Q. Which elevator? A. The Washington -- the passenger elevator, they rushed into it, it must have dropped, I don't know, it dropped, I guess; then the rest of the people they threw themselves down, or slid down, I don't know.

Q. What did you do? A. Well, when the whole crowd was there the crowd was so strong and they were pushing so that I held on to the two tubes that is between the two elevators, where you can see where the elevator is — I held onto them so they wouldn't throw me down; and another girl was holding on to my waist, Lena Barilli. So I seen there was no more around us, and I told the girl to take one rope, and I took the one closest to the wall. The cords was burning ~~ everything was burning when I was standing in that partition. Then I made that girl grab that rope and I grabbed the other cable which was close to the wall, and that is how I get down. Q. By the cable? A. Yes.

Q. What happened to you? A. My hands were all burned off, my hand on this side, and this other hand, my legs, I was cut here, my hair was pulled off, my glasses was off, hanging somewheres, I don't know -- I was an awful sight when

I got down.

Q. What was done with you when you got down? A. Well., I got down on top of the elevator cage. I hung on the cable, I guess about two minutes before I could get over to the other side. I seen a fireman going up with the hose, I says ~~ I didn't say anything, - he says, "You are all right, you are all right." I said, "Look, look!", that's all I could say, to the burning door above me. I went to put my foot down, and I don't know what it was — something soft — I think dead bodies, or I don't know what, and I made a grab for the railing, which leads over to the other side of the elevator, where I turned ay body and I was taken off by a fireman, and I think a man — yes, a man — Mr. Brown, I think it must have been — and I was taken out.

Q. Where were you taken to? A. Right around to the park, 4th street park.

Q. Where were you taken from there? A. Well, I don't know. I was home, I think two men took me home.

Q. And have you brought a suit against Harris and Blanck? A. Yes, sir.

Q. How much are you suing them for? A. \$10,000.

Q. Since the time of the happening of this accident have you ever seen anybody that came from Harris and Blanck? A. When I was home sick in bed of course I had to get another week's salary, and I sent my daughter up to the place for my wages. Well, my daughter brought me back my wages, and that was all.

After a couple of days Mr. Fletcher came to see me.

Q. Mr. Fletcher? A. Yes, sir.

Q. Who is Mr. Fletcher? A. I think he is cashier. He came to see me and asked me how I escaped, so I told him. Well, that was all right. Then of course another day another man came.

Q. Who was the other man? A. Mr. Levine, I think; a bookkeeper.

Q. How long after the fire was that? A. Well, I guess about two -- not quite three weeks.

Q. After the fire? A. Yes, sir.

Q. Did anybody else from Harris and Blanck ever come to see you? A. Mr. Bernstein came up to see me once.

Q. Which Mr. Bernstein? A. The superintendent that used to be in the triangle Waist Company.

Q. The superintendent of the triangle Waist Company? A. Yes.

Q. Did anybody else ever come to see you from Harris and Blanck? A. At the same time there was a young lady, a bookkeeper came up, that was all.

Q. Also visited you? A. Yes.

Q. Did Harris and Blanck ever come to see you, or either of them? A. No, sir.

Q. Did any lawyer on their behalf ever come to see you? A. No, sir.

Q. Have they made any settlement with you of any kind, given you one cent or anything else in any form, manner or

shape, for your claim against them? A. No, sir.

Q. When was the first time that anybody from the District Attorney's office came to see you? A. Well, I don't remember. It must have been about two weeks after too.

Q. When was the first time that you went to the District Attorney's office? A. About three weeks after the fire.

Q. Did you make a statement in the District Attorney's office? A. Yes, sir.

Q. And did you sign a statement in the District Attorney's office? A. I think so.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you expect to settle your suit against Harris and Blanck? A. No, sir.

Q. You don't expect to get anything from them? A. No, sir.

Q. You would like to, wouldn't you? A. Well, —

Q. I don't know. Do you know? A. Well, I don't know, if I get something I will take it; if I don't get it I will stay without it.

Q. You would like to get it wouldn't you? A. Well, if it is coming to me, why not?

Q. You think it will come to you easier if you testify, don't you? A. I don't know. I have to tell the truth, so I can't —

Q. Can you tell me why you stated in the corridor of this building that nothing would shake you from saying that the door was open? Was that simply because that was your recollection?

A. What do you mean?

Objected to. Objection sustained.

Q. The key was in that Washington place door, wasn't it? A. Yes, sir.

Q. You saw it there? A. Yes, sir.

Q. And it was attached to the door by a string, wasn't it? A. A string, yes, sir.

Q. What color was the string? A. It was a colored piece of string -- a checked piece at that.

Q. A checked piece of string? A. Yes, sir.

Q. How wide was the piece of string that held that key to that door? A. A half inch wide, if not more.

Q. So that anybody going in there near to the door could see the key at some distance? A. Yes, sir.

MR. STEUER: I object to that and move to strike it out.

THE COURT: I will allow the answer to stand.

MR. STEUER: Exception. And I object to it on the ground that that calls for the witness's conclusion as to the capacity of a third person to see.

THE COURT: Well, she has answered it; I will let it stand.

Q. The flames that were coming up from the eighth floor to the ninth floor as you looked out were very great, were they not? A. Yes.

Q. And you would have been burned up if you had gone down

MR. STEUER: I object.

Q. That is what you thought? A. Yes.

Q. There would have been flame enough to burn a piece of wood like that, wouldn't there (indicating People's Exhibit 29)?

MR.. STEUER: I object to that as incompetent, immaterial and irrelevant, calling for a conclusion.

THE COURT: She may describe the extent of the flames.

A. Well, I guess it would.

Q. Did you see what was burning in that staircase? A. I didn't stay long enough to see what was burning, for I ran in.

Q. Where the girls were coming out there was no fire was there? A. Well, I couldn't say that.

Q. They weren't on fire, were they? A. I don't know.

Q. You saw them, didn't you? A. Yes, running out, screaming.

Q. Their dresses were not on fire were they? A. Well, I couldn't see that.

Q. In your opinion that handrail (People' Exhibit 41) could not have been where that flame was, could it?

MR. STEUER: I object to that.

MR. BOSTWICK: All right, I withdraw the question.

Q. Was the fire below where the girls were or above where they were? A. Well, it was coming through the shaft, I don't know whether it was under or on top of them, I am sure it was on top, positively.

Q. You are sure that the flame that you saw was on top of the girls? A. On top of the girls.

Q. And they were on the eighth floor and you were on the ninth floor? A. Yes, sir.

Q. How long were the checks that were on this half inch string that held the key to the door? A. Well, now, I can't exactly tell you.

Q. Well, as nearly as you can? A. A little checked.

THE COURT:

Q. What do you mean by a check? Do you mean it was a piece of goods that had a pattern in it? A. No, it was a piece of goods cut off, a figured piece.

Q. Cut off a checked piece of goods? A. Yes, sir.

BY MR. BOSTWICK:

Q. Was that a clean or a dirty piece? A. Well, it was tied onto the key and the knob of the door; I am sure it couldn't be very clean.

Q. How long a piece would you say it was? A. Well, about half a yard.

Q. About half a yard? A. Yes, sir.

Q. Did this piece of checked string that was a half a yard long, hang down from the knob of the door to the key? A. It was tied to the knob and the end of the key, and the key was in the door, so that was about half a yard altogether.

BY THE COURT:

Q. When you say the key was in the door, you mean the key was in the lock? A. Yes, sir.

Q. And this piece was tied around the knob and formed a loop for the key, is that what you mean? A. Yes, sir.

BY MR. BOSTWICK:

Q. You didn't stay there more than an instant, did you? A. I just looked over, and the only time that you looked over was when the girls were coming out from the eighth floor, just that instant? A. Just that instant.

Q. And that is the only time you looked down? A. That's all.

Q. Was that door usually kept locked? A. Well, it was closed, because we didn't use that door.

Q. Was it usually kept locked? A. Well, I don't know.

MR. STEUER: I object —

THE COURT: I will allow her answer to stand.

BY THE COURT:

Q. When you reached that door on the Washington place side, and up to the time when you say that you reached and were at that door, did you at any time put your hands on the key? A. You mean at that time?

Q. Yes. A. Yes, sir.

Q. And which hand did you put on the key? A. My right-hand.

Q. And having your hand on the key what, if any, did you make with your hand? Just turned the key? A. I have turned the knob with the same hand, and I opened the door

towards me and went out.

Q. What do you mean by turning the key? A. I opened the door because I turned the knob. The door was locked and I turned the key that was in the lock and I opened the door.

BY MR. BOSTWICK:

Q. Were there any persons around that door when you did this? A. No, sir, I was the first one at the door.

Q. You were the first one at the door? A. Yes, sir.

Q. Were there any girls around the Washington place elevators? A. Well, yes, sir, there was; there was a lot of girls.

Q. A large number? A. Not a large number, because there were only a few working on that side.

Q. How many would you say there were around the Washington place elevators at the time? A. Three or four of them at their machines.

Q. Around the Washington place elevators? A. Yes, sir.

Q. Wouldn't you say there were five or six? A. No, sir.

Q. Only three or four? A. That's all.

Q. Now, do you remember making the statement to me at my office on April 17th, 1911? A. Yes, sir.

Q. Do you remember this question being put to you, and your making this answer: "They were bunches up at the Washington place elevator door? A. The Washington place elevator door? Q. At this place were there any people around the Washington place door? A. About thirty or forty." A. I didn't say the door, I meant the Washington elevator, I never said the

door because I didn't see any at the door.

Q. Did you make that answer to my question? A. I don't know.

Q. Now, do you remember this question being put to you by me immediately thereafter, and your making this answer: "Around the Washington place door? A. Yes, sir."

A. I did, but I meant the Washington place side -- the Washington elevator, I didn't mean the door.

Q. What were these people doing at that time? A. Well, that is because the door that I seen --

Q. No, what were they doing at this time? A. I don't know what they were doing; they were banging on the elevator doors; I was doing the same thing myself.

Q. Weren't they banging on the Washington place door? A. Not that I seen anything.

BY THE COURT:

Q. After you had turned, as you say, the key, did you leave the key in the lock?

A. Yes, sir.

BY MR. BOSTWICK:

Q. Did you see anybody else touch that door? A. No, sir.

Q. Did you see anybody else come near that door? A. No, sir.

Q. Was that door always kept locked?

MR. STEUER: I object to that, calling for the conclusion of the witness, and as having been already answered.

THE COURT: Objection sustained.

Q. Was that piece of strike [sic] there will [sic] the key all the time? A. Always.

Q. Didn't you state to me in that statement of April 17th the following question and answer, "You are about the only one who gives us information that the door was open, and I want to know if you cannot by any possibility be mistaken about it? A. No, sir; the door is always locked, the door is always locked since I went there — it is two years. There was always a key with a little piece of string, so big (indicating), so that the door became — in summer we used to open it up, so that is how I knew the key was there." Did you hear that question and make that answer? A. Yes, sir.

Q. How do you reconcile that with the answer you made a few moments ago?

MR. STEUER: I object on the ground that there is nothing in conflict with her answer.

THE COURT: Objection sustained.

MR. BOSTWICK: When I say in answer to the question a few moments ago I refer to the one which Mr. Steuer asked that it be stricken out, and your Honor said you thought you would allow it to stand.

MR. STEUER: And I object on the ground that there isn't any question, that that is a misstatement on the part of the District Attorney, and, second, that it is incompetent and irrelevant, and because it is based on an

an answer to an inquiry which was originally incompetent.

THE COURT: Yes, I think I will sustain the objections, Mr. Bostwick.

Q. Did you ever see anybody while you worked there go in and out that door? A.

Yes, sir.

Q. Who? A. Well, the foreladies, Mr. Bernstein, the bosses theirselves, and I went up and down these stairs.

Q. Did you make a statement to me on April 17th, 1911, when you appeared at the District Attorney's Office? A. I don't know, I can't remember everything that I said, but what I am saying is the truth.

Q. Would your recollection be better now or better then? A. Probably the same.

Q. Did you not hear this question put to you, and did you not make this answer: "Did you see anybody go in and out of that door? A. I may have."? A. I don't remember if I said "may", but I did.

Q. Did you state to me that you had ever seen anybody go in or out of that door? A. I don't know.

MR. STEUER: I object to that; he has just read an answer that shows she didn't state that.

Q. At any other part of the examination or at any other time? A. I don't know.

Q. Why didn't you make the statement then? A. The statement about what?

Q. Why didn't you state than that you had seen anybody

ever go in or out of that Washington place door, if it were a fact?

MR. STEUER: I object on the ground that it has not yet appeared that she did not make the statement.

THE COURT: You may ask her why she did not mention that she had seen the foreladies go through there.

A. I told you I seen Mr. Bernstein go through. I remember that.

Q. Didn't I put this question to you, and didn't you make this answer, "Did you ever see anybody except in the summer go in or out of that door? A. No, sir, nobody ever went in or out of that door"? A. No, none of the employees ever did.

Q. No, did you make that statement to me on April 17th, 1911? A. Well, sir, I don't remember everything.

Q. I don't want to know what you don't remember, or whether you remember everything, but I do want to know whether you made that statement to me in my office on April 17th, 1911? A. Well, I probably did.

Q. Is this your signature (indicating on paper)? A. Yes, sir.

Q. Did you swear to that affidavit? A. I did.

(Paper just identified by witness is now marked for identification People's Exhibit 42.)

Q. You have seen your signature to this affidavit? A. Yes.

Q. I ask you now to look at page 7 and read that question answer, the question which has just been put to you.

THE COURT: Read it to yourself.

A. Yes.

Q. And take a look at your signature? A. I seen it before.

Q. Now, I ask you if you want to change the answer to that question (referring to witness's answer "Well, I probably did. which is read by the stenographer)? A. No, I don't want to change, but the door was locked, but I opened it at the time of the fire, so I didn't care whether it was locked before or not, because there was never any danger to escape.

Q. Is it a fact that what you swore to on the 17th of April, 1911, is true or not true? A. It is true.

Q. And was it looked all of the time? A. Not that I know of.

MR. STEUER: I object —

A. It was locked then.

THE COURT: Do you want the answer out?

MR. STEUER: I do.

THE COURT: If she has personal knowledge she can swear.

MR. STEUER: I respectfully except. My objection to it is on the ground that it calls for a conclusion.

THE COURT: Oh, no. She went to the door and found it locked and she knew it was locked, so she can testify.

MR. STEUER: You mean on this occasion? I have no objection to the witness being interrogated as to everything she ever did with that door, but as to her statement or observation of the conditions I submit to your Honor

that you have —

THE COURT: We cannot tell what the evidence may disclose, but for the purpose of the ruling, it will be entirely conceivable, for example that she might have gone to the door locked the door, taken away the key, put it in her pocket, and come back an hour afterwards and unlocked the door; and she might very well testify it was locked during that time so far as she knew.

MR. STEUER: I have no objection, but she should not be asked for her conclusion, but should be asked what she did.

THE COURT: She may testify to her knowledge respecting whether the door was locked or not, not her opinion.

MR. STEUER: To the ruling as made I respectfully except.

THE COURT: You can confine yourself to the number of times that you went to that door.

BY THE COURT:

Q. Now, about how many times did you go to the door, during the year preceding March 25th, 1911? A. Well, on lunch hour, your Honor --

Q. Well, what is your best recollection as to the times during the year preceding March 25th, 1911, that you went to the Washington place stairway door on the ninth floor? A. A couple of times.

Q. About twice during that year? A. Yes, sir.

Q. On those two occasions do you recollect whether you found the door locked or unlocked? A. It was locked once and the other time it was open.

BY MR. BOSTWICK:

Q. In answer to this question didn't you make this answer: "Did they lock it just about the time the girls were going home? A. It was locked —"

MR. STEUER: Wait, please. I object to that as highly improper and incompetent. What knowledge have we of who "they" is? And can evidence be permitted of a statement made privately in the District Attorney's office in that way?

THE COURT: It is not necessary to argue it. I will sustain your objection. You may interrogate this witness, Mr. Bostwick, without reference to the paper that you hold in your hand, except in so far as it may appear from that paper that she has made some statement inconsistent with something testified to on her direct examination.

MR. STEUER: And I move that that answer be stricken out.

THE COURT: Yes. Now, you may go over the ground, interrogate her fully respecting everything that she knows.

MR. STEUER: The last answer, is that stricken out?

THE COURT: Yes, I will strike it out.

MR. BOSTWICK: The very last answer falls directly within your Honor's last ruling. And on the direct examination, if I remember correctly, she negated the idea that it was locked all the time, and I think that her statement made to me that it was locked all the time, negated that statement.

MR. STEUER: The fact is that there wasn't a question propounded to the witness on her direct examination on that subject; that has been entirely taken up by the District attorney.

THE COURT: Well, I don't think there was. If you can direct my attention to any query on the direct examination of this witness on that question, why then I may reconsider my ruling. My recollection is that she was not interrogated regarding it.

Q. Do you know Ida Middleman? A. Yes, sir.

Q. Did she go out in the hall with you at the time that you claim to have gone into the hall on the Washington place side of the building? A. I don't know, I didn't see her, but she works on the side where I worked, the same side, her and her sister.

MR. BOSTWICK: I don't see how we can lay the foundation for proper impeachment if we cannot recall to this witness the time and place that another statement was made inconsistent with her present testimony, before offering it. I may misunderstand your Honor's ruling.

COURT: My ruling is this: This witness was asked certain questions on the direct examination. Her responses to those questions constitute the subject matter of her direct examination. The limitations at cross examination as I understand it, and as I apply the rule now, relates to an examination respecting those matters brought out on the direct examination, plus any questions that may be asked the witness for the purpose of showing bias, or for the purpose of showing that she is other wise unworthy of belief. When you go beyond that you are making the witness really your own witness.

MR. BOSTWICK: I certainly understand that, but I did not suppose I was transgressing any of the rules

THE COURT: My recollection is that on her direct examination — I may be in error — she was interrogated as to her occupation, place where she worked, where she was at the time that she heard the fire, her movements after hearing of the fire, what she did, and so on. I don't think the direct examination went beyond that, that is my recollection.

Q. Did you see anybody else open that Washington place door? A. No, sir.

Q. Was anybody with you? A. No, sir.

Q. While you were at that Washington place door, did you hear any persons cry out, "The door is locked"? A. No, sir; how could they, I was out there?

Q. And you were the only person around that door? A. Well, I was right near the door, sure, I was the only one that did open the door.

Q. And you were the only person at that door? A. Yes, and the old man standing there inside of the door.

Q. And you were the only two persons there? A. And another girl standing up a little further from the man, the girl that called me, and there was other girls a little further over by the machines near the windows.

Q. But not near the door? A. No, sir.

Q. You were asked if you had ever seen Harris and Blanck, were you not? A. Yes, sir.

Q. Or the cashier or the bookkeeper -- were you asked about those? A. Yes, sir.

Q. Did anybody come to you and ask you to sign a piece of paper? A. Yes, sir.

Q. Who was that? A. Mr. Fletcher and Mr. Levine.

Q. And did you have a consultation with Mr. Fletcher and Mr. Levin.? A. Yes; they asked me how I escaped, so I told them and the same thing was written on the paper that they wanted me to sign.

Q. And you refuse to sign that paper? A. Yes, sir.

BY THE COURT:

Q. What was the first indication that you had that there was a fire? How did you first learn that there was a fire? A. When I opened the door, your Honor.

side door leading to the stairs.

Q. You mean to say that before you opened that door you had no intimation that there was a fire? A. No, sir.

Q. Do you understand what I mean? A. Yes, sir, I understand.

Q. The first that you knew that there was a fire was after you had opened, as you say, the Washington place door? A. Yes, sir.

Q. Is that so? A. Yes, sir.

Q. And then you ascertained that there was a fire how? By something that you heard, or by something that you saw? A. What I saw, the flames and smoke coming up the shaft -- the stair shaft.

BY MR. BOSTWICK:

Q. Did you refuse to sign that statement before you knew you were going to be a witness in this case for the defendants? A. Yes, sir.

Q. Who was it that first came to you about signing that paper? A. I think Mr. Fletcher or Mr. Levine, I don't remember which, but they both was up.

Q. It was the cashier, wasn't it? A. Yes, sir.

Q. Did you say you would not sign that paper? A. Yes, sir.

Q. What did they say to you in response to that?

MR. STEUER: I object to that.

MR. BOSTWICK: I withdraw the question.

They didn't say anything.

THE COURT: No.

BY THE COURT:

Q. Perhaps you have already answered, but if not I will ask you, how long had you been working for Harris and Blanck on the 25th of March, 1911? A. Two and a half years, your Honor.

Q. And during all that time on the ninth floor? A. Yes, sir, and worked about three months on the eighth floor, the time they were repairing the ninth floor.

BY MR. BOSTWICK:

Q. Had you told your friends what happened on March 25th 1911, before that paper was brought to you to sign? A. Well, I told it to my friends and to my daughter.

Q. Had you told it to Mr. Fletcher? A. Not before then.

Q. So the paper you were asked to sign ~ A. I told him that the day he came to see me — I told him just how I escaped.

Q. And then it was after that that he brought the paper to you? A. Yes.

MR. BOSTWICK: I understand your Honor's ruling to be that I am bound by the witness's answers to the questions which are collateral to the main issue brought out by Mr. Steuer.

Q. You testified on your direct examination that when you went to the door, you could not open it, is that correct? A. Yes, because it was locked.

Q. So that when you went to the Washington place door at the time of the fire you found the door locked? A. Yes.

Q. You worked on the ninth floor for how long? A. Two and a half years, with the exception of three months that we worked on the eighth floor.

Q. Do you know where the passenger elevators were? A. Yes.

Q. Was there a partition in front of the passenger elevators? A. Yes, sir.

Q. Next to them came the stairway? A. The stairway.

Q. Then what came next? A. The dressing room.

Q. Then two dressing rooms? A. Yes.

Q. There were no cutters tables on the ninth floor, were there? A. No, sir, they were examining tables.

Q. The cutters tables were on the eighth floor? A. Yes.

Q. No cutters tables over by the Greene street side? A. Yes.

Q. None of those on the ninth floor? A. No, sir.

Q. Nothing but machines on the ninth floor? A. The machines and the examining tables and desk.

Q. Did you have a conversation with Mrs. Goldstein? A. Mrs. Goldstein? I don't know; I don't know who she is.

Q. The mother of Mary or Lena Goldstein? A. No, sir, I don't know who she is.

Q. Do you remember having a conversation with a woman you don't know, who is dressed in mourning, the lost a girl at the fire?

MR. STEUER: I object to that.

THE COURT: I will allow her to answer, yes or no.

MR. STEUER: I except on the ground of the character of the description.

A. There are so many in mourning — yes I had a conversation with a young lady that lost her sister in the fire.

Q. No, I mean that lost a daughter? A. Yes, I do remember.

Q. Do you know whether any of those persons that you had that conversation with — does it recall to your mind whether it was a Mrs. Goldstein or not? A. No, sir, it was an Italian lady came to my home.

Q. Do you know anybody who lost a sister there? A. Yes.

Q. By the name of Mrs. Goldstein? A. No, sir, I don't know; I know an Italian girl that lost her sister there and that's all.

Q. During that two years and a half that you worked there did you ever go up or down the Washington place stairway? A. Yes, about a year before this accident, something happened to the cable, and we had to walk up stairs to the ninth floor.

Q. That was the one time, was it? A. That was one, then other times during the strike we went up and down the stairs.

BY THE COURT: When you say up and down the stairs, you mean from the street up? A. Yes.

Q. To the ninth floor? A. Yes, sir.

Q. On which side of the building? A. Washington place.

Q. Barring the time that the strike took place, and leaving out the time when the elevator didn't run, did you ever go up and down the Washington place stairway? A. In the summertime.

Q. Now, barring the summer time and the strike and the one time when; the elevator didn't run, did you ever go up or down the Washington place stairway? A. No, sir.

Q. Did you ever see anybody else go up or down? A. No, sir.

Q. Did you ever see the employees go out that way at night? A. No, sir.

Q. Well, there was a watchman employed at the Greene street side, was there not? A. Yes.

Q. And the people had to pass by the watchman? A. I don't know. I didn't pass by him, I always went down the Washington elevators.

Q. You didn't see these people go to Greene street and show their pocketbooks at Greene street? A. No, sir, I passed there several times myself.

Q. But you didn't show your pocketbook? A. Yes, sir, I did.

Q. I thought you said you didn't? A. Well, I didn't go down often from there, but I went down the Washington place side because I wanted to get down quick.

Q. You were not an operator, were you? A. Yes, I was an operator.

Q. Is that so? A. Oh, yes.

Q. Weren't you the head fancy button sewer-on on waists? A. Well, ain't that an operator?

Q. You didn't work at a machine, did you? A. Yes, at the machine.

Q. How many head fancy button sewers on waists do they have? A. I and another girl.

Q. You and another girl? A. Yes.

Q. You were in a class by yourselves, weren't you? A. Oh, no, we weren't by ourselves, we were all together.

Q. Whom do you work for now? A. I work for the Asky Waist Company.

Q. When was it you brought this suit against the defendants? A. Well, about four weeks after the fire — no, I tell a lie, about a month or two after.

Q. Did you have any conversation in regard to the question of giving testimony here as bearing upon your suit with anybody? A. No, sir.

Q. Didn't you have a conversation this morning about this suit against Harris and Blanck? A. No, sir, - with the girls in there, so I wasn't going to talk about the suit business.

Q. Didn't you say "What is the use of saying the door was locked.? A. No, sir, I said "I wouldn't lie for nobody on the honor of my children", that was the only word I said there.

Q. You didn't lose any children, did you? A. No, sir, but I have three children, so I wouldn't lie on their honor, I wouldn't lie for nobody.

MR. BOSTWICK: I move that that be stricken out as not responsive.

THE COURT: I will leave in "I have three children." The balance is out.

MR. STEUER: Exception. It was brought out by the District Attorney and after it was in instead of moving them to strike it out, as he had a perfect right to do, he based a question on it, and he couldn't base a question on the assumption that it was properly in, and then when he didn't like the answer, move to strike it out.

THE COURT: I have ruled, Mr. Steuer.

MR. STEUER: I respectfully except.

Q. On your direct examination you said that the flame and smoke came in right over the railing, is that correct? A. Yes, sir.

Q. How large a volume of flame came in over the railing? A. Well, it was in between the smoke — I couldn't see how large, I know it was a big one, that's all I can say.

Q. If you will just turn this way for a minute (proceeding to a blackboard on an easel in court room); assuming that to be the stairwell, and this to be the door, did the flame come up the stair-well and go in the direction of the door? A. No, sir, it went right through that square there.

Q. Right straight through the square in the stair-well? A. Yes, sir.

Q. So that if I am now in the stair-well, the portion of the banister nearest to me would be the portion nearest the flames, is that correct? A. Yes.

BY THE THIRD JUROR:

Q. After you had been out of the Washington place door and looked over the stairway, what did you do to the door after you came back in? A. I ran in and pushed it back, pushed it in back to me and ran to the elevator.

Q. You closed it? A. Yes, sir.

Q. Did you lock the door after you came back in? A. No, sir, I would never think of turning that key again.

MR. STEUER: Let me see that statement, please (referring to the paper purporting to contain statement given by the present witness to Mr. Bostwick in his office.)

MR. BOSTWICK: I will if you will permit the jury to see it.

MR. STEUER: I ask your Honor to instruct Mr. Bostwick not to do that again during this trial.

THE COURT: What do you want, Mr. Steuer?

MR. STEUER: I asked Mr. Bostwick for the statement that was marked for identification (People's Exhibit 42 for identification.)

THE COURT: Yes, and Mr. Bostwick offers it to you conditionally?

MR. STEUER: Provided I show it to the jury.

THE COURT: Mr. Bostwick has a right to attach any

any conditions that he sees fit for the reason that the matter is merely marked for identification.

MR. STEUER: I wish to call your Honor's attention to the fact that that is not the law.

THE COURT: Isn't that so?

MR. STEUER: No, the law is that when a paper is interrogated from and marked for identification, it is the property of the adversary. I don't want to take advantage of a ruling that might be made without consideration.

THE COURT: I don't know but what you are right.

MR. STEUER: That is the law, and of that I am absolutely certain, and I have had the exact question reviewed on appeal, and I don't want to take advantage of any ruling that your Honor may have made without giving it the thought to which it is entitled.

THE COURT: I think I do recall that you are right.

MR. STEUER: But under no circumstances can either counsel try to make a bargain with another. Lawyers have a right to consult their client's interest. If I make a request of Mr. Bostwick he has the right to either decline it or concede it, but he must not make these bargains with me, because I have intimated before that I decline to make bargains where my client's liberty is at stake.

MR. BOSTWICK: I ask that the jury be directed to dis-

regard this irrelevant statement of counsel.

MR. STEUER: It is Mr. Bostwick's attempt to bargain which should be disregarded by them, because it is bartering the liberty of these defendants in an improper method, and it is not proper on the part of the prosecuting officer to do it, and I have asked him before not to do it, your Honor.

THE COURT: Gentlemen, we will work in an orderly manner with the trial. I need hardly say, Gentlemen of the jury that if this case is submitted to you, you will consider the evidence and the evidence alone.

I am inclined to think, Mr. Bostwick, recollecting now the law, my attention having been directed to it, that Mr. Steuer is entitled to see a paper that has been used in the examination of a witness, although merely marked for identification. Do you dispute that?

MR. BOSTWICK: I do, sir; particularly the use which was made of this paper and the limitations placed upon it by the Court.

THE COURT: Very well, now, proceed.

MR. BOSTWICK: And I should like to see an authority if the Court will be good enough to advise me upon it.

THE COURT: The rule stated in Article 132 [of Law?] on Evidence, as follows: "A witness under cross examination, or a witness whom a judge under the provisions of Article 131 has permitted to be examined by a party who claims his previous statements inconsistent with his present testimony, may be questioned as to previous statements made by him in writing (reading).

Mr. Steuer, you say there is a case that holds that you have a right to see that paper?

MR. STEUER: Yes, your Honor.

THE COURT: Will you give me the reference, - what case is it?

MR. STEUER: I do not know, but I will give it to you in the morning.

THE COURT: Very well. I will reserve ay decision.

MR. STEUER: I will give it to you and give you several other cases, possibly, in fifteen or twenty minutes.

THE COURT: Just one case.

MR. BOSTWICK: Under that very section which I called your Honor's attention to, I ask the right to ask this question as to previous statements inconsistent with the present testimony, and your Honor restricted me to only such matters as were brought out on direct examination.

MR. STEUER: Will we call another witness?

THE COURT: Yes; this witness may be withdrawn, and I will examine that question, Mr. Steuer.

(Witness withdrawn.)

THOMAS HORTON, a witness called on behalf of the
defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 199 West 134th street.

Q. Mr. Horton, what is your business? A. Well, my business doing the porter work at
the Asch building; seeing that the place was kept clean.

Q. Is that where you work now? A. Yes, sir.

Q. Who did you work for, Mr. Horton? A. Mr. J. J. Asch.

Q. And how long have you worked for him, Mr. Horton? A. Eight or nine years.

Q. In connection — during all that period — is this the building at 23 and 29
Washington place? A. Yes, sir.

Q. Were you the only porter there? A. The onliest porter there for that house.

Q. Did you work for Harris and Blanck at all in any way? A. No, sir, I only did a little
cleaning of the signs, or something like that.

Q. That is downstairs? A. Downstairs.

Q. One of the sort that appear on plate — plate signs? A. Yes, sir; that is the onliest
work that I did.

Q. Mr. Horton, was it part of your business to sweep the stairs? A. Yes, sir.

Q. How often did you do that? A. Well, About two or three

times a week, I had to sweep the stairs.

Q. How many sets of stairs were there in that building, Mr. Horton? A. Two sets.

Q. What did you call them? A. What?

Q. What did you, or do you call them? A. We call one side the Greene street side, and the other the Washington place side stairway.

Q. Did you sweep the Washington place side? A. Yes, sir, sure.

Q. How did you get upstairs, where did you start sweeping, from the bottom of the building or the top, from the bottom up, or from the top down? A. From the top down.

Q. How did you come up to start, Mr. Horton? A. Take the front elevator, the passenger car, and ride up to the tenth floor and get out and walk down the stairs, well, I opened the door and go out, and I swept the stairway down.

Q. What door did you open up to get out onto the Washington place stairway? A. The Washington place stairway on the tenth floor.

Q. At any time when you came to the stairway door, did go through that door, did you have to unlock it, or how did get through? A. I turned the knob, and go right out.

Q. Now, during the time ~ then did you sweep down the stairs? A. Why, certainly.

Q. Now, during the time that you swept down those stairs, did you ever see the door from the Washington stairway on the

ninth floor? A. Open?

Q. I am not asking you open or shut, did you see the door? A. Why, yes.

Q. So you knew there was a door there? A. Oh, yes.

Q. Did you see it on every floor on your way down? A. Yes, sir.

Q. During the time that you swept those stairs down, did you ever open the door, that is, from the outside into the ninth floor into the Washington place side? A. Yes, I opened it several times on the ninth floor, because when I swept the stairways, well my back was turned towards the stairway, and I would trip up against the door and sometimes it would open.

Q. Did you ever go into that stairway or go into the loft from that stairway with Mr. Stern, your superintendent or boss, or whatever it was? A. Yes, used to go there several times with Mr. Stern.

Q. Did you ever come to that door on the Washington place stairway so you could not get in on the ninth or the floor? A. No, I never did.

Q. Did you go into the eighth floor from the Washington place stairway with Mr. Stern while you were working there? A. Yes, sir, I did.

Q. And while Harris & Blanck had that loft? A. Why, certainly.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You said you were the employee of Mr. Asch? A. Yes.

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Q. Now, isn't it a matter of fact that you never were employed by Mr. Asch at all? A. I am employed by Mr. Asch.

Q. You are employed by Mr. Asch? A. I am working for Mr. Asch.

Q. You are certain that you are working for Mr. Asch? A. Certainly I am working for Mr. Asch.

Q. When did you see Mr. Asch? A. Well, I ain't seen him ~~ well, I guess about a week, or something like that.

Q. When did you first go to work at this place? A. About eight or nine years, I don't know exactly the date.

Q. Well, that is Mr. Asch hires you? A. Mr. Stern hired me.

Q. Now, don't you work for Mr. Stern as a matter of fact? A. Well, he employed me.

Q. And you worked for Mr. Stern? A. Yes.

Q. Mr. Asch never said anything to you, did he? A. I don't know; xxxxx.

Q. Did Mr. Asch ever pay you? A. No, Mr. Asch never paid me, not as I knows of.

Q. Mr. Stern paid you? A. Yes, sir.

Q. Mr. Stern is the person that hired you? A. Yes, sir.

Q. Mr. Stern has been on the stand here to-day, hasn't he? A. I cannot tell you, I guess he has.

Q. You haven't seen him in the building here, have you? A. Me?

Q. Yes. A. No.

Q. And you haven't seen him here to-day? A. No.

Q. What time did you come here to-day? A. I get here about half past ten or eleven o'clock.

Q. Haven't seen Mr. Stern in this building to-day? A. I weren't looking for Mr. Stern.

MR. BOSTWICK: I move to strike out the answer.

THE COURT: Strike it out. Answer the question. A No.

Q. Didn't see Mr. Stern here to-day? A. No.

Q. Didn't have any conversation with Mr. Stern? A. He.

MR. STEUER: That is the sixth time, at least, that he has answered that in regard to Mr. Stern.

MR. BOSTWICK: That is only about half enough.

THE COURT: Proceed, now.

Q. Mr. Horton, do you remember making a statement to me on April 3rd, 1911?

A. Making a statement to you — I made some statement, - I don't know if I made it to you, or not.

Q. Did you say statement or misstatement? A. I did not say — well, I made a statement.

Q. Did you say statement or misstatement, is my question? Did you say misstatement? I want to know what you said? A. I want to know what you asked me, then I tell you what I said.

Q. Do you remember appearing in my office on April 1st, 1911, when there was a stenographer and other persons present, before the trial ever began? A. Yes, sir.

Q. Do you remember this question being put to you and you

making this answer: "Did you ever go through the door on the Washington place stairway on the eighth, ninth and tenth floors? A. No, sir."? A. I don't remember that.

Q. Have you forgotten it? A. No, I never forgotten it.

Q. Did you -- do you say you didn't say it? A. Yes, sir.

Q. You did not say that? A. No.

Q. Was this question put to you and did you make this answer: "Q. Did you ever try any one of those doors? A. No, I did not really try them, because I didn't have no business up there, and I didn't try those doors, only as I go up to sweep the stairs when it was necessary". A. I didn't make that statement exactly, and what I said, you asked me ---

Q. Did you —

MR. STEUER: Wait a moment.

Q. Did you make that statement? A. No. You ain't said it like I said it there. You didn't speak about at all like I said down to your place of business.

Q. Did you hear this question put to you, and did you make this answer: "Were the doors on the eighth, ninth or tenth floors ever locked? A. I am afraid to say either, because they generally lock those doors because they didn't pass down that way." Was that question put to you and did you make that answer? A. Not that way. I told you —

Q. It is a different way? A. All right. I know what I said.

Q. Is it is a different way from the way you said it? A. Yes.

it is a little different from the way I said.

Q. Was this question put to you and did you make this answer: "They generally kept those doors locked on the Washington place side? A. Yes, sir."? A. No, sir.

Q. You didn't say that? A. No, sir.

Q. Was this question put to you, and did you make this answer: "Q. But on the Washington street side? A. I could not say whether they were open all the time, but I know on the eighth floor I tried there once and that door was open on the eighth floor, but I could not tell you whether it was open on Saturday." A. I said that.

Q. You said that? A. Yes, sir.

Q. So then as a matter of fact you never tried the eighth floor door but once, is that true? A. Did I ever try it any more than once, - I tried it more than once, but on that floor I said I tried it, and the door was opened, - that don't say I only tried it once.

Q. Was this question put to you and did you make this answer to me: "Q. When did you go through there on the eighth floor yourself? A. I ain't been through there, I never went through there." A. No, sir, I never said I never went through there; I passed through there most all the time, if I felt like it.

Q. And referring to the eighth floor door, you were asked this question, and did you make this answer: "Did you ever try it? A. I only tried it once." A. Yes, I made that statement once, I only tried it once, and I found it open at that time; I

didn't say I only tried it once the whole time I was in the building.

Q. Was not this question put to you, and didn't you make this answer to me: "Q. Don't you know as a matter of fact that the doors on the eighth, ninth and tenth floors were usually locked? A. Usually locked." A. I don't remember saying anything like that.

Q. And was not this question put to you and didn't you make this answer to me: "And don't you know it because you have tried those doors? A. Yes, sir, rubbing up against them, I know they ain't, rubbing, passing down that way."? A. No, sir, I didn't make that.

Q. And was not this question put to you and didn't you make this answer: "Don't you know beside rubbing up against them -- don't you know you have tried that knob and it was locked? A. General rule they locked them." Was that question put to you and did you put that answer? A. No, sir.

Q. Aid wasn't this question put to you, and didn't you make this answer at the same time by me: "And you know it because you tried that knob? A. Not every time I go up." A. Yes.

Q. That you said? A. That I said; I didn't try those doors every time I went up. It was not in my —

Q. You do remember that question and answer? A. I remember that question.

Q. And none of those ether questions, none of those others?

A. When you say anything I said, I will tell you.

Q. And was this question put to you and did you make this answer: "But you tried that knob? A. I have tried it". A. I tried the door and it was open; I remember saying that.

Q. No, no, Mr. Witness. A. All right.

Q. I say, did you have this question put to you, "But you have tried that knob", and did you answer, "I have tried it"? A. No, sir.

Q. And was not this question put to you, and did you make this answer to me: "Did you ever try that door and find it locked? A. What door? Q. You know what we are talking about? A. I have tried it once. Q. Did you find it locked that time? A. Yes, sir." A. No, sir.

Q. Was this question put to you and did you make this answer to me: "You did find it locked, you went up there, and pulled the knob and find it locked? A. Yes, sir"? A. No, sir.

Q. How many times ~ was this question put to you and did you make this answer: "How many times did you do that? A. Once." A. How many times did I do what? Try the knob?

Q. I am not asking whether you ever did anything, except did you tell this to me, -- was this question put to you, and did you make this answer in my office on April 3rd, 1911, is the question that is put to you? A. Well, what I know, what question is it, so don't you explain it to me.

Q. I want to know whether you were asked this question:

“You did find it locked, you went up there and pulled the knob and found it locked? A.

No, sir.” A. You ~ no, sir.

Q. You didn't say that? A. I didn't say that, no, sir. I didn't.

Q. And was not this question put to you and didn't you make this answer, “Q. How many times did you do that? A. Once.” A. Went to clean the stairway, how many times did I go to clean the stairway?

Q. No; was that particular answer and question made and put to you — was not that particular answer given by you to that particular question? A. I remember saying how many times did I sweep these stairways, I remember saying two or three times —

Q. Mr. Witness, we don't want anything except whether you made that statement to me in my office on April 3rd in the presence of a stenographer and other witnesses: Q. How many times — ”

MR. STEUER: In the presence of other witnesses?

MR. BOSTWICK: Yes.

MR. STEUER: You and the stenographer were becoming witnesses at that time, were you?

THE COURT: No, go on.

MR. BOSTWICK: Other witness to his statement, to his transaction, - I am looking forward, perhaps, to another proceeding.

MR. STEUER: Don't you make threats against anybody

in the course of this trial —

THE COURT: Proceed in an orderly way.

MR. STEUER: I respectfully except to the remark of the District Attorney. What has come to me heretofore with respect to threatening language to other witnesses, I did not believe, but I respectfully request now, Your Honor, that the District Attorney be requested to desist from ever making such a statement again in the course of this trial in the presence of any of these witnesses.

MR. BOSTWICK: I ask the Court to scrutinize my statement and to pass judgment on it.

THE COURT: Proceed.

Q. Was not this question put to you, and did not you make this answer: "And you never found it unlocked? A. I told you once."? A. Yes, I found it unlocked.

Q. I don't want to know what you found. All I want to know is whether you made that statement to me in my office on April 3rd, 1911, and in the presence of a stenographer and a witness? A. Yes, I made a statement as to the —

Q. What I want to know is whether you made that statement of not? A. I am afraid to say unless you tell me what it is about, I remember finding the doors open, you say didn't I say the doors -- how do I know what you mean. I said once on some other last time, - I don't know, if you explain it to me I tell you exactly.

MR. BOSTWICK: I ask that the statement of the witness be stricken out as irresponsible.

THE COURT: Denied.

MR. BOSTWICK: There being no question.

THE COURT: Denied.

Q. I ask you whether this question was not put to you, and whether you did not make this answer: "I want you to answer my questions? A. No, sir; I only tried once to see if the doors were locked, because I thought they kept them locked most of the time"? A. No, sir, never, not that way.

Q. And was not this question put to you, and did not you make this answer: "Was there any key in those doors? A. I could not tell from on the outside"? A. Yes.

Q. You made that answer, you remember that? A. Yes, sir, because all I know --

Q. Were you asked this question, "Did you ever see any key on the outside? A. I didn't go rubbering to see." Now, then, that is the question, and that is the answer, "Did you ever see a key on the outside of those doors? A. No, sir."? A. About the key, yes.

Q. Did you so answer that question? A. Yes.

Q. What time was it when you started to sweep that place down? A. Well, about ten o'clock, ten or eleven o'clock, the time that I got my little cleaning to do down stairs.

Q. You mean during the day-time? A. During the day-time.

Q. And what time did you cease or stop sweeping down these

stairways? A. When I got through.

Q. And then did you say — you say from half past ten or ten o'clock, - did it take you from half past ten all of the time? A. I didn't have no limit at all; I was just ordered to sweep those stairs.

Q. Did you spend two hours sweeping the stairs? A. Whatever it was necessary; I did not make it a rule to spend any particular time.

Q. I don't want to know how long it was necessary. I want you to tell me how long it took you, to sweep those stairs, from the best of your recollection? A. I can't say exactly how long. Well, maybe it took me an hour.

Q. What is the longest? A. It took me to sweep those stairs— I never timed myself.

Q. I am not asking you whether you timed yourself, I asked you how long was the longest it took you? A. Well, I guess an hour and a half if you want to know it.

Q. Did you ever take three hours in sweeping those stairs? A. No.

Q. Now, were you ever at the Washington place door at closing time? A. Was I up there at closing time, - I don't make it my rule to be there at closing time.

MR. BOSTWICK: I respectfully ask your Honor to direct this witness

--

THE COURT: Strike it out.

MR. BOSTWICK: To answer the question of the District

Attorney.

THE COURT: This applies to the last question, the last question, only.

(Question repeated by the stenographer.)

THE COURT: Answer that yes or no, or I don't remember.

A. Yes, I was at the Washington place door at closing time.

Q. When? A. I don't know exactly what date.

Q. Well, when, to the best of your recollection? A. Well, I am around there most any time, about closing time, I don't know what date.

Q. Did you ever try one of those doors on the Washington place side after closing time?

A. No, sir, because I wasn't upstairs; I was down in the main hall at that time, and I didn't stay upstairs at closing time.

Q. Weren't you down in the main hall attending to your duty? A. Yes, sir.

Q. And you were not upstairs in the eighth and ninth loft when they closed? A. Not when they closed the doors.

Q. Then you don't know whether the door on the eighth floor and the ninth floor was locked at closing time? A. At closing time, I don't know.

Q. You don't know anything about the condition of that door on the Saturday of March 25th, 1911? A. No, the closing time I don't.

Q. Where were you at the time of this fire? A. Downstairs

with the engineer.

Q. You were not even on the eighth, or ninth or tenth floor? A. No, sir, not at the time of the fire.

Q. Can you tell me how many days it was before the fire that you remember having tried the door and finding it locked on the ninth floor? A. And finding it locked --

MR. STEUER: I object to that on the ground that it assumes a fact, the contrary of which has been testified to by the witness.

MR. BOSTWICK: I didn't mean to include it if that is your understanding; that was not my understanding.

THE COURT: The question is withdrawn, then.

Q. While you were cleaning those stairways did you ever see any one go in or come out of the doors on the Washington place side on the eighth or ninth or tenth floor? A. Did I ever seen a one go in or come out, - yes I have been some one go in and come out; I forget the lady's name, I don't know, -there was so many girls; as a rule they did not go up and come down that way.

Q. I don't want the rule. A. All right. I have seen some.

Q. Wait just a moment. Your answer to that is you have? A. Yes, sir.

Q. Now, I ask you whether you did not hear this question put you by me, and did you make this answer on the 3rd of April 1911 in my office:

District Attorney [...] subject was not gone into on my direct examination, no inquiry upon it was propounded. You cannot simply raise up a stub for the purpose of knocking it down?

THE COURT: Why do you argue it; I am prepared to rule on it. I do not think it was gone into on the direct.

MR. BOSTWICK: I think it was, if your Honor please.

THE COURT: The question is as to whether he has seen persons go upstairs or down. What was the question?

(Last two questions and answer read by the stenographer.)

MR. STEUER: I object to that as attempting by another question to contradict an answer which he has just received to one of his questions.

THE COURT: I will allow the question.

MR. STEUER: I except.

Q. Was not this question put to you and this answer given by you: "Q. While you were cleaning these stairways you never saw anybody come in or go out any one of those doors on the Washington place side, on the eighth, or ninth, or tenth floors".

MR. STEUER: I object to it, may it please your Honor on the ground that the only purpose it can be is to contradict the witness on a collateral matter, and upon an inquiry that was not gone into upon direct examination.

THE COURT: You did not go into the question on the direct as to whether or not he had seen persons going up and down?

MR. STEUER: No, sir.

THE COURT: You did inquire and interrogate him with respect to the condition of the doors?

MR. STEUER: Yes.

MR. BOSTWICK: Your Honor will recall that he asked him didn't he sweep beginning at the tenth floor and that way down to the bottom, and didn't he bump into another door and that door was not open, and whether he did not open the doors; that was all brought out on direct examination.

MR. STEUER: I didn't ask him anything about bumping— I did ask him whether he swept on the stair leading from the tenth to the ninth on the Washington place side, and whether he swept all the way down, and I asked him whether he himself ever passed through that stairway into the ninth and the eighth loft, and I asked him whether he ever passed into it with Mr. Stern, his manager or superintendent. Now, those were the subjects of inquiry that I directed to the witness. There was not a suggestion by me of an inquiry whether he saw anybody go up or down those stairs. I call your Honor's attention to the fact that the rule is that you can ~-

THE COURT. I know what the rule is.

MR. BOSTWICK: We have been hearing so much of what Mr. Steuer and others understand to be the rule, if your Honor please, that I would certainly like to have one authority called to my attention so that I may look over that authority which sets forth as to the limitations of cross examination. Your Honor knows that there has not been a decision since 87 New York, although I well know what has been the judicial attitude toward that subject and the practices which they have followed, and I would simply like to know of a single case that laid down the law and forms the authority in that respect.

MR. STEUER: I heard you say before, Mr. Bostwick, that there is not any decision, and then within a very short time the decision of the highest Court of the State was produced and called to his Honor's attention. You said a moment ago there was not any authority on the question of examination of these statements; I don't know how much reading you do ~~

THE COURT: Gentlemen, I trust that after this there will be very much less colloquy; it serves no useful purpose, it is certainly disrespectful to the Court, and distracting to the jury and not conducive to furthering the ends of justice. The examination and cross examination must relate to facts in issue, or relevant or deemed to be relevant thereto, but the cross examination need not be confined to the facts to which the witness testified

on his examination in chief. Re-examination must be directed to the explanation of matters referred to in cross examination and if new matter is permitted by the Court in re-examination, the adverse party may further cross examination upon that matter. When a witness is cross examined, he may in addition to the questions referred to, be asked any question which tends to test his accuracy, veracity or credibility, and to shake his credibility or injure his character. That appears to be the rule as set out in our decisions.

MR. BOSTWICK: I base upon the first sentence of your Honor's quotation of cross examination, that it need not be confined to the facts to which the witness testified on his examination in chief. I disagree with that rule which is entirely in my favor, if your Honor will permit me to examine as to matters which are not brought out in addition to those brought out in direct examination. I desire to call your Honor's —

THE COURT: Yes, but this rule in most of the States of this country applies that the cross examination must be limited to matters which have been brought out in the examination in chief, and as to the new matters which are brought out by the witness, the witness is deemed to be the witness of the examiner and not of the one who called him.

MR. BOSTWICK: Your Honor, this witness testified on direct examination that he started at the tenth floor

and he opened the door ——

THE COURT: I think it bears upon his knowledge of the situation and I will allow it.

MR. STEUER: I except.

THE COURT: In other words, he may testify whether in point of fact he did that which he said he did by showing his familiarity with the conditions at the place where he is said to have been, that which he has testified to.

Q. Was this question put to you and did you make this answer: "Q. While you were cleaning those stairways you never saw anybody go in or come out any one of the doors on the Washington place side on the eighth floor, or the ninth floor or the tenth floor? A. No, sir, I did not see anybody come out."

MR. STEUER: I object to that question.

A. (Interrupting) I didn't say it that way.

MR. STEUER: (Continuing) On the ground that the question has been propounded by the District Attorney to the witness first that he attempts and seeks to contradict the witness on a subject collateral to the direct examination, and which he himself elicited for the first time.

THE COURT: I will allow the witness to answer.

MR. STEUER: I except.

Q. Did you get that question, or do you want me to repeat it? A. Yes, I got the question.

Q. You understand it? A. I don't remember saying never.

Q. Will you say that you didn't say it? A. I say that I did not say —

Q. Will you say that you did not say it? A. What I say ~

Q. Will you now say that you did not say it? A. Well, I did not say exactly like —

Q. Will you now say you did not say never? A. Never —

Q. Will you now say that you did not say never? A. Never saw the girls come down ~
well, I say as a rule that the girls did not come down that way, I remember saying that.

Q. Now, Mr. Witness — A. I did not see anybody —

Q. I ask you whether you did not use these words in my office on April 3rd, this is very simple, and you ought to give me a direct answer, -- did not you say this to me, just listen to what I have read to you. A. All right.

Q. Didn't you say, "No, sir, I did not see anybody come out?" A. I may have said it, I don't remember.

Q. You may have said it? A. I don't remember saying never seen the girls, as a rule they didn't come down that way.

Q. Did you say it, - didn't you say it or don't you remember? A. I don't remember.

Q. You may have said it? A. I may have and I might not that way, I don't remember.

Q. But you would not have said it if you ever had been anybody come out? A. I have seen them come out there.

Q. Why did you say in your statement that you never had? A. That is it now, that is what I am kicking on. I don't

remember saying never. If you had told me in the house in time, I would have kicked and told you so, but on this "never" business, that is what got me bothered all up.

MR. BOSTWICK: Mr. Graham.

(A young man steps to the railing.)

Do you ever remember seeing this gentleman before (pointing to Mr. Graham)? A. I might have seen him before.

THE COURT: Mr. Steuer, I will hand those two books to you, those are two of the cases that you referred me to, one is at page 175, that is in volume 131, and the other is at page 613, that is in Volume 120. What part of either of those cases applies?

MR. STEUR: On page 175 the Court of Appeals criticizes the suggestion that where the paper is in Court and you call for its production, and they refuse to give it to you, unless you agree to offer it in evidence, they criticize even that rule, and in that case, your Honor, the paper had not as yet been used or examined from.

THE COURT: Now, that case that you hold in your hand is not in point.

MR. BOSTWICK: Is that Smith against Rentz case, your Honor?

THE COURT: Yes. That case is not in point. We will take up the other one.

MR. STEUER: Your Honor does not consider that that

is conclusive on that proposition that you have a right to a paper when it is used for examination?

THE COURT: I don't consider that the situation there was analogous, therefore, I do not think that that ease is in point.

MR. STEUER: Now, if the Court is satisfied with its rule, I am entirely willing to content myself with the exception, your Honor. I thought I was bringing to the attention of the Court authorities that would show that that testimony is admissible, and if it is, your Honor's opinion, as urged by the District Attorney, that they have a right to use the paper and frame questions from it, and ask the witness, didn't you say to me thus and so, as reading the question from a paper, and then we cannot see whether it is properly read or not, if the contention of the District Attorney is that that is the law, I don't want to urge the contrary rule, I am perfectly to rest upon the exception upon such a proposition.

THE COURT: I have not made up my mind, Mr. Steuer, as to what the rule of law is, but I merely say that the case in the 131st New York is not in point.

MR. STEUER: I will not urge that upon your Honor any more, except that I ask your Honor to look at it again. Because I am quite satisfied that it goes further than what I contend for here.

THE COURT: The rule may be exactly as you state it,

I am not prepared to say that it is not.

MR. BOSTWICK: The People offer no objection to its going in evidence.

MR. STEUER: Now, I except to that remark, in view of what transpired, particularly in view of the Court's instructions that there should be no further colloquy.

THE COURT: You may turn to the case in 120 New York, 613. I may say, Mr. Bostwick, that what I had in mind when I ruled then, was the particular part of the law that is applied to the paper, where the paper is used for the purpose of the witness's refreshing his recollection, and in those cases it has been held that although it is not offered in evidence the opposing counsel had the right to see it in order that he may examine the witness upon it, for the purposes of ascertaining among other things how, and in what way and why it refreshes his recollection, and for the purpose of demonstrating, if you please, if it can be done, that it is not such a paper as would, in the ordinary course of things refresh the recollection of the witness. I may also say off-hand --

MR. BOSTWICK: The last article in Stevens, where he quotes the Smith against Rentz case, is laid down as the proposition that where the person who had a notice to produce served upon him -- that is not this case, that was one of the things in that case. But I also concede the proposition that he would offer in evidence

a document, that it is then proper that the counsel for the opposing party, the opposing counsel has opportunity to examine, and has the right, and it is his right and duty to inspect the document if he wishes so to do.

THE COURT: You have interrogated the witness, and I am referring now not to the last witness, but to the witness before the last — with respect to certain statements alleged to have been made by her, and the interrogation has proceeded along the line of directing her attention to something which she is alleged to have said inconsistent with her testimony as given here in Court. I suppose that the writing stands in the same position to the inquiry that any oral inconsistent statement that was made by the witness would have stood. In other words, you interrogated her with a paper in your hand in the same way you might have interrogated her on what she said before, or was alleged to have said before, without having introduced the writing, and it had been stated orally in the presence of some one whom you proposed to call as a witness, is not that so?

MR. BOSTWICK: No, I must state in fairness to the Court I went further than that, because I showed her the document.

THE COURT: And she identified it?

MR. BOSTWICK: And she identified it and her signature. And I believe, if your Honor please, that in

the case of Queens Insurance Company against Van Heisen, reported in the Law Journal, that we are entitled to offer the document in evidence itself, and then it is subject to be rehabilitated by the counsel for the defendant.

THE COURT: I will let my ruling on that question stand over until to-morrow. I will look up the law, and I will decide to-morrow about it, and the witness can be recalled.

REGINALD J. WILLIAMSON, a witness called in

behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 134 West 133rd street.

Q. Mr. Williamson, where are you employed? A. Where are I employed, sir?

Q. Yes, sir. A. Harris and Blanck, Triangle Waist Company.

Q. Now? A. Not at present at all. You mean now?

Q. Yes? A. No, at present.

Q. Where are you employed? A. I are employed now with D. L. Cohn as janitor.

Q. Where do you work? A. At 134 West 133rd street.

Q. Has it anything to do with Harris and Blanck in any way? A. No, sir.

Q. Were you in the employ of Harris and Blanck at the time of the fire? A. Greene street ~

Q. Were you employed with them at the time of the fire?

A. I was, yes, sir.

Q. What position did you hold with them? A. As porter.

Q. And what floor did you work on? A. At the time of the fire I was on three floors, that is assisting on two floors, regularly on one, that is the ninth floor.

Q. How long have you been regularly on the ninth floor? A. I was there for about fifteen months.

Q. Prior to the fire? A. Yes.

Q. Now, did you work for Harris and Blanck at any other place for any length of time after the fire? A. I worked twelve days.

Q. After the fire? A. Yes, sir.

Q. And since the twelve days after the fire you never worked for them at any place? A. No place at all.

Q. Now, when you worked on the ninth floor during these 15 months you have testified about, what time did you go to work? A. Eight o'clock.

Q. Morning or evening? A. Morning.

Q. And what time did you quit work? A. Quarter to six the bell rang and we got out at six o'clock.

THE COURT: Gentlemen, after a witness has testified what is your wish, that he should remain in the court room or leave it?

MR. STEUER: It don't make any difference to me at all.

MR. BOSTWICK: I don't think the witnesses should re~

main in the room except a formal witness when he has testified, for the very reason they may be recalled, and I think they should be withdrawn. We carried out that policy in producing the People's witnesses.

Q. Now, you tell the jury what was your routine duty after you came to work and up to the time when you quit? A. I got in the morning at 8 o'clock a.m., I made the floor clean on all three floors, that is, two floors, that is the eighth floor and the ninth floor.

Q. Talk up, so these people can hear? A. I say I got over there at eight o'clock in the morning, 8 a. m. I can't speak very well. I have got a bad cold, and have had it for some time — up on the 8th and the 9th floor I clean, and sweep I mean, - the night porter cleans out at night, I don't have to sweep when I get there first thing in the morning; I clean the toilets, that is the first work. I get through with them about quarter to nine. I then take lunch orders for the eighth and the ninth floors.

Q. What do you mean by lunch orders, tell the jury what you did? A. I take orders from the girls, every girl in the house that wanted lunch and don't bring her lunch, or something of the kind, I take the orders, collect the money and bring their lunches by numbers.

Q. How do you know what the girls want? A. They tell me what they want.

Q. Do you go to each girl in the place? A. I does go to

each girl in the place in rotation.

Q. Every day? A. Every day, done it all over; after that I go and buy the lunch, get back about eleven o'clock, sometimes a little later, and have all the lunch by the time — before the bell rings for twelve o'clock; after getting them lunches, and giving them their change, while they eat, I will go to the large aisle, and sweep ~ sprinkle and sweep them all; they go to the windows and eat their lunches, mostly, and the dust don't interfere with them at all; I would sweep. When the bell would ring for them to turn to I would then clean the water sinks and all that and the toilets and spaces where they had been around the windows, and than I go out to lunch about two or half past, sometimes not before three o'clock, and make for my lunch. When I get back from lunch, my lunch, it is generally cleaning again, I clean then and leave things in shape for the night man. I usually sweep on the eighth or the ninth and on the tenth floor, and we had a boy, Harry, and the only thing I have to do is to assist on the eighth — the ninth floor I generally sweep; I see that the toilets are all right, and after that I see that the water pails - I had arranged it so that the water pails is here all right.

Q. Keep your voice up so that we can hear you. A. I wish I could. I have got a bad cold and have been so for the last two months. At that time I am called in to do anything they may want done on the tenth floor, in the afternoon from four

o'clock or half past four, about the time they may call on me for anything. Sometimes the water is running over on the ninth floor, and the water is running over from the ninth floor and I am called to fix it, and so forth, and they used me that way until quarter to six.

Q. Now, the eighth and ninth and tenth floors during the fifteen months that you worked there where were the keys on the Washington place side doors? A. The Washington side door key.

Q. Yes, sir. A it was kept in the door, tied with a long string, that is the way it was kept.

Q. Tied to what? A. Tied to the knob of the door.

Q. Was it kept that way all the time that you worked there? A. It was kept that way as far as I can remember all the time that I worked there; Mr. Blanck I recalls pretty near discharged me about the keys.

Q. What happened? A. He came to the door one morning, it was about — I was just taking orders —

MR. BOSTWICK: I object on the ground that anything

Mr. Blanck may say to this witness, from this witness's mouth, on the ground that it is self-serving declaration.

THE COURT: Sustained.

MR. STEUER: I beg your Honor's pardon, but a direction from the defendant with relation to one of these Washington place doors, is not that admissible?

THE COURT: Something that may have been said. I

don't think it competent.

MR. STEUER: Your Honor does not want to hear me on that?

THE COURT: I do not think it will be necessary.

MR. STEUER: Then I respectfully except.

I would like to formulate the question, however, and bring the matter up square, so there won't be any doubt about it.

Q. You tell this jury what, if anything transpired, and what was said by Mr. Blanck any time while you were in the employ of Harris and Blanck with relation to the keys and the Washington place door?

MR. BOSTWICK: The objection is renewed.

THE COURT: Same ruling.

MR. STEUER: And I respectfully except.

Q. Who tied the key to the Washington place door knob on the ninth floor? A. That I don't know, sir.

Q. Did you ever tie it? A. I did once, when I was chastised about it, being too tight to the knob.

Q. On that occasion did you yourself furnish the piece of lawn or string or whatever it was with which you tied the door key on the ninth floor on the Washington place side to the door knob on that door? A. I did, sir, I furnished it myself.

Q. Where did you get the piece of string or lawn, or whatever it was, Mr. Williamson?

A. The only thing I had to do was to turn my back, that was all, lawn there was a plenty of.

Q. Then you took a piece of lawn, and did you, yourself tie the key to the door-knob,

A. Yes, sir, I did, because I was watched while I was doing it.

Q. How long before the fire was that, if you recall? A. That I can't say exactly the time, but I suppose it might have been about two or three months.

Q. How many times were you by the Washington place door yourself? A. I was by that place about fifteen to twenty times a day or more.

Q. In going up or downstairs which way did you go, up or down? A. I go down the Greene street side.

Q. Did you ever see the Washington place door on the ninth floor wide open?

A. Yes, sir, I have.

Q. During what season of the year did it stand wide open? A. In the summertime.

Q. Did any of the girls that were employed on the ninth floor ever talk to you about the Washington place side door?

MR. BOSTWICK: I object to that.

THE COURT: I will allow the answer yes or no.

A Yes, sir, I have.

Q. What did the girls say to you about the Washington place side door, if anything?

MR. BOSTWICK: I object to it. A. A draft.

THE COURT: Objection sustained.

MR. STEUER: I except.

MR. BOSTWICK: I move to strike out that answer.

THE COURT: Strike it out.

MR. STEUER: I except.

Q. Don't answer this question until the judge has said whether you should or not: Did any of the girls on the ninth floor ever make a request of you to close the door on the ninth floor on the Washington place side when the door was open? A. Say that question, please, repeat that question.

Q. (Repeated by the stenographer) A. Yes, they had.

Q. And did you at the request of the girls close the door upon such occasions? A. I did.

Q. Did you ever see any of the girls on the eighth floor go up to the ninth floor, or come up to the ninth floor? A. I certainly had sir.

Q. Was there any time when the great majority of the girls used to come up from the eighth floor to the ninth floor every day?

MR. BOSTWICK: I object to the question.

THE COURT: I will allow it.

Q. (Repeated by the stenographer) A. Yes, sir, there was.

Q. When was that? A. That was during the time we had a telephone, a graphophone, - we had one on the ninth floor and none on the eighth floor.

Q. What did the girls do, and during what period of time was it that the girls came from the eighth to the ninth floor? A. During lunch hour.

Q. And what did they do on the ninth floor at that time? A. They were allowed the privilege to stand around.

Q. And what was playing if anything at that time? A. What was playing?

Q. Yes, - what did you call it telephone or graphophone? A. A graphophone.

Q. Which way did the girls come up from the ninth floor? A. They would come up both ways until they were stopped.

Q. Did you see them coming up the Washington place stairs? A. Yes, sir, I was the one that reported it to make it stop, because it gave me more work, more trouble.

Q. What was done after that report was made? A. After that report was made, it was stopped and Mr. Blanck had another one at once for the eighth floor.

Q. And that was put on the eighth floor? A. So all the girls had one playing at the same time.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. When you finished your sweeping at night you did not say it was all clean, did you?
A. That is when I left at night?

Q. Yes. A. Oh, no; it was not clean; it was clean enough for the night man, but I done justice towards him during the day.

Q. What you did was to just brush around? A. Oh, no, not brush around, I had to sweep.

Q. And after you got through sweeping there was still

waste and dirt left on the floor wasn't there? A. Oh, certainly the girls came out of the aisles alone, and would bring lawn out, and we had a man for that purpose.

Q. When that string was missing, and you wanted a piece of string, you didn't have any trouble in getting any lawn, did you? A. The string was not missing, my attention was called to the string, and the objection was to the string that the string was too short and was on the door knob tied to the key.

Q. You didn't have much difficulty in getting a piece of string to put on the door? A. No, sir; no trouble to get lawn, out there.

Q. Just put your hand back? A. Baskets - the girls all had baskets, there was always enough string there to hang yourself.

Q. All you had to do was to put your hand out to get a lot of it? A. That is, those baskets there.

Q. There were not very many baskets there, was there? A. Yes, sir, absolutely, there was lots as baskets, as close together as my fingers, that is, comparatively speaking. Between each girl.

Q. They had them alongside of them in baskets? A. Yes, sir, they worked alongside of the baskets.

Q. Where did they get those things, this stuff to put in the baskets? A. Where did they get it?

Q. Yes. A. It came from the cutters' table, and they have spare they brings down to wrap around it.

Q. Did you say how long was this piece of string you put on the door with the key?

A. Well, I suppose, I would say it would have been about twenty or twenty-five inches when I got the piece, and I tied to the knob and the key, and took the old piece off entirely.

Q. Twenty-five inches long? A. About that.

Q. And wide a piece of lawn was this? A. Well, as I best remember, it might have been about three and a half or four inches.

Q. About three and a half to – A. To four inches wide; might possibly have been more, that I can't remember; I knew it was strong enough to hold the key to the knob for a year or two.

Q. Was it red? A. No, sir; the color, if I remember it was white.

Q. You don't think it was blue, do you? A. I don't see much blue, only what is in the yokes, and so forth, don't use long pieces of blue on that floor.

Q. And then your recollection is that this key to the Washington place door was tied to the door? A. Yes, sir.

Q. By a string? A. Yes, sir.

Q. Twenty-five inches long and three and one-half inches wide? A. That is my recollection, of the string as near as I could get to it.

Q. Now, you remember when that day the phonograph was there? A. Yes, sir, I do remember.

Q. That was during the strike, wasn't it? A. Yes, sir.

Q. And you saw that door open sometimes in the summer time, didn't you? A. I was there two summers and the door had been opened.

Q. And I think you said in answer to a question of Mr. Steuer, that you had been asked to shut it on account of the draft? I don't know whether the draft was allowed in or not.

MR. STEUER: You made a motion to strike it out.

Q. You were asked to shut it, I think, by -- I think that much was left in? A. They asked me to shut it, I was asked by the girls.

Q. Was that in the summer time or in the wintertime? A. That was during the summer time, the draft on the back and they objected to it, and so they wanted it closed.

Q. Now, that draft, did it come from the hallway on the main floor? A. It came from the — I suppose from the bottom — from the ground floor.

Q. From the ground floor? A. It was a very strong draft when you opened that door.

Q. Did you ever see that door open in the winter time? A. That door was open in the winter time when I had — went down that way or anybody had occasion.

Q. Opened every day? A. Every day — no, sir, the door was not opened every day.

Q. Was not used regularly by all the employees going in

and out? A. It was not.

Q. When was it used? A. It was used, in fact the door as I know of, there was not any objection to using the door only the time of the graphophone when I reported it.

Q. How about the fire? A. Oh, the fire, that is something, - I know the key was on the door with the string tied to it. The fire, - I was not on the floor at the time of the fire.

Q. Were you in the building? A. I was in the building.

Q. What part of the building? A. I was on the tenth floor.

Q. Now, when they had their phonograph there, there was an objection made by you to the girls going or coming from downstairs because it caused, it made more work for you, is that it? A. Yes, sir, it did.

Q. How much work did it make for you? A. That is one reason.

Q. Let us take these reasons in order, first, now, the first reason was because it made more work for you? A. It did.

Q. How much more work did it make for you? A. It would be during the lunch hour and they would come up with their bannana peels and their orange peels in their hands, most anything that you would have in the garbage line, and theft they would drop them on the stairs, being even more dangerous to themselves too.

Q. Do you remember how long it was after you objected that

Mr. Blanck bought another phonograph? A. I am not positive the number, how many days there were.

Q. No? A. I could certainly believe it was in a week or so, that is the way I remember.

Q. You testified on direct examination that he got another one? A. He got another one for the eighth floor.

Q. I ask you this, do you remember how you described on your examination to Mr. Steuer, how soon he got another one? A. I don't remember, sir, that I specified the time that he got another one in.

Q. You don't remember a few moments ago, how you told the jury, how soon after? A. How many days, the time I don't remember, if I did.

Q. You gave it then, didn't you? A. As to the number of days, how many days before I got it, I don't think so.

Q. He got it at once, didn't you say? A. Well, I won't say at once, when he got it for the help, I considered that.

Q. Did you take orders for the lunches that the girls had in the factory? A. I certainly did, sir, just the same way now, I could do it, I could go around in a bunch of five hundred --

Q. Did most of them go out for their lunch? A. No, sir, not most of them.

Q. Did some of them go out and get their lunch? A. Some did go.

Q. How many lunches did you bring in? A. I would bring in

some days eight dollars some days ten dollars, they don't buy much, about five cents, that is, two cents bread, or the like of that, or they would buy three cents meat and two cents bread, penny apple, and so forth.

Q. How many trips would you make to get these lunches? A. I has a fellow to help me.

Q. Who is he? A. That is when we bought the stuff at 8th street, a Mr. —

Q. 8th street where? A. Bought it from Sam, What's-his-name, a Jewish name that I just disremember, now.

Q. What part of 8th street did you buy those lunches on? A. In between Greene and the next street, ~ is it Mercer?

Q. What kind of a house? A. Small basement, just go on downstairs, small basement.

Q. How many months had you been buying lunches there? A. I had been buying lunches there from the time I went over there to work, they started me right in with that.

Q. And you don't know Sam's name, his other name? A. Sam Bone, I think it was, I weren't certain of the last name.

Q. You have told me how much lunch you brought in? A. I remember it varied, you know, the amount varied; sometimes eight dollars, sometimes seven dollars, some times went down as low as four dollars, it depends on the weather; if they're rainy or snowy days, like that, the number is higher, it is about a good deal higher, and if it is a pleasant day they takes advantage and goes out and gets the good sunshine; depends on

the day it is.

Q. Would you --

MR. STEUER: Wait a moment. Let him go ahead and finish his answer. What about the good sunshiny day?

A. (Continuing) if it is a good sunshiny day, there would not be as many orders.

Q. Would not be as many orders? A. No, sir, the girls would go out for the lunches, take advantage of the weather I suppose.

Q. Didn't the night operators take lunch orders too? A. No, sir.

Q. And nobody got lunch orders? A. No, sir; if they worked over-time I would take the orders.

Q. Now, this door that you have talking about with the key, what floor was that on?

A. This here that I have referred to is the ninth floor.

Q. On which side of the building? A. That was on the west side.

Q. West side of the building? A. Yes, sir.

Q. Now, how about the eighth floor, was the key in that door? A. That door I have seen the key in the door, but I have not seen no string on the door. Mr. Brown had more charge of that part of it on the eighth floor than I or anybody else had. He was more trusted on that floor.

MR. BOSTWICK: Let me have People's Exhibit No. 2.

(Produced before witness.)

Q. This is Washington place side of the building (indicating) of the building, and this is the Greene street side over here (indicating)? A. This is Washington place (pointing).

Q. Washington place? A. Washington place.

Q. And this is Greene street side, (indicating)? A. Yes.

Q. And these two things here are the freight elevators? (indicating) A. Yes, freight elevators.

Q. And over here are the stairs (indicating)? A. Yes, sir.

Q. Do you remember that in there next to the elevators, there was a clothes closet? A. There was what?

Q. A clothes closet? A. There was from the elevator?

Q. A clothes closet? A. There was in front of the elevator?

Q. Yes. A Yes.

Q. Do you remember there are two dressing rooms and toilets? A. What is that street (pointing) — this is the toilet (pointing)?

Q. This is what you called the westerly part of the building? A. The westerly part, this direction (indicating), entrance from this way (indicating); here is the dressing room (pointing); here, away this way -- that is right, that is right.

Q. You remember that do you? A. I remember it.

Q. Right here (indicating) is the passenger elevators? A. The passenger elevators? A. The passenger elevators, yes, sir.

Q. There is a partition in front of the passenger elevators is there not? A. Yes, in front of it, very low, not high.

Q. Very low? A. Yes.

Q. And there was a place in the middle there which people go through? A. There was a space, yes, sir, come out this way, a space (indicating).

Q. And right next to the passenger elevators in front of which was this partition, there was the Washington place stairway, was there not? A. It was not right next, we had one box, where we kept the sleeves in between that, from this part (indicating) toward the elevator door, then came the stairway door.

Q. You see there (indicating) on this diagram, is the door; there is the door right there leading to the Washington place stairs (indicating)? A. Yes.

Q. Do you see that door? A. The door, yes.

Q. And there is the row of machines, the first row of machines, just by the columns (indicating)? A. Yes.

Q. Do you see this, those little squares on this diagram (indicating)? A. I do.

Q. What stood there? A. Well, if I am allowed to say this, I was asked this when I was up there watching just after the fire, it is a piece of tin stood here (indicating) and I could remember asking that question, and I think the name of the gentleman was Mr. Jones, and this here (indicating) I remember; I remember that box.

Q. That was a box? A. I could remember ~ Gussie, the girl -- that is what I remember —

Q. That which is marked with a double circle by me (indicating) is the box? A. Yes, sir, that is what I remember, we had we had a box with the sleeving in.

Q. I show you People's Exhibit No. 15 and state to you that that is the doorway leading to the Washington place stairway, the eighth floor after the fire. Now, those are the stairs (indicating)? A. Yes, sir.

Q. That lead from the eighth to the ninth floor, did you ever go up those stairs from the eighth to the ninth floor? A. Did I ever?

Q. Yes. A. Yes, sir, I have.

Q. You have? A. Yes, sir.

Q. What time of the year was it? A. Well, as I remember, I had been down there winter and summer myself, I always take advantage when I could to carry anything I would have from the sink down that way, and it is very seldom, all my tools that I uses, and everything was entered to the Greene street side, because the garbage box was always kept that way.

Q. This is diagram No. 1. On which floor were the oil tanks kept? A. The oil tanks, we had oil tanks on — that is, you mean the oil for the machines?

Q. The large tank and the small tank? A. We kept our oil tank ~ we kept oil, machine oil on both floors.

Q. Where were these tanks kept? A. Kept near the Greene

doors.

Q. Near the Greene street entrance? A. Yes, sir.

Q. Now, I show you diagram No. 1, and this is Greene street side (indicating)? A. Yes, sir.

Q. And this is the Washington place side (indicating)? A. Yes, sir.

Q. There were five rows of tables of machines, was there not (indicating)? A. As many rows, - now I can't remember.

THE COURT: That is on the eighth floor?

THE WITNESS: That is on the eighth floor.

Q. The eighth floor, there were some rows of machines? A. Yes, sir, certainly; not as many as on the ninth floor.

Q. And they took up about how much of the floor? A. We had more room I think on the eighth floor, that is between the aisles.

Q. Did — did you mean that there was more room on the eighth floor than there was on the ninth floor? A. Yes, sir.

Q. You don't mean that there was more in the entire floor space? A. No, we had more aisle room.

Q. You had more aisle room? A. Yes, sir, more aisle room.

Q. That is correct, according to this diagram. About how much of this floor was used for the machines? A. As near as I could remember —

Q. Would you say half? A. A little over half.

Q. A little over half; the balance of the half of the floor was full of what, occupied by what? A. We had,

with the exception of the room that we had over there more than the ninth floor, they were using it in cutting tables on the south side ~~ on the north side — no, on the east side, the cutting tables, very long tables.

Q. Now in length, how did they compare with the tables on which you had your machines? A. In length, I would think they would be just as long.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. How did you know that on the day of the fire the key was in the door of the ninth floor on the Washington place side, Mr. Williamson? A. Well, I had not missed it at all.

Q. You worked on the ninth floor that day, didn't you? A. All day, yes, sir, with the exception of the time I had to go to the other floors, but I would have been on the eighth, if I was not called a few minutes before on the tenth, I would have been on the ninth floor.

Q. You had been called up to the tenth? A. Just before, yes, sir, that would have been the first door I would have run to for safety.

Q. That would have been what? A. That would have been the first door I would have run to for safety if I had been on the ninth floor.

MR. BOSTWICK: I move to strike that out, if your Honor please.

THE COURT: Strike it out.

IDA MITTLEMAN, a witness called in behalf of the

defendants, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your address? A. 334 East 5th street.

Q. Miss Mittleman, please talk over this way, will you please, will you please speak louder? Do you, or did you work for Harris and Blanck at the time of the fire? A. Yes, sir.

Q. And did you work for them before that? A. Yes, sir.

Q. How long? A. Almost two years.

Q. Did you have a sister that also worked for Harris and Blanck at the time of the fire?
A. Yes, sir.

Q. And how long did your sister work there? A. Well, I could not say exactly how long.

Q. Longer or shorter? A. Longer than I did.

Q. Longer than you? A. Yes.

Q. Which one of you two sister was it that sat at the first table from the Washington place side door? A. My sister did.

Q. Where did you sit? A. On the Greene street side.

Q. At which table did you sit? A. Towards the Greene street side.

Q. Well, beginning from the Greene street side, and counting towards the Washington place side, at which table did you sit? A. About the third or fourth table.

Q. The third or fourth table? A. Yes, sir.

Q. When you were sitting at your machine which way was

your face? A. Towards the Greene street side.

Q. And your had your back to where your sister was sitting, is that right? A. Yes, sir.

Q. Now, on the day of the fire do you remember of the giving of the signal for the shutting off of the power? A. Yes, sir, I did.

Q. How as the signal given for the shutting of the power off? A. The bell rang and then everything stopped, and then we were about to go home.

Q. What did you do when the bell rang and the power was shut off? A. I got up from my machine and walked over to my sister's place which was at the Washington place side, and was about to dress when I heard some noise.

Q. Wait a moment. I want to locate your sister's position. At which table did your sister work at? A. The last table on the Washington place side.

Q. That is, counting the first table? A. The first table towards the Washington door.

Q. On which side of the table, did your sister work at, the one nearest to the door, or the one away from the door on the Washington place side? A. The one nearest the door.

Q. So that the row of machines that your sister sat at would be the first row of machines that a person would reach? A. Yes, sir.

Q. If that person came from the Washington place side? A. Yes, sir.

Q. Now, in that row how many girls sat? A. About fifteen or twenty.

Q. Which girl, beginning at the Washington place windows, which girl was your sister? A. The second girl.

Q. From the Washington place windows? A. Yes, sir.

Q. Now, on that occasion — where did you keep your clothes, your hat and coat? A. On the Washington place side.

Q. In the dressing room? A. Yes.

Q. There were two dressing rooms there were not? A. Yes, sir.

Q. And in which one of those dressing rooms did you have yours? A. Washington place side.

Q. The one nearer to the Washington place door? A. Yes.

THE COURT: Mr. Steuer, we have reached the usual hour for adjournment.

Would you rather continue with the witness now?

MR. STEUER: I want to comply with the wish of the jury. My personal wish would be to go on, but whatever the jury is inclined to do will suit me.

THE COURT: And sit until half past five.

THE FOREMAN: I would not want to do that, your Honor, not more than five minutes or ten minutes at most. I have got work to do when I get back to my office and it will be six o'clock before I get there.

THE COURT: Very well, Mr. Steuer, we will adjourn now.

iFDiL

Witness.	Direct.	Cross.	Es-D.	Re-C.
JOHN WILLIAMS,	1212		1253	
ISAAC STERN,	1246		1252	1269
MAX HIRSCH,	1272		1275	
MAY CALIANDRO LEVANTINI,	1291		1298	
THOMAS HORTOS,	1325			
eeGi¥ALD j. WILLIAMSON,	1250		1358	1370
IDA MITTLEMAN,	1371			

Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon, until the same is submitted to you. You are excused until to-morrow.

(Adjournment taken until 10:30 to-morrow, 20th, 1911.)

Last Exhibits:

People's	42.
Defendants'	H.

New York, December 20th, 1911.

TRIAL RESUMED

THE COURT: Mr. Steuer, in the limited time at my disposal I have been unable to find any case decisive of the question presented as to your right to have during the re-direct examination of the witness, the paper which was marked for identification People's Exhibit 42. But I think that fairness suggests, and I, therefore, shall rule that you be allowed to have it for two purposes. In the first place that from an examination of it you may determine whether or not the alleged portions of it as brought to the attention of the witness were as stated; and, in order that you may direct the witness's attention, if you see fit, to any portions of it which you may contend tend to modify or qualify the portions to which her attention was directed.

MR. BOSTWICK: May I ask your Honor whether you have seen the case in 178 New York, Hanlon against Ehrich?

THE COURT: What does it say?

MR. BOSTWICK: "In such a case the whole of the writing should be offered in evidence before it is allowed to be read. There are, however, many instances in which the writing may contain such incompetent and irrelevant matter in addition to some parts which are material, competent and contradictory of the witness. In this case the proper

rule would seem to be that only the material and competent parts should be received and read in evidence. In no event, however – ”

THE COURT: What is the reference where it says, “In such a case”?

MR. BOSTWICK: Just such a case as this.

THE COURT: Just read that part.

MR. BOSTWICK: Perhaps your Honor would like to see the case itself (handing same up to the Court.)

THE COURT: I shall adhere to my ruling in precisely the form stated. Now, Mr. Steuer, you may either complete your examination of this witness and then call back the other witness, or you may call back the other witness first, as you see fit.

IDA MITTLEMAN, resumes the stand and further testifies:

DIRECT EXAMINATION BY MR. STEUER: (Continued)

MR. BOSTWICK: At this point, and at this time I offer the entire statement in evidence under the rule in Hanlon against Ehrich.

THE COURT: I won't receive it. Not at this time, -I may under certain circumstances.

(The last question at the session of yesterday is now read by the stenographer at the request of Defendants' counsel, as follows: “And in which one of those dressing

rooms did you have yours?")

Q. That question refers to your hat and coat. In which one of the dressing rooms did you have your hat and coat? A. The Washington place side.

Q. Do you mind telling me what your first name is? A. Ida.

Q. And your sister's name is what? A. Anna.

Q. You say on the Washington place side you had your hat and coat. There were two dressing rooms there, weren't there? A. There is only one on that side; one on the Washington place side and one on the Greene street side.

Q. Which floor were you on? A. The ninth floor.

THE COURT: She means the one nearer to Washington place.

MR. STEUER: I understand.

Q. On this diagram, which is People's Exhibit 2 in this case, that is Greene street over there and this is Washington place here, here are the passenger elevators on the Washington place side; can you follow that? And this is supposed to be the door leading to the Washington place stairway, and here are the machine tables beginning on the Washington place side and going down toward Greene street; here are the dressing rooms on the Washington place side, do you see? One we have marked "1", and the other we have marked "2". Which one of those dressing rooms was your hat and coat in? A. No. 1, towards Washington place.

Q. On the day of the fire, and every day, did you get your

hat and coat yourself when the signal was given for the power to shut off? A. No, sir.

Q. Who did get your hat and coat? A. My sister.

Q. Were your hats and coats together in the same room? A. Yes, sir.

Q. On the day of the fire, after the signal had been given to shut off the power, what was the first thing that you did? A. I got up from my place and walked over to my sister's, which was at the Washington place side.

Q. Your sister's machine? A. Yes, sir.

Q. At that time, when you reached your sister's machine, where was your hat and coat?
A. Still in the dressing room.

Q. And who went over to the dressing room to get your hat and coat? A. Nobody; we were about to go and get it when we were stopped by the noise coming from the elevator direction.

Q. The direction of the elevator? A. Yes, sir.

Q. Which elevator? A. Washington place side.

Q. What did you do, if anything, after you heard the noise at the Washington place elevator? A. When I heard that noise May Levantini came along and asked what was the matter that time, and I said, "I don't know", and the two of us rushed to the door and she opened it.

Q. Which door? A. Washington place door. And she opened it, and I walked out with her and as we did, the smoke coming up and crowds of people walking down, we ran back on the floor, and I ran to tell my sister it was fire, and after that we went

to the elevator.

Q. When you went out of that door tell the jury just how far you got? A. By the stairway and I was looking down.

Q. Did you look over the stair rail, itself, the handrail itself? A. Yes, sir.

Q. Now, tell the jury exactly what you saw when you looked down? A. Well, all I could see was heads, and the smoke was thick, I couldn't see much, just heads of people walking down; and I ran back, I thought that was no way of getting down, I thought it would be quicker to get down the elevator, and I ran back and told my sister.

Q. Did you see any flame when you looked down? A. No, sir.

Q. The only thing you saw was smoke? A. Yes, sir.

Q. And people? A. And people.

Q. Tell the jury what you did when you got back into the loft? A. Ran over to my sister's machine and told her it was fire, and the two of us ran over to the elevator and banged on it.

Q. Which elevator? A. Washington place side.

Q. In going out of the loft did you yourself have anything to do with the door knob or the lock or the key, or anything attached to the door? A. Nothing at all. May opened it.

Q. When you came back did you have anything to do with the door? A. No, sir.

Q. What happened when you got back to the Washington place elevator? Were there any other people then.? A. Just the only

three there and we seen the elevator not coming up, we were about to go to Greene street side, and we were met with a crowd of girls coming towards us and we remained there.

Q. Had you started for the Greene street side? A. Yes, sir.

Q. You had waited for the Washington place elevators first and they didn't stop? A. Yes, sir.

Q. How far to the Greene street side did you get ~ if you can tell the jury -- before you were met with the crowd coming from the Greene street side? A. Just about two steps away from the elevator, that was all.

Q. Then what happened? A. Then a crowd of girls come toward us and we remained in the same place.

Q. Where was that? A. Washington place elevator.

Q. And were you all crowded around the Washington place elevator at that time? A. Yes, sir.

Q. Tell the jury what happened then? A. Well, the elevator come up, it come up the other side and we were standing at the other door.

Q. I don't understand. A. There were two elevator doors and we were standing at the one towards the window.

Q. Nearest the Washington place windows, is that right? A. Yes, sir, and the other elevator came up.

Q. But it was the other elevator that come? A. Yes, and we rushed to that door, and we re almost the last to get in.

Q. Who was almost the last to get in? A. I was. Some one pushed me in sideways, and when the elevator shot down I see my

sister remained and I gave one scream and all of a sudden I see her there and when the elevator went down half way she jumped in on top of the people.

Q. Onto the elevator car? A. Yes, sir. The elevator man pushed her in.

Q. Do you remember who the elevator man was? A. Yes, sir.

Q. Who? A. I don't know his last name; Joe, I think.

Q. Joe? A. Yes, sir.

Q. You and your sister got down in the same car, is that right? A. And we didn't know it.

Q. You didn't know your sister was in the car? A. No, sir.

Q. All the way down? A. Yes, sir.

Q. The last you saw of your sister was that she had been left behind? A. She was on the floor.

Q. You told the jury something about her jumping in; did you see her jump in, or is that something you have been told since that time? A. She told me that, and I felt somebody on top of me, but who it was, I didn't know.

Q. You and your sister have talked about this matter since that time? A. Yes, sir.

Q. Have you been to the District Attorney's office? A. Yes, sir.

Q. Did you make a statement at the District Attorney's office? A. Same thing,

Q. Who examined you at the District Attorney's office? A. Mr. Bostwick.

Q. Do you remember when it was that you went to the District Attorney's office? A. It was the week after the fire.

Q. You got a notice to come there and then you went? A. Yes, sir, on a Thursday.

Q. You work for Harris and Blanck now, don't you? A. Yes, sir.

Q. Have you been working for them all the time since the fire? A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. When you went to the door you were with – A. May.

MR. STEUER: I beg your pardon, - May I resume? I just thought of something.

THE COURT: Certainly.

BY MR. STEUER: (Direct examination continued)

Q. In relation to the Washington place door, had you seen that door prior to the date of the fire -- the same door that leads to the staircase — before the fire? A. Had I seen the door? A. Yes, sir.

Q. How long did you work on the ninth floor? A. Almost two years.

Q. Was there a time when you were moved down to the eighth floor? A. Yes, sir.

Q. How long were you moved down to the eighth floor? A. A couple of months, I don't know how long -- during the summer.

Q. But you know that all the girls during the summer all the girls works. on the eighth floor one summer? A. Yes, sir.

Q. Where was the key, if you know, put, of the Washington place door of the ninth floor? A. It was hanging on a string in the key-hole -- no, hanging on the knob, I believe.

Q. Do you know exactly how it was tied? A. I can't tell you. It was a piece of string.

Q. I don't want you to guess at anything or to tell us anything, except what you know and saw with your own eyes. Now, you tell the jury just what you know about the key in the Washington place door, the ninth floor? A. I remember it always hanging with a piece of string on it.

Q. Did you ever go up and down the steps on the Washington place side? A. No, sir.

Q. Did you ever see anybody go in or out of that door? A. When I sat on the Washington place side for a short while I often seen the foreman walk up and down.

Q. But after you went over to Greene street you couldn't see? A. I didn't notice anybody then.

Q. I think you said yesterday that when you sat on the Greene street side you faced Greene street? A. Yes, sir. That was when I was moved from the Washington place side.

Q. How long did you work at the Washington place side, do you remember? A. About a year, - over a year.

Q. What table did you work at then? A. Third table from the Washington place side.

CROSS EXAMINATION BY MR. BOSTWICK: (Resumed)

Q. When you went to this door you went with May Levantini?

A. Yes, sir.

Q. And if May Levantini says she went alone, that isn't so?

Objected to. Objection sustained.

Q. Then you got out in the hallway there were no flames there? A. No, sir.

Q. So that no flames barred your way to the eighth floor? A. No, sir, the smoke.

Q. But no flames? A. No flames the time I was there.

Q. Was the smoke on the eighth floor bad? A. Yes, sir.

Q. And thick? A. Yes, sir.

Q. And that is where the girls were all going out? A. Yes, sir.

Q. Did you open that door or touch the knob? A. No, sir.

Q. And you are sure that when you got to the elevator doors there were only three and not thirty or forty? A. After a while they came over from the Greene street side. While we were there there was only three beginning.

Q. You have talked about this matter since the fire? A. Yes.

Q. To whom have you talked? A. My sister and people at the house ~ folks.

Q. Is that all? A. That's all.

Q. You didn't have any talk with May, did you? A. With May? I have not seen her only yesterday.

Q. That is the only time you have seen her? A. Yes, sir.

Q. Now, this key that you say hung from the knob: did it

hang down by the side of the door so you could see the key? A. Yes, sir.

Q. How long a string did it hang by? A. About three or four inches.

Q. Three or four inches, and what kind of a string was it? A. A piece of tape or something.

Q. How wide would you say the tape was? A. About a half inch or so.

Q. At night when you went out from the factory during the two years that you worked there did you ever go down the Washington place stairway? A. No, sir, I used the elevator.

Q. You never saw anybody else go down that stairway? A. During the day or night?

Q. At night-time when you went home? A. No, sir.

Q. In the statement that you have referred to, which you made to me, were you not asked this question, and did you not make this answer: "Then what did you do? A. We were getting our things together when all of a sudden I heard a noise and I said to her, 'I guess the elevator is falling down.' So another girl and I walked over to the door near the elevator and we turned the key and opened it."? A. I didn't remember just then who did it, now I recollect that she did it.

Q. You recollect it now, but you didn't recollect it at the time — A. (Interrupting) Yes, sir.

Q. (Continuing) That you made the statement to me. Do you recollect this question being put to you, and your

making this answer: "Did you try this knob before you touched the key? A. No, sir. Q. You touched the key first? A. Yes, sir." A. I didn't remember just then whether I touched the key or she did.

Q. But you did make that statement? A. Yes, sir.

Q. And you said then that you were the first one to touch the key?

MR. STEUER: I object to that. I don't understand it so from your reading? A. I don't remember that.

THE COURT: Well, it may mean two things, - first in relation to the knob, or it may be in its relation to the person.

Q. And was this question put to you and did you make this answer: "Q. And you unlocked the door? A. No, just turned it and pulled it out."? A. I don't remember just then what I done — I knew that I got hold of something.

Q. No, did you make that answer to that question? A. I don't remember.

Q. Do you remember this question being put to you and your making this answer upon this oral examination: "Q. Did you have any trouble opening that door? A. Just one turn, that's all. There is another girl, May Levantini was with me."? A. I don't remember since that time, I can't recollect it.

Q. You don't remember making that statement? It was after the fire, wasn't it?

A. Yes, sir.

Q. That you gave this statement to me? A. Yes, sir.

Q. Do you remember this question being put to you and your making this answer to me: "What makes you think that you turned the key? Are you sure that you turned the key? A. Well, I will tell you, Kay was with me then, too. Maybe she remembers turning the knob, but I don't."? A. I couldn't make out just then who did it, I don't remember.

Q. No, you were very uncertain in your mind at that time as to who did it? A. Yes, sir.

Q. And do you remember this question being put to you and this answer being made: "You only turned one thing then, as near as you can remember? A. Maybe the other girl got hold of the knob, I don't remember, I just turned that once. That girl tried to open said she turned the key also". Do you remember that question and answer? A. Yes, sir.

Q. And that was so? A. Yes, sir.

Q. Maybe the other girl did get hold of the knob, and maybe she did turn the key? A. Yes, sir.

Q. You don't remember? A. No.

Q. You didn't remember thorn? A. I didn't remember just then.

Q. And you don't remember now? A. Now I do remember.

Q. Do you remember this question being put to you and you making this answer: "You don't think that you touched the knob? A. I tell you, if you had this girl May Levantini" — do you remember that question being put and that much of the answer being made?

MR. STEUER: Is that a complete answer?

MR. BOSTWICK: No, it is a dash, indicating nothing more was said there. I will read the next question directly.

A. I don't understand what you mean by that.

Q. And then after the stop the question was put to you, "It is awfully important whether the door was locked or not? A. It is very hard to know whether I touched the knob or not, she can tell you more, she was nearer. That is all I can remember, see?". Did you make that answer to that question? A. Yes, sir.

Q. And do you remember this question that I put to you when you were up in my office: "You have no recollection of turning the knob? A. No." That was correct? A. I don't remember all that you have said.

Q. And do you remember this question being put to you? "You don't know whether anybody else turned the knob? A. No, but that young woman was with me, the two of us were at the door". Do you remember that question and answer? A. Yes.

Q. And do you remember this question being put to you and your making this answer: "Had anybody gone to that door before you went there? A. No."? A. No, sir; that is right.

Q. You remember making that? A. Yes, sir.

Q. Do you remember this question being put to you and your making this answer: "Then you closed the door, you didn't go down the stairway? A. No, the door closed itself." A. I don't

remember.

Q. You don't remember making that question and answer? A. No, sir.

Q. Do you remember this question being put to you, and your making this answer:

“Did anybody go down those stairs? A. No, sir.” A. I don't remember saying that either.

Q. Now, it is a fact that no one did go down those stairs, isn't it? A. No, sir, I said before that I did.

MR. STEUER: You mean at the time of the fire.

Q. I mean at the time of the fire? A. At the time of the fire I don't remember.

Q. You didn't see anybody go down those stairs? A. At the time I was there I didn't see anybody.

Q. On April 4th do you remember my putting this question to you and your making this answer: “You touched the key first? A. Yes, sir. Q. You unlocked the door? A. No, just turned it and pulled it out.” Do you remember making that answer to that question? A. No, sir.

Q. Do you remember this question being put to you and your making this answer: “You pulled this key out of the door? A. No, sir.”? A. I couldn't recollect.

Q. Do you remember being asked this question: “Did you turn the key? A. Turned the key? Q. But the door didn't open? A. I couldn't tell you whether I did it or not, I imagine I did it.” I walked into the hall-way and looked down at the people, seen people going down in the smoke, and ran back and

told my sister I opened the door on the ninth floor, two of us"? A. Yes, sir.

Q. You did make that answer? A. Yes, sir.

Q. Do you remember this question being put to you; "Did you have a talk with Mr. Harris and Mr. Blanck before you came down here? A. No, sir. Or that lady here?" Then do you remember my putting this question and your answering: "What is her name? A. May Levantini, 96 Christopher street, she would make me sure of that"? A. Yes, sir.

Q. You said that, didn't you? A. Yes, sir.

Q. And you have no doubt that anything May Levantini would tell you would be so?

MR. STEUER: I object to that as immaterial, irrelevant, and incompetent.

A. The reason why I said this —

THE COURT: Objection sustained.

Q. Do you remember being asked why you didn't go down to the eighth floor and your saying: "I don't know why I didn't go down to the eighth floor? A. No, sir, I don't remember saying it.

Q. Do you remember my asking you this question, and your making this answers "You told me positively the other day that you turned it? A. If I had may hare she would tell you."? A. I think I did say it. The reason why --

Q. Well, no, - you think you did say that? A. Yes.

Q. That is true, too, isn't it? A. Yes, sir.

Q. You just told me a minute ago that you did make this answer, and I asked you if it is not true, and that is when you were asked, "But the door did not open", and you said you could not tell whether it did or not, but you imagined that it did; that is so, isn't it? A. That it did open? When? I don't understand that.

Q. I ask you the question, "But the door didn't open", and you answered, "I couldn't tell you whether I did it or not, but I imagined I did"? A. Yes, sir.

Q. Do you remember going over to see May Levantini? A. Yes, sir, I do.

Q. You went over to her house, didn't you? A. Yes, sir.

Q. And didn't you ask May Levantini to say that she came out with you? A. No, sir.

Q. And didn't May Levantini say "You didn't come out with me"? A. No, sir.

Q. Well, now, which is correct? Did May Levantini go to that place alone, as she testified? A. No, sir, she doesn't remember.

Q. Or were you with her? A. She said she didn't remember, she don't think I was out with her.

Q. How many times did you go to May Levantini? A. Once.

Q. Is that the only time you asked May Levantini to say she went to the door with you?

MR. STEUER: I object to that.

A. I didn't ask her anything – just come up to find out

whether she was all right, if she felt all right.

Q. Didn't you state a few moments ago that you asked May Levantini to state that she went to the door with you? A. No, sir.

Q. Didn't you say that? A. I didn't tell her to tell that I went out in the hall with her.

MR. STEUER: On the contrary, she said the directly opposite.

THE COURT: Now, please don't, Mr. Steuer. Refer back to the testimony.

(The eighth and the seventh questions, back in the record from this point, with the answers thereto are now read by the stenographer.)

Q. Is that the only time May Levantini said "You did not come out with me"? A. Yes, sir.

Q. Didn't you and May Levantini have a discussion as to the facts as to what happened at the time of the fire? A. Yes.

Q. And wasn't it a long discussion? A. Not so very long.

Q. Well, it lasted some little time, didn't it? A. Yes.

Q. And you didn't agree, did you? A. No, sir, she couldn't remember.

Q. And you couldn't remember? A. I could, she couldn't.

Q. But didn't you say to me you couldn't remember, it was so long ago? A. In what way do you mean?

Q. Didn't you say you couldn't remember whether you were the one that went to door or May went to the door? A. Oh,

that isn't the thing I meant by the way you said about the knob and the key. I don't remember which one turned that, but the two of us were out in the hall, that is what I do remember.

Q. And didn't she say that only one of you was in the hall? A. I don't know about that. She says she doesn't remember who was out there with her. I think she mentioned some girl, if I am not mistaken.

Q. Didn't you tell me early in this examination that there were thing you didn't remember at the time you made your statement in April, and you do remember now? A. Yes, sir.

Q. And has your talk with May Levantini made the thing fresh in your mind? A. Yes, sir.

Q. And haven't you talked with anybody else to make the thing fresh in your mind? Haven't you tried to get it fresh in your mind? A. Well, my sister did.

Q. Didn't you talk with your sister about it? A. Yes, sir.

Q. And hasn't what she told you made it fresh in your mind? A. Yes, sir, she told me it all.

Q. She told you all about it? A. She told me about how the two of us did go out in the hall, and that is what I do remember, and about the door she said she seen May open it.

BY THE SEVENTH JUROR:

Q. Are you positive you went out in the hallway through the door and looked down the stairway? A. Yes, sir, that is the only way I knew there was fire.

Q. You are positive, are you? A. Yes, sir. And I ran back

and told my sister there was fire.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You told the District Attorney the first time you were examined that you were positive that you went out in the hall? A. Yes, sir.

MR. BOSTWICK: I think Mr. Steuer testified to the last question.

MR. STEUER: (Addressing Mr. Bostwick) Will you let me have that statement?

THE COURT: I understand from your remark that you were about to request the District Attorney to hand you a certain something.

MR. STEUER: So we will get the record right, I now request that the District Attorney give to me the paper from which he read the questions and answers which he claimed were propounded to this witness, and were answered by her on the date mentioned by him.

THE COURT: Now, the District Attorney declines to do that?

MR. BOSTWICK: Respectfully.

THE COURT: And the Court sustains the District Attorney.

MR. STEUER: Exception. Now, may we have the paper that the District Attorney read from marked for identification?

THE COURT: Not unless the District Attorney wants it.

MR. STEUER: I except. I call for the production of the paper from which the District Attorney claimed in the presence of the jury that he was reading questions and answers, questions which were propounded to this witness and answers which were made by her.

MR. BOSTWICK: The claims that the defendant puts upon the record as having been made by the District Attorney are not altogether in agreement --

THE COURT: No. So far as the examination of the District Attorney disclosed anything, the questions as propounded may have been the District Attorney's recollection of the conversation.

MR. STEUER: It may have been, but is it pretended that it was? What may have been is not important t but in the presence of the jury there is held a paper, and questions and answers are read to the witness from that paper, not from recollection, your Honor.

THE COURT: Now, I have ruled upon it, Mr. Steuer.

MR. STEUER: But the record has got to show the thing correctly before we can pass from it.

MR. BOSTWICK: It may be conceded of record that the District Attorney held in his hand a paper.

MR. STEUER: And that it was from that paper that the alleged questions and answers were read to the witness and that the questions were propounded to her as being the questions which were put to her in the District At-

torney's office on certain dates.

MR. BOSTWICK: I won't concede it exactly in that form. It will be conceded that the paper purported to contain questions and answers put to the witness in the District Attorney's office.

MR. STEUER: Well, it is that paper now that I ask the production of.

MR. BOSTWICK: I decline to produce it.

THE COURT: I won't order the production of it.

MR. STEUER: exception. And your Honor won't direct that that paper be marked for identification, so that if it ever becomes competent upon this trial that we will know that is the paper?

THE COURT: No, I will not make that direction.

MR. STEUER: I respectfully ask its production that it may be marked for identification.

THE COURT: I understand that the District Attorney does not voluntarily produce it, is that so?

MR. BOSTWICK: Under the 178 of New York, your Honor, I understand the rule to be that if the defendant's counsel --

MR. STEUER: Does the District Attorney produce it?

THE COURT: It is a simple proposition; you either comply with the request or you do not, and it is entirely optional with you, as I will not direct you to produce it.

MR. BOSTWICK: I offer the statement in evidence.

MR. STEUER: I thought yesterday that that was not to occur in future.

THE COURT: No; the District Attorney has a perfect right to offer a paper in evidence.

MR. BOSTWICK: It is the proper practice under judge Werner's decision.

MR. STEUER: Without my seeing it?

THE COURT: He has the right to offer it in evidence. Before the Court determines whether or not the Court will receive it in evidence, you have the right to examine it in order that you may determine whether or not you will object to its reception in evidence.

MR. STEUER: Let me see it.

(Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: May it please your Honor, as I understand the situation.

THE COURT: Now, all you have got to do is just to formulate your objection.

MR. STEUER: I don't wish to formulate an objection. And with all due deference to your Honor I must insist ~~~

THE COURT: In other words, you consent to its going in?

MR. STEUER: Now, I am going to be a free agent if may it please your Honor, and I am going to do what I think under the circumstances I should do; and if your Honor

will bear with me, I don't think there will be any difficulty about this paper getting in evidence.

THE COURT: I may say now that I shall not under any circumstances receive it, as the proof now stands, even upon consent of both sides.

MR. STEUER: Well, to that I respectfully except.

THE COURT: Not as the evidence now stands.

MR. STEUER: The paper was handed me for the purpose of examining it to see whether I object to it or not.

THE COURT: Yes.

MR. STEUER: And of course I don't want to make any use of it that is contrary to your Honor's direction. Am I to understand that I haven't the right to use the paper in the conduct of the re-direct examination of this witness? Whatever information I gathered I freely admit I gathered because your Honor said I should look at it for the purpose of stating whether I object to it or not. Therefore, I ask your Honor whether I may or may not use the paper in conducting the re-direct examination of this witness.

THE COURT: When you formulate a question, Mr. Steuer, I will pass upon the propriety of the question if objection is taken.

MR. STEUER: What I wish to know is, will I be guilty of any impropriety if I formulate the questions from this paper. I get it for a limited purpose; I want to know

whether that limitation is removed or not. I don't want to be in a position of having gotten a paper for one purpose and then having used it for another, unless it is thoroughly understood by the Court and District Attorney that I may use it for any other purpose.

MR. BOSTWICK: The District Attorney tendered the paper under the right of the defendant to see a paper before it was admitted in evidence.

MR. STEUER: Yes, I concede that.

MR. BOSTWICK: And not for the purpose of inspection for the purpose of —

MR. STEUER: And therefore I asked the Court if it were permissible for me to use it for that purpose.

MR. BOSTWICK: Now, I renew the offer of the paper in evidence at this point of the proceeding.

THE COURT: Under the circumstances, Mr. Steuer, you may conduct the examination of the witness as though you had not seen or read the paper.

MR. STEUER: Then to the failure to permit me to use the paper for the purpose of conducting the re-direct examination of the witness I respectfully except.

THE COURT: So far as the examination of this witness is concerned she stands in precisely the same position as though no paper had been read from. The Court takes cognizance of no paper whatsoever.

MR. BOSTWICK: Before Mr. Steuer formulates

next question I would like the record to show the ruling of the court upon the last offer of the paper in evidence.

MR. STEUER: In view of the fact that I am not permitted to use the paper for the purpose of conducting the re-direct examination of the witness, I join with the District Attorney in the offer of this paper in evidence.

THE COURT: I think there is power in the Court, despite the consent of both parties to the introduction of something in evidence to exclude it; I think that there is that power in the Court.

MR. STEUER: There is no doubt that the Court has inherent power to —

THE COURT: And in this instance being satisfied as to the principles of law applicable I unhesitatingly exercise the power and exclude the paper.

MR. STEUER: And I respectfully except. Now, under those circumstances, your Honor, I offer the paper in evidence as a defendants' exhibit.

THE COURT: There will be the same ruling. Now, either side may lay the proper foundations for the introduction of this paper as evidence, but in order that the Court may receive the paper in evidence the paper will have to be handed to the witness, the witness will have to be given an opportunity to peruse it, and certain testimony will have to be given respecting its correctness and the way in which it was taken. So far as is now disclosed this witness has never seen this paper.

MR. STEUER: Those are objections, your Honor, that are only available to the defense; those are not objections that can be used, or availed of by any one else. Since I have not the right to use the paper for the purpose of conducting the re-direct examination I waive any of the objections that have been enumerated, to wit, that the witness has not seen the paper; that her attention has been called to the material parts of it, I concede, but there have also been omissions with respect to parts thereof. Now, I can't tell, and I don't believe that your Honor can tell what impression the jury has formed as to whether the statements made by this witness under oath to them are the same as the statements made by this witness to Mr. Bostwick when he examined her. For the purpose of demonstrating that situation clearly to the jury as to whether she did or not — and I am not arguing that she did it or that she did not — but for the purpose of giving the jury conclusive evidence upon that subject as to whether she did in April testify precisely before Mr. Bostwick in his room the same as she has now testified under oath, I offer that record which Mr. Bostwick made at that time of what she did say.

Q. There is no evidence that this is a record of anything.

MR. STEUER: Well, what is it, if it is not a record?

THE COURT: I have no data before me which would warrant the reception of this paper in evidence, and therefore, no matter what the consent or the waiver may be, I will not receive it.

MR. STEUER: I except.

THE COURT: The foundation may be laid which will permit of its introduction in evidence; it has not been laid.

MR. STEUER: May I ask the witness to step aside and I will call Mr. Bostwick.

MR. BOSWICK: Wouldn't you prefer to call the stenographer? I will tender you the stenographer.

THE COURT: I think the orderly course of procedure would be to call the stenographer in the District Attorney's office, ask him to produce his note book, if you want to go into that, find out whether he was present at the time that this witness made a statement, interrogate him with respect to those portions of the statement made in his presence to which her attention was not directed, if there be such portions —

MR. STEUER: Well, I will do anything that you direct me to.

THE COURT: And first interrogate this witness and find out whether there were things which she said in the District Attorney's office to which her attention not called.

MR. STEUER: But I am not permitted to do that because that would show that I am using the knowledge of this paper that I have been told I must not use.

THE COURT: Not at all. That is something you could do irrespective of that paper. You have the right, Mr. Steuer, if you will permit me to suggest, to interrogate this witness fully as to what she said in the District Attorney's office bearing upon any of the matters as to which she was interrogated by Mr. Bostwick upon the cross examination for the purpose of showing, if you can, by her that she made at that time in that same connection explanatory, amplifying or qualifying statements and then for greater certainty you elicit from this witness that her statement was in the presence of other persons, and you may produce those persons and give evidence as to what in point of fact her statement was; and the reason that I decline to receive this statement now is that it doesn't sufficiently appear that it embodies any statement made by the witness.

MR. STEUER: Your Honor, Mr. Bostwick produced it as such and I am willing to take it as such and offer it.

MR. BOSTWICK: Oh, I do not produce it as such.

THE COURT: Now, we will precede.

MR. STEUER: I except to its exclusion.

BY MR. STEUER:

Q. At the time when Mr. Bostwick examined you in his

office did you state to him at that time, in words or substance that you went out to the Washington place door and that you looked down and that you then saw dense, thick smoke coming up? A. Yes, sir.

Q. And did you then say to him that when you saw that smoke you turned back and went into the loft and told your sister? A. Yes, sir.

MR. BOSTWICK: I object on the ground that the counsel for the defendants is suggesting the larger part of the answer to the witness.

THE COURT: I wouldn't lead her, Mr. Steuer.

MR. STEUER: Then I must confess, your Honor, that I have entirely misunderstood the ruling.

THE COURT: You may ask her whether she said anything in addition to those matters as to which her attention was called on the cross examination. If she answers in the affirmative you may ask her what in addition she said, and when you have exhausted her recollection on that, then you are in the position of being permitted to ask her leading questions.

MR. STEUER: To the exclusion of the last question I respectfully except.

Q. Will you please tell the jury what you said to Mr. Bostwick in his room when he asked you these various questions as to what happened on the day of the fire? A. I told Mr. Bostwick at the day of the fire as soon as the bell rang to go

home, I come over to my sister's place, which is at the Washington place side, and we were about to get our things and we heard some noise and we stopped as we were going to get our things and ran over to the elevator. All we could hear was noise and where it come from we didn't know; and with that May Levantini came along and asked the same question, and we answered, "We don't know what it is, we think it is an elevator crash." With that she ran over to the door and I followed her and opened it up — now, which one of us two turned the key or the knob, I couldn't remember then, but now I do remember that it was May.

MR. STEUER: I consent that that should be stricken out.

THE COURT: Strike out just the last clause.

Q. I only want you to tell the jury what you said to Mr. Bostwick in answer to his questions at that time? A. What kind of questions?

Q. What Mr. Bostwick asked you in his office. Now, go ahead and tell the jury?

MR. BOSTWICK: I object unless it is limited to matters other than those that hare already been brought out.

THE COURT: She may state in full everything and anything that she said to you in any way relating to the matters to which you directed her attention on cross examination.

Q. Proceed and tell the jury what you said toMr. Bostwick in

answer to the questions that he put to you on the two occasion when you were in his office? A. Mr. Bostwick asked me about the door and all I could tell was was I didn't remember just who it was that opened it or turned the knob, but I do remember the two of us being out in the hall, and we ran back on the floor. I do remember May also, and I ran back to tell my sister it was fire, and the two of us ran to the elevator, waited there a while, see it didn't come up, we were about to go to the Greene street side, and we were met with a crowd of girls coming towards us, and we remained at the same plane until the elevator came up, and that is how we got down.

Q. At that time did you tell Mr. Bostwick in answer to a question put by him that you had looked over the stair-rail and had looked down and saw thick smoke coming up? A. Yes, sir.

Q. And did you tell him that it was seeing the smoke that made you go back into the loft? A. Yes, sir.

Q. Did you at that time tell him that when you went down in the car of the elevator that you didn't know that your sister was in the car at that elevator? A. Yes, sir.

Q. Did you at that time say to Mr. Bostwick that you had gone out with May Levantini, that you didn't know whether it was you or she that had turned the knob, but that you would like to have May Levantini there because she could perhaps tell better on that subject?

MR. BOSTWICK: I object to that as partially including matters that have already been brought out by the general

question.

THE COURT: I will allow her to answer.

A. I remember saying that the two of us were out in the hall, and whether she turned the knob or key, or whether I did, I don't remember. I think that was all.

Q. Do you remember Mr. Bostwick asking you whether after you went out into the hall on the ninth floor through the Washington place door whether the door remained open while you were in the hall? A. Yes, sir.

Q. What did you say? A. I don't know.

Q. You don't recall what you said? A. No, sir.

Q. Did the door remain open at that time, or not? A. I couldn't tell, but I think it did, because we ran right out of it again.

Q. You ran where? A. Back on the floor.

MR. STEUER: Now, may I repeat the question and answer as to all the statements now —but I suppose it is no more.

THE COURT: The situation is the same as it was.

MR. STEUER: All right, your Honor.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. And your best recollection is that the door was left open? A. Yes, sir.

BY MR. STEUER:

Q. Your sister's name is Annie, is it? A. Yes, sir.

HENRY C. JACOBS, called as a witness on behalf of defendants, being duly sworn,
testifies as follows:

(The witness states that he resides at 27 25 Bedford avenue, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I own and operate theatres and traveling theatrical companies.

Q. How long have you been in that business? A. About thirty years, I guess.

Q. Have you any business relations of any kind with Harris and Blanck? A. No, sir.

Q. Have you any social relations of any kind with Harris and Blanck? A. No, sir.

Q. Are you acquainted with anybody, and were you acquainted with anybody in their employ prior to the 25th day of March, 1911? That is the date of this fire, Mr. Jacobs? A. Yes, sir.

Q. Who was the person with whom you were acquainted is that fire? A. Mr. Teschner, one of their salesmen.

Q. One of the salesmen of Harris and Blanck? A. A. traveling salesman.

Q. And he is still one of their traveling salesmen? A. Well I don't know, I guess so; he was when I last heard.

Q. Did you ever go to the place of business of Harris and Blanck to see Mr. Teschner?
A. Yes, sir.

Q. Now many times did you go there? A. Oh, perhaps three

times or four times.

Q. Was there any occasion when Mr. Teschner took you to the factory of Harris and Blanck? A. Yes, sir, there was.

Q. More than once or just once? A. Just once.

Q. Will you please tell the jury when that was, as near as you can recall — in what month? A. Well, it must have been during the month of October, of a year ago last October.

Q. That would be October 1910? A. 1910.

Q. When you went up to the place of business of Harris and Blanck on the only time that you did go there, to what floor did you go? A. To the floor on which their offices were.

Q. That was the top floor of the building? A. I don't know whether it was the top; it was the tenth, I believe.

Q. The floor on which their offices were, at any rate? A. Yes, sir.

Q. Did you go up in the passenger elevator? A. Yes, sir.

Q. On the occasion when Mr. Teschner took you through the factory did you then go up to the tenth floor? A. Yes, sir.

Q. And is that where you met Mr. Teschner? A. Yes, sir. Mr. Teschner had an office up there, - a room, a compartment.

Q. On the tenth floor? A. Yes, sir.

Q. Will you tell the jury, please, how you went down stairs from the tenth floor, if you did go down? A. I went down on the elevator from the tenth to one floor below that, which was the ninth.

Q. Which elevator did you go down on? A. Washington --

on the elevator on which I went up, -- Washington place.

Q. When you got down there, tell the jury what you saw on the ninth floor? A. Well, I saw a large room or loft, with a number of men and women at work.

Q. A large number of men and women at work, were there not? A. Yes, sir, a great many.

Q. What were they working at mostly? A. Sewing white goods on machines.

Q. Where did you go from the ninth floor? A. To the floor below that.

Q. How did you go from the ninth floor to the floor below that, Mr. Jacobs? A. By backing to the left — probably if I told how I got there I could get it.

Q. Tell it in your own way and get to it, so that it will be right? A. We left the elevator at the ninth floor, stood there right at the entrance to the elevator, and looked down upon the heads of people at work, and Mr. Teschner told me that they had another just such place as that on the floor below, and we walked to the left a very short distance, went out of the door and got into the hallway, walked downstairs and into a room corresponding or similar to the floor above, and walked to the right again, to the entrance to the elevator, and when we got through inspecting or looking at that room, we rang, or he rang for the elevator, and we continued on downstairs and out.

Q. And you didn't go upstairs again? A. No, sir.

Q. Is that the only occasion, Mr. Jacobs on which you went through that doorway?

A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Jacobs, when you looked down on these operators at work, were you standing on the stairs or on the landing? A. No, sir, on the floor with them, on a level with them.

Q. Was that right near to the door of entrance? A. I should say fifteen feet perhaps; I couldn't tell exactly, however.

Q. Were you in the factory? A. Yes, sir, in the room.

Q. Were you standing in the doorway? A. Yes, sir, as you left the elevator.

Q. When you say you looked down, you mean simply across, over? A. Looked out.

Q. You were at no height above the eleoperators? A. Oh, no, on the same floor level with the —

Q. And you have a distinct recollection that on October 1910, you left the loft by the elevator at the ninth floor, you stood there and then you looked down at this mass of people at work, and then you turned to the left, a short distance out, and then through that door, and then into a room, and then walked through and turned to the right and took an elevator down? A. Yes.

Q. Your recollection on that is very distinct? A. Quite, yes, sir.

Q. What time of day was this? A. I should say about half

past four perhaps, or quarter past four, or thereabouts.

SIM HERMAN, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 740 Riverside Drive.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Lace business.

Q. How long have you been connected with that firm? A. Eighteen years.

Q. In what capacity? A. As a stock clerk first, and then salesman.

Q. How long have you been a salesman for the firm? A. Eight years.

Q. Do you do any business on behalf of the firm with Harris and Blanck? A. Yes.

Q. How long have you been doing business, you personally, on behalf of Levi, Sondheim & Company with Harris and Blanck? A. About seven and a half years.

Q. Is the account of Harris and Blanck with Levi, Sondheim & Company your account? A. Yes, sir.

Q. How frequently do you call at Harris and Blanck's place of business, ~ or did you call prior to the 28th of March, 1911? That is the date of the fire? A. The average of once a day.

Q. And when you say the average of once a day, does that

mean that you called there once every day or that you called there more than once a day, and other times so many times a week? A. Yes, yes.

Q. During the time that you called on them with whom was your business? A. Mr. Harris.

Q. What character of business did you conduct with him, what did you sell him or buy from him or what? A. I sold him laces.

Q. What floor did you go to when you went to the place of business of Harris and Blanck? A. Tenth floor.

Q. And did you always see Mr. Harris on the tenth floor? A. No.

Q. Where other than the tenth floor did you see Mr. Harris? A. On the 9th and eighth floors.

Q. In the years that you have been calling on Mr. Harris to sell him merchandise how many times would you say that you saw Mr. Harris other than on the tenth floor? A. Well, as near as I can possibly get at it in that seven years -- I want to state that I didn't always call at the factory, I think for about two and a half or three years I called at I think 729 Broadway, where they had a show room; the balance of the time, about four years, I called always at the factory, because Mr. Harris was always there.

Q. My inquiry is directed to the four years when you called at the factory. I have nothing to do with the other period at all.

MR. BOSTWICK: I ask to strike out that last answer, "because Mr. Harris was always there."

THE COURT: Oh, I will let it stand.

MR. BOSTWICK: That Mr. Harris was always there at the factory, when he says he was not there.

THE COURT: No, this witness means — well, I will strike that part out.

Q. You mean whenever during the last four years --

MR. BOSTWICK: I object to counsel stating "You mean".

MR. STEUER: All right.

Q. During the last four years when you called on Harris and Blanck and saw Mr. Harris, where did you go? A. At Washington place — that is — at least I believe between Wooster — near the park there.

Q. Will you tell the jury how you would go up to the tenth floor when you called there?

A. Always take the elevator.

Q. Did you always see Mr. Harris on the tenth floor? A. No, I did not.

Q. During those four years will you tell the jury on what other floors you saw Mr. Harris besides the tenth? A. On the ninth and eighth floors.

Q. During those four years will you give the jury an approximate idea of how many times you saw Mr. Harris on the eighth and ninth floors of that building? A. About one hundred and twenty-five times.

Q. Well, was it at least that many times? A. Yes.

Q. Will you tell the jury how you went from the tenth to the ninth floor or from the tenth to the eighth floor, or from the ninth to the eighth, as the case might be? A. When I came up to the tenth floor on the elevator, not seeing Mr. Harris in the office, or the salesman's room, I generally surmised that he was in the back of the tenth floor and I went back there.

BY THE COURT:

Q. When you say the back of the tenth floor what part do you mean? A. The part, your Honor, towards the Greene street elevator.

Q. Proceed? A. Not finding him there I went down the back stairs.

BY MR. STEUER:

Q. Those were the Greene street stairs? A. The Greene street stairs, yes, sir, to the ninth floor. If I did not find him on the ninth floor I went down to the eighth floor, and I generally found him there.

BY THE COURT:

Q. In going from the ninth to the eighth floor how would you go? A. Well, when I went down the Greene street stairs, I would go down the Greene street stairs to the eighth floor.

BY MR. STEUER:

Q. Did you ever go down from the tenth floor to the ninth floor when you did not go by the Greene street stairs? A. I did.

Q. Will you tell the jury on those occasions how you did go down? A. Well, if I was in a great hurry — I want to add

that the only times that I did go down to the ninth and eighth floors by the Washington place stairs was when I was told that Mr. Harris was downstairs.

Q. Well, you have not told us anything about the Washington place stairs. Now, I want to know, when you did not go by the Greene street stairs, how did you go down to the ninth or eighth stairs? A. Sometimes I went by the passenger elevator at the Washington place side, and sometimes by the stairs.

Q. Did you ever go down by the Greene street, or so-called freight elevators? A. Never.

Q. When you went down on the Greene street side you always went down by way of the stairs? A. Yes, sir.

Q. When you went down on the Washington place side from the tenth to the ninth floor or to the eighth floor did you always go by the stairs? A. No.

Q. You sometimes did use in going from the tenth to the ninth floor, or the ninth to the eighth, or from the tenth to the eighth floor, the Washington place elevators? A. I did.

Q. When you did not use the Washington place elevators, and you did not use the Greene street stairs, which way did you go down? A. Down the Washington place stairs.

Q. Will you tell the jury please about how many times — and don't give the largest number, but give the smallest — what would you say was the least number of times that you went down from the tenth floor to the ninth and the eighth floor by the Washington place stairs? A. About fifteen times.

Q. On those occasions when you went by the Washington place stairs how did you go into either the eighth or the ninth loft? A. By the door.

Q. The door that led from the Washington place stairs into the loft? A. Yes.

Q. Did you have any trouble in getting in through that door at any time? A. None whatsoever.

BY THE COURT:

Q. Leaving out of your mind temporarily and entirely the eighth floor, what is your best recollection as to the number of times you went down the Washington place stairs from the tenth loft to the ninth loft, and through the door on the level of the ninth loft, leading from the Washington place stair well into the ninth floor? A. About twelve times.

Q. And the last of those occasions was when? A. I should judge about three weeks before the fire.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. When you came up you went up the Washington place elevator to the tenth floor? A. Yes, sir.

Q. Not finding Mr. Harris there you would walk away over to the Greene street side? A. Yes, sir.

Q. Then not finding Mr. Harris there it was your custom to go down the Greene street stairs from the tenth to the ninth floor? A. Correct.

Q. You wouldn't go back to the Washington place side of the building? A. No, I would not.

Q. What time of the day did you go there? A. Both in the morning and afternoon.

Q. Were you there at closing time when they closed the factory? A. Not that I can recollect.

Q. You are still doing business with them? A. Yes, sir.

WILLIAM HARRIS, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 532 West 50th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. On and previous to, or before, the 25th of March, 1911, for whom did you work?

A. Mr. Harris and Mr. Blanck, Triangle Waist Company.

Q. And how long had you worked for them before the 25th of March, 1911? A. In all three years.

Q. When did you go to work, Mr. Harris, every day except Saturdays? A. A quarter of six.

Q. And when did you get to work on Saturdays? A. A quarter of five.

BY THE COURT:

Q. That is in the afternoon? A. Yes, sir.

BY MR. STEUER:

Q. Will you tell the jury please, on any evening's work, or night's work, we will call it, just what you did after you went to work? A. Well, I would come a quarter of six

and I would wait until all of the people got out, and I would change my clothes and I would go after I get my clothes changed, and the watchman comes from the eighth floor to the ninth floor.

Q. Speak louder. A. I would change my clothes on the ninth floor.

Q. On the ninth floor? A. Yes, sir, and go from the ninth floor to the eighth floor and begin cleaning.

Q. We would like to know a little more about what you mean by begin to clean. We would like you to tell the jury what you did from the time you started to work until you got through? A. Well, I would sweep, that was my general work, sweeping around machines, sweeping the floor around the machines and between the cutters' tables.

Q. Well, did you clean it up thoroughly? A. Yes, sir.

Q. Tell the jury what you did with the sweepings? A. Take it and put it outside of the door in front of the freight elevator in a trash can.

Q. What was the can made of? A. It was made — the can on the eighth floor was made of tin, a tin can.

Q. Who was with you when you were doing that work? A. A man by the name of Mr. Nathan.

Q. Is that the watchman? A. Yes, sir.

Q. You don't mean that his name is Nathan, do you? That is his first name? A. Nathan Zelleck.

Q. Nathan something? A. Yes, sir, Nathan Zelleck.

Q. What did Nathan do? A. Well, he would sweep around the corners and clean the machines and dusting off and such as that. We would do that work along together as a rule.

Q. Did you two work together? A. Yes, sir.

Q. And you both work on the same floor until you finished that floor? A. Yes, sir.

Q. Which floor did you do first? A. The eighth floor.

Q. Then where did you go when you finished the eighth floor? A. To the ninth.

Q. And what did you do on the ninth floor? A. Do the same thing ~~ sweep and clean around the machines.

Q. Did you do that every night? A. Every night, when the people worked. Sundays they didn't work; when they worked on both floors on Sunday we would clean them Sunday night and every night.

Q. You worked every night in the week, and the only work you did there was that cleaning work, was it not? A. The cleaning work, yes, sir.

Q. You had absolutely nothing else to do for Harris and Blanck, or any other lofts?
A. No more than ringing that clock, you know. I call it the "Fire alarm clock", I called it. There is a clock, we had had to ring a bell there every hour or so.

Q. What did you ring the bell for? A. That is something I really couldn't explain. I understood it was something, some fire things.

Q. You gave a signal when you came in and a signal when

you left? A. No, sir, we had to ring it every hour.

Q. You had to give a signal somewhere every hour, is that it? A. Yes, sir, about an hour or an hour and a half, something like that.

Q. Was that to the Holmes people that you gave the signal? A. I suppose -- I never did find out that part.

Q. You know you had to ring a bell, that's it? A. Yes, sir.

Q. Outside of ringing that bell and cleaning did you have any work to do for Harris and Blanck from the time that you came to work at quarter to six in the afternoon? Did you do anything else? A. That is the work, cleaning work, yes, sir.

Q. And your work was limited to what floors, Mr. Harris? A. To the two floors, eighth and ninth.

Q. And what time did you quit work? A. Well, when we got through sometimes it would be five o'clock or six.

Q. No, that isn't what I meant. You used to get through with your work at five in the morning? A. Do you mean what time we got home?

Q. Yes. A. Eight o'clock.

Q. Eight o'clock the next morning? A. Yes, sir.

Q. Do you know anything about locking up the place, or anything of that sort?

A. Well, I didn't have the keys, but Mr. Nathan had the keys.

Q. The other man had the keys? A. Yes, sir.

Q. Well, do you know where the keys on the Washington Place side were? A. The key on the Washington place side was in

the door.

Q. Was it left in the door all the time? A. Yes, sir.

Q. All the time that you were on at work? A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You changed your clothes on the ninth floor? A. Yes, sir.

Q. Then you would go down to the eighth floor? A. Yes, sir.

Q. And that is where you commenced to work on the eighth floor? A. Yes, sir.

Q. And you would do all your work on the eighth floor before you started your work on the ninth floor? A. Yes, sir.

Q. And Nathan would help you do your work, that is, he would do work while you were working? A. Yes, sir.

Q. And when you both got through your work on the eighth floor, then you would both go up to the ninth floor? A. Yes, sir.

Q. And in going up to the ninth floor the eighth you would go up the Greene street way?
A. Yes, sir, every night.

Q. You would go up the Greene street stairway? A. Yes, sir.

Q. Did you do any cleaning on the tenth floor? A. No, sir, not at night.

Q. Only on the eighth and ninth floors? A. At night, yes, sir.

Q. You never went by the Washington place door, did you? A. Not while I was on at night.

Q. You never went through the Washington place door and up to the ninth floor? A.
(No answer).

BY THE COURT:

Q. Suppose you were on the eighth floor and you wanted to get from the eighth floor to the ninth floor, did you ever go out of the door on the eighth floor on the Washington place side, and walk up the Washington place stairs to the ninth floor and go through the door leading from the stairs to the loft on the ninth floor on the Washington place side? Did you ever do that? A. Not during the time I worked nights.

Q. What do you mean by not during the time you worked nights? A. Because I worked a while in the day time.

Q. Did you at any time while you were working there in the day time do that? A. Yes, sir.

Q. When was that? A. I worked in the day time for a month or more, I suppose.

Q. How long ago? A. I worked there over three years, and I worked a month or so when I first started, before they put me on nights.

Q. In other words, you had been working for Harris and Blanck at the time of the fire for about three years? A. Yes, sir.

Q. And during the first month that you worked for them you worked in the day time? A. Not at night, yes, sir.

Q. And during that first month you say that you sometimes went up the Washington place stairs? A. Yes, sir.

Q. From the eighth floor to the ninth floor? A. Yes, sir.

Q. And how would you get into the loft on the ninth floor

if you went up stairs? A. The door was open, the door was on the ninth loft on the Washington place stairs, and also on the eighth floor from the Washington place stairs.

BY MR. BOSTWICK:

Q. Can you read and write? A. Yes, sir.

Q. Did you call at my office and were you examined by me? A. I don't know who you are, I was examined by some one.

Q. Were you examined by some one? A. The District Attorney.

Q. Who sent you to the District Attorney's office? A. Who sent me to the District Attorney's office?

Q. Yes. A. Who sent you there?

BY THE COURT:

Q. How did you happen to go there? A. How did I happen to go to the District Attorney's office?

BY MR. BOSTWICK:

Q. That is exactly the question, yes, sir. A. Do you mean after the fire?

Q. Yes, sir, after the fire? A. Well, of course, naturally I was working for the company, you know.

Q. Yes, that is natural. You are still working for the company? A. I was at the time, during the time of the fire, but I am not working for the company now.

Q. Not paid by them? A. Not working for them, not paid by them either.

Q. Tell us who sent you down to the District Attorney's office? A. Who sent me down to the District Attorney's office?

Q. That is the question. Who sent you down to the District Attorney's office? A. No one sent me down there.

Q. Did Mr. Blanck send you down to the District Attorney's office? A. No one sent me —

Q. You say you have seen the Washington place door open in the day-time? A. Yes, sir.

Q. And gone through it? A. Yes, sir.

Q. I ask you to read this affidavit, and ask you whether it is your signature thereto?

MR. STEUER: I object to that on the ground that it is absolutely incompetent.

THE COURT: The objection is overruled.

MR. STEUER: Won't your Honor hear me a minute on that? I certainly did not propound to this witness any inquiry on any such subject, I didn't even know that he had ever worked there during the day-time, and I brought out ~~

THE COURT: That does not relate to the question that is new before the Court. He is asked to look at a paper, I will allow him to look at it.

MR. STEUER: I respectfully except. I object to it on the ground that it is not contradictory, or cross examination of anything that was elicited on the direct, that no question is propounded to the witness with relation to the period now referred to, and that it is a collateral matter to the direct examination, and he cannot

be impeached.

THE COURT: He is merely asked to look at a paper, and I will allow him to look at it.

MR. STEUER: I except.

(The witness takes paper and reads the same to himself.)

A. What is in there is not true. I see at the last where it says Mr. Blanck sent me there, but I told him at the time Mr. Blanck didn't send me there. He said it didn't make any difference.

Q. That is not the question. A. What is the question?

THE COURT: Do you want that stricken out?

MR. BOSTWICK: No, sir.

Q. Is that your signature (indicating paper shown witness)?

A. William Harris -----

MR. STEUER: That was not the question. Mr. Bostwick first asked him that question, but your Honor then merely told him to read a paper.

MR. BOSTWICK: All questions withdrawn.

Q. Is that your signature to that paper? A. William Harris, that is my name, yes, sir.

Q. Did you write your name to that paper? A. I did.

Q. And did you appear before an officer of the law and swear to it?

MR. STEUER: I object to that, - an officer of the law — what does he knew about that?

MR. BOSTWICK: Question withdrawn. There is a mistake in that paper.

Q. Did you appear before James Sheridan, Commissioner of Deeds of New York City on the 18th day of April and swear that that was true? A. Please excuse me, but this is an error that Mr. Blanck sent me there.

Q. No, answer my question.

THE COURT: No, I will hear the witness.

THE WITNESS: (Continuing) This says Mr. Blanck sent me there. I left there about —

THE COURT: That is not an answer, that is stricken out.

Q. (Question repeated by stenographer, as follows:)

Did you appear before James Sheridan, Commissioner of Deeds of New York City on the 18th day of April and swear that that was true? A. I hardly know how to answer you, sir.

BY THE COURT:

Q. Did you swear that the contents of a certain paper were true? A. Some part of it is true. I mean some part of it because I mean Mr. Blanck didn't send me down there.

BY MR. BOSTWICK:

Q. We are not now concerned with whether any of that is correct or incorrect, - we are concerned, however, with whether you went before a Commissioner of deeds and the Commissioner then and there asked you whether you swore that was true, and that you said yes, and thsn ths Commissioner affixed his name— put his name and then put what else is there, and all this after

you had signed that paper? A. All this after I had signed the paper?

MR. STEUER: Even that is improper in form, because that calls for a conclusion. Let him be asked, I suggest, what was done?

MR. BOSTWICK: No, I do not propose to have my questions framed by the attorney for the defendants. He can object to the question, and I will get the ruling of the Court.

MR. STEUER: I object to the question as incompetent.

BY THE COURT:

Q. Were you on a certain day in the office of the District Attorney? If you don't understand, say so? A. If I was on a certain day in the office of the District Attorney? Yes, sir.

Q. And he asked you certain questions? A. He asked me some questions, yes, sir.

Q. And you made some answers? A. Yes, sir, I made some answers.

Q. And something was written out on some paper, is that so? A. Yes, sir.

Q. Then you wrote your name on that paper, is that so? A. Something written on some paper and I wrote my name on some paper, but everything on this paper --

Q. Didn't you read that paper before you put your name to it? A. Before I put my name to it?

Q. Yes. A. No, sir, my name was signed before I read, be~

cause I told the gentleman at the door that Mr. Blanck didn't send me there and so far as the day was concerned that was not asked, whether I ever worked in the day or not, before the paper was signed.

MR. BOSTWICK: I ask to strike that out.

THE COURT: Strike it out.

MR. STEUER: Exception.

Q. Before you wrote your name on the piece of paper that you have in your hand, did you read it over? Now, yes or no to that? A. I read it over.

Q. Did you write your name after you had read it over? A. After I had tried to correct the mistakes he put on, that was on there. He said it didn't make any difference and then I signed my name. I know that well.

BY MR. BOSTWICK:

Q. Did you tell me there was any mistake in that paper? A. It was not you; it was some young man, I don't know who it was, the last day I came down. I suppose it was in the same building, I reckon.

Q. Aren't those the words that you spoke? A. Well, so far as Mr. Blanck sent me there I didn't say that.

Q. All the rest of it true? A. And about, - said something here concerning, I don't ever remember going on the Washington place side of the stairway, and when I said I don't ever remember going there I meant at night, not in the day, you understand?

Q. Didn't you go before a Commissioner of Deeds, and didn't

he say to you "You solemnly swear that this affidavit is true, so help you God", and didn't you say "Yes" A. Well, about working in the day, I wasn't there.

Q. No, didn't that happen? A. I didn't go on the stairways at night.

Q. Did you go to the Commissioner of Deeds? A. Commissioner of Deeds? I went where this paper was made out, of course.

Q. Did you go before a person? A. A person? Yes, sir.

Q. Did that person ask you whether that was true? A. Whether that was true?

Q. Yes, whether that was true? A. Well, of course, —

Q. I don't want to know that, and I ask you to please answer that question.

THE COURT: I think for all practical purposes you have got sufficiently on the record the situation; it is perfectly clear.

MR. BOSTWICK: I ask that the paper be now marked in evidence under these words of the Court of Appeals, "In no event, however, should the writings or any part be read until it has been marked in evidence." Werner, J.

MR. STEUER: You mean I should not read it.

THE COURT: That does not mean that when a paper is offered counsel on the other side may not look at it and look at it to see whether it is receivable or not.

MR. STEUER: Judge Werner says that neither side can —

MR. BOSTWICK: I think under the rulings counsel has not the right to look at it until it is formally offered for the purpose of being read to the jury.

THE COURT: I understand you have offered it in evidence.

MR. BOSTWICK: I ask that it be marked in evidence. I think the distinction is clearly made between the right of the counsel to use a paper which has been admitted in evidence and that which has been marked in evidence.

THE COURT: I have not yet received it in evidence. You at the present time offer it in evidence.

MR. BOSTWICK: I ask that it be marked in evidence.

THE COURT: Counsel on the other side should be allowed to look at it in order that he may frame any objection he may have to the reception of it.

MR. STEUER: I have no objection to the paper.

THE COURT: I will look at it.

(Paper handed to the Court.)

THE COURT: I will receive it.

Received in evidence and marked People's Exhibit 43.

MR. STEUER: Now, either Mr. Bostwick will read it, or I will ask the right to read it.

MR. BOSTWICK: I will read it. (Now reading:)

WILLIAM HARRIS: 532 W. 50th St., testified as follows:

On March 25th, 1911, last Saturday, I was in the employ of the Triangle Waist Co., as night porter. In the afternoon of that day – about 4:45 o'clock – I was on the

street getting some lunch. I went upstairs about half past 4 and got my money, and came down and goes down Waverly place for lunch. and goes around 8th street to a grocery store, and on the corner of Broadway and 8th street — I came back from there to the grocery, and the fire wagon came by, and I said to the grocer, “There’s a fire on the corner somewhere”. He said, “Where is it?” I said, “I don’t KNOW; it's around the corner on Greene street.” When I got to the corner of Greene and 8th street I seen the fire coming out of those windows. I wasn't upstairs at the time of the fire. I had been there and come down. Not being there, I don’t know how it started or nothing like that. I didn’t go back into the building again.

My duties as night porter were to clean the two floors, 8th and 9th, every night, and to take the material and put it down by the freight elevator. The man comes in the morning and takes it away. I remember the binds were under the cutters’ tables. They put pieces of lawn in there I don’t know exactly how high they were. They were full of cuttings, in places. I don’t remember whether those under the first cutters’ table were full or not. I don’t think it they were full, because all the rags weren’t put there; it wasn't full all the way. There were quite a few rags in there.

Q. Do you know when they had been taken rags away from that place, of the Triangle Waist Company, before Satur-

day? A. You mean the rags?

Q. Yes. A. I think they called for rags every ten or fifteen days, if I am not mistakes.

I being there at night, I couldn't say just how long before that they called for rags. Sometimes they called on Sunday and sometimes during the week.

I know there is a door leading into the place on the 9th floor from the Washington street side of the building. I have gone through that door way. I went down through that door one night, and I am quite sure they kept it locked, but there if a key tied to the knob. The watchman coming from the 8th to the 9th floor would use the Greene street stairs. I don't remember whether I ever used the Washington place stairs between the 8th and 9th floors, or not. I can't say whether the doors on the 8th or 9th floors of the Washington place stairway were ever locked or not, but if the 9th floor door on that stairway was locked the key was right in the door or tied to the knob. The 8th floor, I don't know about. I was on duty on Friday the 24th from 6 p.m., to 8 o'clock Saturday morning the 25th. I noticed particularly that the key was tied to the knob of the door on the 9th floor, Washington street side. I knew there was a fire escape on that building. It was not part of my duty to shut the windows at night. The other man did that. I did the cleaning and he closed the windows. I have seen the doors

open at night on the 9th floor, Washington place side. I come on about quarter of six. I have seen the 9th floor, Washington place side door open when I came on duty. I never saw anybody open it. I have seen the night watchman try the door. As a rule, he comes to the 9th floor between 6 and a quarter past 6. He closes the elevator doors. If the door is locked he goes away to the other doors. His purpose is to see whether it is locked. He locks it at night. There are only two of us there, and that is why he don't leave the door open- The key on the 9th floor door, near the passenger elevator, was tied to the knob on the inside Mr. Blanck sent me down here. I left there about 2 o'clock. I haven't worked since the fire."

Q. What keys did Mr. Nathan Zollock have? A. What keys did he have? He had a key to the front elevator and a key to the Greene street side door.

Q. Is that all? A. Well, now, he had a bunch of keys, I know he had those keys. The other keys, I don't know what they were used for. He had more keys, I am quite sure.

Q. Those are the only keys that you know he had? A. I know he used those at night.

Q. You have seen him lock those two doors? A. Lock the passenger elevator door and the door to the Greene street side. He carried those keys in his pocket, but the other keys were in the Washington place side.

MR. BOSTWICK: I move that that be stricken out;

I am not asking what keys he carried.

Motion granted. Exception.

Q. Then you said he carried the key to the Greene street door did you mean the Greene street door of the 8th, 9th or 10th floor, or all of them or any of them? A. I am positive he had the key to the eighth and the ninth floor, and the tenth floor I am pretty sure he had the key to on the Greene street side, but I am sure about the eighth and ninth.

Q. Sure about the eighth and ninth floors on the Greene street side? A. Yes.

Q. But he didn't have any key of the Washington place side ? A. They were in the door.

Q. He didn't have the key of the eighth floor of the Washington place side? A. It were in the door, I am quite sure, Washington place side, not Greene street.

Q. They were both in the door, both on the eighth floor and the ninth floor? A. On the Washington place side, not the Greene street.

Q. On the Washington place side? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. What? A. Yes, sir.

Q. Was the key in the lock, or was it hanging down from the knob? A. In the lock.

Q. It was not hanging down? A. It was not hanging down. In the lock.

Q. Was it attached in any way to the handle? A. To the handle? There was a string tied to the knob.

Q. How long was that string? A. I suppose that string was about — I couldn't say exactly. I should say about so many, I reckon.

Q. Yes, indicating about twenty-six inches? A. Yes, like that.

Q. Show us again? A. Well, just like that.

Q. Just hold your hands right there?

MR. BOSTWICK: (measuring with a ruler) About twenty-two inches?

A. Yes, sir.

Q. How wide would you say that string was? A. Two or three inches wide, some thing like this, some thing like this (indicating two inches on his fingert by measurement with a rule).

Q. What color was this string by which this key — A. It was a piece of lawn, white; it was white.

Q. It was white? A. Yes, sir.

Q. Was it figured? Did it have checker shapes on it? A. White lawn, white lawn.

Q. There were no checker shapes on it? A. I didn't notice any checkers on it.

Q. Well, now, are you quite sure about that? A. Yes.

Q. You are sure it was not stamped with a checker pattern on it? A. The string I seen was a white lawn string.

Q. Could it have been three inches long? A. Three inches long? I said that long (indicating about twenty two inches as before).

Q. You are quite sure it could not have been so short as three inches? A. Not sir, it was not three inches.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You never measured that string whether three inches or one, did you? A. No, sir, I didn't measure.

Q. You never measured to see how long it was, did you? A. No, sir.

Q. But you know with your own eyes, night after night while you worked there for three years that you saw that key in the lock, don't you?

MR. BOSTWICK: I object to the statement-question.

THE COURT: I think it is objectionable.

MR STEUER: And I respectfully except to its exclusion.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you know Mr. Reginald Williamson?

MR. STEUER: If you ask him about the day porter he will tell you he knows him, but Reginald Williamson seems a little too much.

BY MR. STEUER:

Q. Do you know the day porter that worked there before the fire? A. Yes, sir.

Q. You know him very well, don't you? A. Yes, sir.

ANNA MITTLEMAN, called as a witness on behalf of the defendants, being first duly sworn testified as follows:

(The witness states that she resides at 334 East 5th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You are a sister of Ida Mittleman, are you not? A. Yes, sir.

Q. Did you on the day of the fire work for Harris and Blanck? A. Yes, sir.

Q. What did you do there? A. You mean the time of the fire?

BY THE COURT:

Q. What kind of work were you doing? A. Oh, operator.

BY MR. STEUER:

Q. How long did you work there? A. Two years.

Q. Where was your machine? A. Right near the door, Washington place door.

Q. Was it the first table from the Washington side door? A. Yes, sir.

Q. And when you sat at that first table from the Washington place side, did you have your back to the door or your face to the door? A. My back to the door.

Q. Did you get the signal on the day of the fire, that

the power would be shut off and was the power shut off? A. Yes.

Q. Where did you keep your hat and coat? A. Dressing room.

Q. And did you and your sister have your hat and coat together? A. Yes, sir.

Q. Who was it that used to get the hat and coat for you and your sister when the power was shut off? A. I did.

Q. And did you and your sister dress at your machine every day? A. Yes, sir.

Q. On the occasion of the fire what was the first thing that you knew about any trouble?
A. I thought it was an elevator crash.

Q. You heard a noise? A. I heard a noise.

Q. Did you know anything about any fire at that time? A. No, sir.

Q. What took place between you and your sister, or what did you do or see done at about that time? First tell us what you did, if you did anything? A. I went to the dressing room and got my clothes and came back to my place and I teard shouting. some noise, what it was I don't knowt and I ran te the elevator and I heard a noise.

Q. Which elevator? A. Washington side door. I heard a noise and I thought it was an elevator that crashed; I went back to my place and told my sister that there must have been an elevator crash and she said, "Well, we will see what happened."

Q. It is not necessary that you should tell what was said.

Tell us without saying what you said to your sister, or what your sister said to you at that time. Tell us what you, your sister, or anybody else did that you saw? A. I didn't see anybody at that time.

Q. Well, you saw your sister, didn't you? A. I saw my sister.

Q. Will you tell us please from the time after you heard the crash and after you said something to your sister, what happened then? A. I don't know.

Q. What is that? A. I don't know what happened.

Q. Well, I don't mean what happened in the building, I mean what happened to you folks, to you and your sister, and anybody else.

BY THE COURT:

Q. Where you went, what you did and all about it.

BY MR. STEUER:

Q. And what you saw? A. We ran to the elevator, rang the bell and stood some time there and we couldn't get down.

Q. Did the elevator come? A. No, sir; then we went to the Greene street side, we were met with a crowd, and coming back we went back to the same place; that was on the Washington place side, stood there with the crowd, and at last the elevator opened and in we went.

Q. Before you went to the Greene street side, did you see your sister go anywhere? A. No, we were together, I believe.

Q. Have you told us now everything you saw? A. Well, if I

could remember.

Q. I don't want to aid your memory, but I want you to think about everything that happened at about that time, and tell it to the jury.

BY THE COURT:

Q. We are starting now at the machine table, you have gone back with your hat and coat, and your sister's hat and coat is that so? A. Yes, sir.

Q. And at that time you heard a crash or a noise, is that so? A. Yes, sir.

Q. Where did you first go? A. To the elevator.

Q. What elevator? A. It was the Washington place side.

Q. And from that point where did you go? A. Went back to my place again.

Q. That was by the machine? A. Yes, sir.

Q. Now from that point where did you go? A. Stood there. My sister went to the Washington side door, and it was open, and went out in the hall, and come back and told me that there was fire, and with that I knew there was fire in the building, so we went back to the elevator.

BY MR. STEUER:

Q. Which elevator? A. That was the Washington side I am alluding to. And we waited for some time until this here George opened the elevator and we got down.

Q. When your sister went to the Washington place side door, did she go alone or did anybody go with her? A. She was

alone, but there was May before, May Levantini.

Q. May was before your sister? A. Yes, sir.

Q. Had you known May Levantini before that time? A. Certainly.

Q. How far away from May Levantini did you work? A. Well, some distance.

Q. At that time did you go out of the Washington place door yourself? A. During the fire?

Q. During the fire or at the time your stater went out did you go along? A. No, I stood in my place.

Q. You stood in your place. Now, did you see your sister go out through that door? A. I did.

Q. Did you see your sister come back through that door? A. I did.

Q. Was it after that time that you went back again to the Washington place elevator? A. Yes, sir.

Q. Now, which Washington place elevator was it that you went down on, if you remember? A. Well, I couldn't remember that.

Q. How many elevators were there on the Washington place side? A. Two.

Q. Can you recall which elevator it was, whether it was the one that was nearest to the Washington place windows or the one that was further away from the Washington place windows that you went down? A. I think it was the one next to the one that was near the window.

Q. I didn't quite understand that.

BY THE COURT:

Q. Was it the one nearest the windows or the one nearest the dressing room? A.

Nearest the dressing room.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You know May Levantini? A. I do.

Q. Did you talk to her to-day? A. No, I haven't seen her.

Q. Did you talk to her yesterday? A. I did.

Q. And you had a talk about what happened at that door, didn't you? A. Yes, sir.

Q. And May Levantini told you what happened at that door? A. She told me she opened the door.

Q. And your sister was there at the same time, was she not? A. Yes, sir.

Q. Did your sister open the door? A. I can't tell you that.

Q. You don't know? A. No, sir, but I believe that May did.

Q. You believe that May did? A. Certainly.

Q. You really believe that, don't you? A. I do.

Q. You are convinced of it, aren't you? A. Well, that is, I said I don't remember, but being that my sister was after May, then she says she was at the door first.

Q. And that is the reason it is perfectly clear, isn't it? A. Certainly.

SAMUEL RUBIN, called as a witness on behalf of the defendants, being duly sworn,

testifies as follows:

(The witness states that he lives at 370 St. Anne's Avenue, Bronx.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I am a pattern maker and foreman in the cutting department.

Q. Whom do you work for? A. I have been working for the Knickerbocker Shirtwaist Company, the Triangle Waist Company.

Q. The question is whom do you work for? A. At present?

Q. Yes. A. At present I am working for the Standard Art Waist Company, 13 East 17th street.

Q. You didn't work for Harris and Blanck at the time of the fire, did you? A. No, I was discharged two weeks or three weeks before the fire.

Q. Whom were you working for at the time of the fire? A. I was working at the time of the fire for the Model Waist Company 101 Crosby street.

Q. So you have not worked for Harris and Blanck at the time of the fire, nor since the fire at any time? A. No.

Q. When did you work for Harris and Blanck? A. I worked for Mr. Harris and Blanck, starting from about November, or in the end of September, I can't recollect exactly the date, about four and a half months.

Q. When you worked for them what did you do?

THE COURT: Pardon me, you haven't the year yet.

Q. That was what year? A. That was last year.

Q. Do you mean the months before the fire? A. The months

before the fire.

Q. You quit about two weeks before the fire? A. I was discharged two weeks before the fire.

Q. When you worked for them what did you do? A. I was a pattern maker on waists, I was the head cutter, taking charge over the cutters and see that the work should be going out exactly, and that all.

Q. What floor did you work on? A. I worked always on the eighth floor, that was my place of having my pattern table, that was always on the eighth floor.

Q. During the time that you worked there did you have any occasion to go up on the ninth floor and on the tenth floor? A. Oh, yes, on the tenth floor I was two or three times a day.

Q. And on the ninth floor? A. On the ninth floor I didn't go so often, but it was about three or four times a week, always.

Q. What was it that took you to the tenth floor? A. On the tenth floor was the stock department of laces and embroideries. I was at the time when the business starts, so I went to get the laces quick enough, so I would go out and ask the fellow that attends to the laces, just picking out, he would send for me, and sometimes he didn't have enough lace for one lot and we had to combine two laces together to finish out, so I used to up on the tenth floor and done this myself.

Q. Anything else that took you to the tenth floor except what you already told the jury? A. Some times I wanted to see Mr. Bernstein, the manager; he was on the tenth floor show

room, and I had a special question to ask him, I used to go up and ask exactly what I would do and go down again.

Q. Is that all that took you to the tenth floor? A. That is about all.

Q. What took you to the ninth floor? A. The ninth floor is, you know I was — I had twenty cutters.

Q. Under you, you mean? A. Under myself, and a cutter is always liable to make a mistake so sometimes it happened a cutter made a mistake, and I had to go up on the ninth floor and straighten up -- the laces were mixed in together, two different designs of laces, one like the other, this was once; and simply Mr. Bernstein used to keep himself on the ninth floor and I wanted to see him. You know Mr. Bernstein was all over the place, so I used to go up on the ninth floor to see if he was in and if he was I would step in and speak with him the matter over and then walk down.

Q. You say you were on the ninth floor as often as four times a week, and on the tenth floor as often as two or three times a day? A. Oh, yes, sir.

Q. Near which side was your table, -- Greene street or Washington place side? A. Greene street side.

Q. When you went up stairs as a rule from the eighth to the ninth floor what stairs did you go up? A. Greene street side, that was near my table.

Q. When you went from the eighth to the tenth floor as a rule by what stairs did you go? A. You mean from the tenth to

the eighth,

Q. No, from the eighth to the tenth? A. Well, I used to go up by the Greene street side.

Q. When you went up from the eighth to the ninth floor on the Greene street side did you use the stairs or the elevator? A. The stairs, I couldn't wait for the elevator.

Q. When you went up from the eighth to the tenth, on the Greene street side, did you use the stairs or the elevator? A. [A]so the stairs.

Q. When you came from the tenth floor to the eighth floor how did you come downstairs? A. By the stairs of the Washington place side, because the stock room was on the Washington place side.

Q. Did you generally come down from the tenth floor to the eighth floor by the Washington place stairs? A. Always, pretty near always. It was more comfortable to walk right away down with the goods, and having the goods, through the Washington floors. I had to carry the bundles near to the pressers by Greene street. This way I used to come down on the Washington place side on the eighth floor, and then I was in the place already.

THE COURT: We will suspend now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. Recess till 2 p. m.

(Recess till 2 p. m.)

After Recess, Trial Resumed.

THE COURT: If there is no objection on either side Mr. Vetter, (Fifth Juror) will be allowed to go to the telephone. I believe there is a message for him.

(No objection.)

(Mr. Vetter, the Fifth Juror, absents himself from the Court room for a short space of time, and then returns.)

THE COURT: Proceed.

SAMUEL RUBIN, resumes the stand and further testifies:

DIRECT EXAMINATION BY MR. STEUER: (Continued)

Q. When you went from the eighth to the tenth floor you always went up by the Greene street stairs? A. Yes, sir.

Q. And when you came down from the tenth floor to the eighth floor you came down by the Washington place stairs? A. Yes, sir.

Q. When you came into the eighth floor by the Washington place stairs, how did you go in? A. I opened the door.

Q. You mean the door that leads from the Washington place stairs into the loft? A. Into the loft, yes, sir.

Q. And when you walked the stairs what door did you walk through on the tenth floor?
A. When I walked through the stairs?

Q. When you walked from the tenth floor to the Washington place stairs, through what door did you walk on the tenth floor? A. The door that brings me down the stairs.

Q. What did you have to do to walk out of that door?

A. I had to pull the door into the place.

Q. The door opened into the place? A. Yes, sir.

Q. When you went from the eighth floor to the ninth floor how did you go? A. To the Greene street side.

Q. When you came from the ninth floor down to the eighth floor how did you go? A. Well, sometimes I used to go by the Greene street side, and sometimes by the Washington.

Q. Which way did you go down most of the time from the ninth to the eighth floor? A. Most of the time I used to go down through the Washington side, because Mr. Bernstein used to keep himself in the Washington place side, so I used to find him always there.

Q. You have told us that you didn't work for Harris and Blanck for three weeks before the fire? A. I was discharged two or three weeks before the fire.

Q. Are you connected with Harris and Blanck in any way?

A. No, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You were discharged, weren't you? A. Yes, sir.

Q. And why have you said four times in your testimony that you have been discharged? A. They have asked me if I worked there and when I left there, so I told them I was discharged two weeks before the fire, because that is the truth, I was discharged.

Q. You had no other reason in stating you were discharged when you were asked whether you were still working for them? A. I have no other reason, because I was really discharged, that is the only thing.

Q. Well, you would be willing to work for them again, would you? A. Well, I am working now at present, I am getting a good salary, why should I change?

Q. Would you like to work for them again? A. Well, I don't think I would. Because if they discharged me once, and I didn't see the reason why they should discharge me — it was only the matter of making a little mistake ~ I was the head man, and the head man can't find so quick a position.

Q. You didn't volunteer to be a witness in this case? A. I don't understand your question.

Q. You didn't offer to become a witness in this case? A. No, sir.

Q. How did you become a witness in this case? A. Well, I will tell you something, I was in business —

Q. Is what you are going to tell me in answer to my question? A. Yes, sir.

Q. Who came to you, or whom did you go to? A. I was in business before --

MR. STEUER: He has changed the question now.

A. Well, I was up at the place of Mr. Harris and Blanck.

Q. When were you then? A. Monday evening.

Q. Monday a week ago? A. No, Monday this week.

Q. And you had a conversation with either Mr. Harris or Mr. Blanck? A. I had no conversation, but Mr. Blanck called me.

Q. Did you have a conversation with Mr. Bernstein, Mr. Harris or Mr. Blanck? A. I didn't find Mr. Bernstein there when I came up.

Q. Did you have a talk with Mr. Harris or Mr. Blanck? A. Well, the only thing when I came in Mr. Blanck told me I should step into the office and they gave me a subpoena.

Q. You didn't know anything about this case? A. I knew what the case was.

Q. You didn't know anything about this case, - that is, in regard to your being a witness? A. No, sir.

Q. Until Mr. Blanck called you in and gave you a subpoena? A. Yes, sir.

Q. And you were in Mr. Blanck's place of business on other business, were you not?
A. Other business?

Q. You went to Mr. Blanck's place of business on other matters, didn't you? A.
Yes, sir.

Q. Other business matters? A. Yes, sir.

Q. And while there on Monday you were served with a subpoena? A. Yes, sir.

Q. And Mr. Blanck had nothing to say to you on that Monday whatever? A. Not a word.

Q. Had you seen Mr. Steuer? A. Mr. Steuer, yes, I did.

Q. Before Monday or after Monday? A. In the office of Mr. Blanck.

Q. Oh, he was there at the time? A. Yes, sir.

Q. Had you seen Mr. Steuer before that? A. I never seen him.

Q. And you had not told anybody what you were going to tell on the witness stand? A.
No, I did not ~-

Q. Had you or had you not? A. No.

Q. And they didn't know what you were going to testify to, so far as you knew? A. No.

Q. And they just gave you this subpoena and told you to come down here? A. Yes,
sir.

Q. Not knowing anything about what you were going to testify to? A. Well, I
didn't tell them.

Q. And you had been discharged from their employ? A. Yes, sir.

Q. And you had told no one else what you were going to say? A. No, sir.

Q. And you tell us that you would not care to work for them? A. Well, I can't tell this,
if I would care; you know circumstances might bring me that I should have to care, for I have
to work for big people, big concerns, because my salary is a high salary.

Q. How many factories have you worked in in New York? A. Well, I worked
about five or six factories.

Q. Shirtwaist factories? A. Shirtwaist factories.

Q. Which is the largest of those shirtwaist factories? A. Well, I worked for the
Knickerbocker, 38th street and First

avenue.

Q. Larger than Harris and Blanck? A. Well, better merchandise than Harris and Blanck.

Q. More employees? A. Well, I don't think there are more employees.

Q. The cutters' tables were on the ninth floor or the eighth floor? A. On the eighth and on the tenth.

Q. Near the Greene street side? A. On the Greene street side, and then I was on the side, the perpendicular line to the Greene street side.

Q. How many cutters' tables were there on the eighth floor, on the Greene street side?
A. Three tables, three cutting tables, - four.

Q. Four? A. Yes, sir.

Q. Was there another table besides the cutters' table? A. There were two more tables; one table was for the forelady of the tucking and lace running machines, where they used to keep the goods after it was cut; and then there was another special table, sometimes if it was in a hurry to do some goods -- for cutting up separate sleeves, or parts of the waists -- a small table not used very much for cutting, because the wood of it was not good enough.

Q. Were the five tables about equal size? A. No.

Q. Were the four cutting tables about equal size, about the same size? A. It was this way: by the window was one table, then another table, there were two equal tables, then was the

table that I worked at that was attached — a little table for my special work.

(Mr. Bostwick draws on sheet of paper on blackboard resting on easel in court room.)

Q. Assuming that this is the Greene street side, and this is the Washington place side, and this is the first row of machines from Greene street, the cutting tables that you speak of were in here, were they not? They were between the first row of machines and the Greene street, were they not? A. They were between the first row of machines and Greene street.

Q. And when I say the first row of machines I mean the first row of machines from Greene street? A. From Greene street, yes.

Q. Between this first row of machines from Greene street and Greene street, in here were the cutters' tables, were they not (indicating)? A. Yes, sir.

Q. Would you be so kind as to indicate in that spot about the location of the cutters' tables? A. Well, here was one table from the Greene street side, there was another table right here, and starting up from, you know that Washington place side, and then there was a third table, and then there was my table — a special cutting table, a small table, a few yards — and then were the posts of the building, and attached was the four tables for cutting sleeves, and then there was a low table, a small one, standing up sort of this way (indicating) , and then in here by this table was a little closet

like this (indicating) to keep the laces.

Q. You have only made a line? A. Yes, sir.

Q. And each line indicates a table? A. Yes, sir.

Q. Will you draw in the table instead of the line, or can't you do that? A. I don't understand what you say. Should I have to draw it exactly level?

Q. For instance, you have drawn a line like that to indicate a table (indicating)? A. Yes, sir.

Q. Whereas, we have a shape like that up there to indicate a table? A. Well, you told me only to draw a line for a table.

Q. I didn't mean that, if you so understood me. A. I could have made the table exactly a table by drawing out these lines.

Q. No, I don't want a table looking at it as if it was standing up in the air, but as if somebody could stand on the ceiling and look down, and what they would see? A. Yes. (Witness drawing on sheet of paper on easel).

Q. You have numbered those 1, 2, 3, 4 and 5, making No. 5 nearest to Greene street? A. Yes, sir.

Q. About how many, the longest way would you say those tables were? A. I think between thirty-five and forty feet.

Q. Did they extend the whole width of the building? A. No.

Q. How much space would you say there was between the most southerly end of this table, and Washington place? A. About five feet I suppose.

Q. Then between the Washington place wall and the end of the table would be about five feet? A. Yes, sir.

Q. And then on the other end between the most northerly end of the table, and the most northerly wall of the loft, how many feet? A. It was this way: on the Greene street end there was a little partition ~

MR. BOSTWICK: I withdraw the question.

Q. What was the distance between the partition and the table? A. Three feet, or so.

Q. Then with the exception of the three feet on the northerly end and the three feet on the southerly end, it extended the full length of the room from the Washington place wall to the partition near the freight elevators? A. Yes.

Q. I show you a diagram of the eighth floor; this, (indicating on diagram) is the Washington place side, and this is the Greene street side, and you have just been describing the table which is nearest to Greene street? A. Yes, sir.

Q. You see the end of the most southerly end of the table would be five feet from that wall? A. Yes, sir.

Q. This diagram is drawn on a scale of a foot to a quarter of an inch, so that five feet from that wall would be five quarters of an inch, wouldn't it?

MR. STEUER: I object to this witness being made a draftsman or a mathematician.

MR. BOSTWICK: I am only trying my best to put in these cutters' table, and here is a cutter —

THE COURT: Will there be some in the course of the trial who can do it?

MR. STEUER: Yes, sir; I think so. I don't think there will be any question about it. It certainly should not be guessed at this way, your Honor.

THE COURT: Very well.

Q. So that the cutters' tables, according to your recollection, were situated the full length of the loft, excepting eight feet in all — five feet on the southerly side and three feet on the northerly side? A. Yes, sir, but I can't recollect exactly five and three — about.

Q. That is your best recollection? A. Yes, sir.

Q. At the time that you were at Mr. Blanckfs place, did you have any talk whatever with Mr. Steuer, or with Mr. Blanck as to what you should testify to here at the trial? A. When I worked?

Q. When you were at Mr. —

BY THE COURT:

Q. No, when you went there the other day? A. No.

BY MR. STEUER: (Re-Direct Examination)

Q. Not a word? A. Not a word

Q. In all your life, have you ever had anything to say to me, or have I ever had anything to say to you? A. Well, I have seen you the first time in my life.

Q. And at that time you were in the room where I was possibly a minute or a minute and a half? A. Yes, sir.

Q. Long enough to get a subpoena made out and handed to you and then you went out?

A. Yes, sir.

HYMAN SILVERMAN, called as a witness on behalf of the defendant, being first

duly sworn, testifies as follows:

(The witness states that he lives at 142 Charlton street, Newark, New Jersey.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You say you want to talk in Yiddish? A. Better.

Q. Well, we will try in English, it will be so much quicker, it saves half the time. What is your business? A. I have a cigar store, stationery store.

Q. Where is your cigar and stationery store? A. 142 Charlton street, Newark.

Q. How long have you been in that business? A. One year.

Q. Before you went into that business what did you do for a living? A. I used to work for the Triangle Waist Company.

Q. How long did you work for the Triangle Waist Company? A. I worked nine years.

Q. Where did you work for them? A. On Washington place.

Q. On what floor did you work? A. On the ninth floor.

Q. What did you do for them? A. I was an operator at the machine.

Q. You worked on the machine? A. Operator on the machine.

Q. On the ninth floor, did you say? A. All the time on the ninth floor.

Q. The whole time you worked for them you worked on the ninth floor.

Q. There were a lot of machine tables on the ninth floor, weren't there? A. Yes, sir.

Q. Will you tell the jury which table -- do you know what "which" is? A. I know which table.

Q. Now, you tell the jury which table you sat at when you were at the machine? A. Which table from the first one, from the corner?

Q. Yes. A. It was about the fourth, about the fourth table from the corner, from Washington side.

Q. Do you mean the fourth table or the fourth machine? A. On the fourth table. I don't know the machine — maybe was in the middle or tenth or fifteenth machine; in the middle I was sitting.

Q. You were in the middle of the table? A. Middle.

Q. But it was the fourth table, is that right? A. fourth table.

BY THE COURT:

Q. Starting to count from which side? A. (No answer)

BY MR. STEUER:

Q. Which side did you count from when you say the fourth? A. That is the Washington place door.

Q. To the Washington place door? A. Yes, I was sitting the front to Washington, and the fourth table I sit to the door.

Q. That is, for nine years you sat at the same machine?

A. On the same place, not the same machine; sometimes I was a different place, but all the time I was working on the ninth floor.

Q. Where else did you work on the ninth floor besides the fourth table? A. Before I was working on the other side down. Because there were two many at this end, maybe about ten tables or eight tables there — I was on different tables.

Q. You mean you worked further to the Greene street side? A. To Greene street further, and the last time I was working on that table, that was the fourth from the door from Washington place.

Q. How many years did you work at that machine, this last one? A. About three or four years I was on that place.

Q. You know the door, the Washington place side? A. The door to the Washington place side, yes, sir.

Q. I am not speaking of the elevator doors, I am speaking of the door that goes to the stairs? A. Yes.

Q. During the time that you worked there where was the key to that door? A. The key was right in the patent in the door. It was a long yellow patent, and the key was inside, because I was sitting inside in the front all the time.

Q. Well, the key was inside what? A. In the door.

Q. Tell it in Yiddish.

MR. BOSTWICK: Let us have it in English if we can. A. (Through Interpreter Rosenthal) In the lock.

Q. Now did you ever see any people on the ninth floor while you were working there go in or come out through that door?

Or did you see any people going out of that door? A. Yes, I saw sometimes Mr. Blanck at that door and sometimes salesmen used to be on that door coming up and down, because there was a tenth floor, an eighth floor, and I was working on the middle -- sometimes that was going there Mr. Bernstein -- used to be manager there — he was on that door sometimes.

Q. When you say "was on that door sometimes" will you please tell the jury what you mean? A. Sometimes, not everybody used to go on that door, but the people from — Mr. Bernstein, and they used to be salesmen, and forelady, I used to see that they were walking on that door.

Q. When you say Bernstein, you mean the manager? A. Yes.

Q. And you spoke of the forelady on the ninth floor? A. Forelady on the ninth floor.

Q. What did you see the forelady do with that door to the ninth floor? A. Used to go on the tenth floor to the office, and sometimes they used to go to the cutters, because the cutters' table used to be on the eighth floor, and they used to come and bring over some samples, some goods that time on that table.

Q. You saw her go through and come back through that door? A. Yes, sir.

Q. And you saw Mr. Bernstein go through that door, out and in? A. Yes, sir.

Q. Did you see Mr. Blanck at that door? A. Mr. Blanck used to go on that door from the tenth floor sometimes.

Q. When you spoke of sales, People coming through that door, did you mean people that worked for Harris and Blanck or people that came from other firms? A. Not from other firms; the sales people that used to work for that firm, they used to go on that floor on that door.

Q. It is over a year since you worked for Harris and Blanck, and you have been in business for yourself in Newark? A. Yes, myself.

Q. Are you connected with Harris and Blanck in any way? Are you a relation or anything of that sort? A. Nothing.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Were you employed there continuously for nine years? That is, were you there all the time for nine years? A. All the time for nine years.

Q. Do you remember when there was a fire on the ninth floor? A. Sometimes there was a fire on the ninth floor.

Q. Do you remember about when that was? A. I can't tell you exactly now, but I know when I worked, it was sometimes a fire.

Q. Do you know how many fires? A. I remember one fire.

Q. Only remember one? A. I remember one fire.

Q. Do you know what year that was? A. I can't tell you now what year, I didn't take it in my head this time, but I remember that there was a fire sometime.

Q. Well, now you first went to work there in what year?

A. In what year, I used to work for that people in another place, and then when they moved in that place I worked with them together in that place too.

Q. You worked for Harris and Blanck before you ever went to Washington place? A. Yes.

Q. Where did you work for Harris and Blanck before you went to Washington place? A. I worked in Wooster street, they used to have a place in Wooster street.

Q. That was before they had the place in Washington place? A. Yes, sir.

Q. So that you went with them at the very first that they opened the place? A. No.

BY THE COURT:

Q. In Washington place? A. In Washington place?

Q. You went there to that building as soon as they went there? You moved with them — when they went there you went there? A. When they moved? I didn't work the first time they moved in Washington place.

Q. In other words, there was a time when they were in Washington place when you were not working for them, is that so? A. I don't understand what you mean.

Q. (Last question repeated through Interpreter) A. (Through Interpreter) In Washington place I worked for them for nine years.

Q. (Without Interpreter) Well, did you go to work for them at the Washington place building on the day that they went

there did you go there to work there, starting right off? A. No.

Q. (Through Interpreter) How long had they been in that building before you began to work for them at that place? A. (Through Interpreter) Possibly may have been there about a year, perhaps a little more.

BY MR. BOSTWICK:

Q. During the first year, while Harris and Blanck were in Washington place where did you work? A. I used to work at another place there.

Q. What is that other place? A. I was working in a different place.

Q. Where? A. Where I used to work there, shirtwaists, another factory.

Q. Where?

MR. STEUER: The name of the people, he wants.

Q. No, where?

MR. STEUER: Oh, the location? Well, tell him.

BY THE COURT: (Through Interpreter)

Q. At what place? A. (Through Interpreter) I think it was in Greene street; it is a long time, I can't remember any more.

Q. And who did you work for, who was your boss? A. (Through Interpreter) They were two small contractors, I don't remember exactly any more. They were two small contractors, used to take work from other manufacturers, and I worked for

them, and then I left them and went to Harris and Blanck, the Triangle Waist Company.

BY MR. BOSTWICK:

Q. When you went to Harris and Blanck, you went back to Harris and Blanck, didn't you? A. Yes, I went back to them. Because I had worked for them before.

Q. When did you go back to them? A. That means this year, when I leave the place it was nine years before, since I leave the place and have my business I know I was working there nine years. I can't tell you what year.

BY THE COURT:

Q. You have been in business for yourself for one year? A. One year.

Q. Then as I understand you, for nine years before that you worked for Harris and Blanck, is that so? (No answer). Q. If you don't understand me, say so. A. (No answer)

Q. (Question repeated by Interpreter) A. (Through Interpreter) But the year before I had left them, in 1910, I had left them.

Q. When you left them in 1910, you had been working for them at that time nine years, is that so? A. Nine years to 1910; I used to work nine years.

BY MR. BOSTWICK:

Q. Were you working there at the time of the strike? A. The strike? Yes.

Q. When you went home at night, which way did you go out? A. On the Greene street door, sometimes the elevator.

Q. Sometimes you would take the freight elevator, and sometimes you would go down the Greene street stairs? A. Greene street stairs.

Q. How often would you go by the stairs and how often would you go by the elevator, just as it happened to be? A. (No answer).

Q. (Question repeated by Interpreter) A. (Through Interpreter) most of the time by the stairs.

Q. That is, the Greene street stairs? A. Greene street.

Q. Did the operators go out that way? A. Yes.

Q. You went out the Greene street way? A. Greene street door.

Q. Did you go out the Washington place stairs? A. Operators, I don't think going out this door.

Q. Did you? A. I? Sometimes, if I needed sometimes to go in the office and ask for something.

Q. No, but at night when you were going home? A. No.

Q. When you were going home you didn't go down the Washington place stairs? A. No, sir.

Q. You never went down the Washington place stairs at night when you were going home? A. It myself, no.

Q. Not during the nine years you worked there? A. Wo.

Q. The times that you saw Mr. Blanck or salesmen or Mr. Bernstein go in or out the Washington place door, that was

during the day time, during work, wasn't it? A. Day-time.

Q. And you mean while the operators were working lit the factory? A. Yes.

Q. Do you know what the word "unusual" means? A. (No answer).

Q. (Question repeated by Interpreter) Do you understand? A. (Through Interpreter) Yes.

Q. Now, you say that you have seen salesmen? A. Yes, sir.

Q. Harris and Blanck salesmen? A. Yes, sir.

Q. Go in or out the Washington place door? A. Sometimes and sometimes no.

Q. Didn't people usually go by the Greene street door up and down stairs? A. Yes.

Q. They used that most of the time, didn't they? A. I can't tell you most, because I was sitting all the time on Washington, and I can't see in the back who goes most on this door, because my face was toward the front, Washington door.

Q. Did you ever notice the key that was in the door on the Washington place side? A. Yes.

Q. What kind of a key was it? A. I think it was yellow, I didn't look just what kind of color, but I think it was a yellow key.

Q. A yellow key? Now, how long a key was it that you saw? A. How long?

Q. Yes. A. I can't tell you how long, but I know I used to saw that all the time.

Q. Show me on your hand how long, indicate in some way how long the key was? A. Outside (now indicating about three inches).

Q. (Through Interpreter) Did that stick outside of the door three inches, or was that the length of the key? A. I didn't measure the key. But I know I have seen the key when it was in the lock, it stuck out about the distance as I am showing (indicating about three inches).

Q. Was the lock on the inside of the door like that? (Indicating against side of jury box)? A. What do you mean?

Q. Was the lock on the inside of the door? A. Yes. It was like that, a long one, yellow.

Q. You didn't mean that the lock was there, did you? A. The lock on the door.

Q. (Question repeated by Interpreter) A. The lock was in the door, but outside was such a brass plate (Answer given through Interpreter).

Q. (Through Interpreter) Was the lock like that, fitting inside the door, in the middle of the door, so (holding in a vertical position People's Exhibit 36, with a hand outstretched placed each side and against the lock)? A. It was worked into the wood, and outside was a brass plate.

Q. Was the brass plate anything like this?

MR. BOSTWICK: Indicating the escutcheon on a model which I ask to be marked for identification.

Model marked for identification People's Exhibit 44.

Q. (Through Interpreter) when you came in the morning did you go in through the Washington place entrance or the Greene street entrance? A. Coming always up by the Greene street door.

Q. At night when the people went out did they all go by the Greene street door, the operators? A. Sometimes in summer-time, it was very warm —~

Q. No --

MR. STEUER: Not "No", but let him finish his answer

I submit.

A. (Witness continuing) Sometimes it was warm in the summer-time and the door used to be open, and the people go down on that door. In the winter-time they used to go on Greene street, and they used to go most down on Greene street door, the operators.

Q. (Through Interpreter) When you went out at night before you left Harris and Blanck was there a watchman stationed at the Greene street door? A. (Through Interpreter) Sometimes I saw a man standing there, and sometimes I didn't see any one standing there.

Q. (Through Interpreter) Did you see what he was doing there? A. I didn't see nothing. He was standing at the door looking at the people go down, that is what I see.

Q. During the nine years you were there you never saw them search the pocketbooks of any of the employees when they went out, did you? A. I never saw that.

Q. You never saw that?

MR. STEUER: Do you claim it was ever done?

Q. Did you see a watchman stand at the Greene street door, and as each person went out they had to open their pocketbook? A. Sometimes I saw them about the pocket books. If a girl used to go down sometimes they used to look inside, or used to touch part of the dress to see if anything is in there.

Q. Did you see that more than ten times while you were there in nine years? A. Sometimes.

Q. How many times do you suppose you saw that? A. I can't tell you exactly how many times.

Q. Would you think it was ten times? A. Maybe.

Q. Maybe ten times? A. I couldn't tell you how many times. Sometimes I saw that.

Q. Do you know Rober Wolson? A. Woldon, - who is he?

Q. I don't know. Dd you know him? A. A cutter used to be Wolson, yes.

Q. Do you know Joe Wechsler? A. The most I know Wolson, because he was working most at that time, and the other cutters I can't tell you, because they were changing all the time, different cutters.

Q. Hadn't Robert Wolson worked there a long time? A. Who?

Q. Wolson? A. Wolson was working a long time, I think.

Q. Over six years? A. He was working more than the other cutters, and that is why I know him better than the others.

Q. (Through Interpreter) When this key that you saw in

the Washington place door was there was it attached to the handle? A. It was not tied to anything; I saw the key in the lock.

Q. During the nine years that you were there, did you ever see any body lock or unlock that door? That is, turn that key one way or the other? A. Yes. Mr. Blanck used to come sometimes and try the door, all the doors, and try that door too all the time. He used to like to do that, Mr. Blanck.

Q. Mr. Blanck liked to do that, did he? A. All the time on the doors to come and open the doors and try the doors, and he tried that door too; that is what I saw.

Q. And you have seen Mr. Blanck standing there trying that door? A. He used to come often and try all the doors, and that door too.

Q. Have you seen him trying that door some times than you ever saw the watchman watch the pocket books when they went out at night? A. I can't tell you exactly, I didn't take my eyes this time to ---

Q. Do you think you have seen Mr. Blanck standing trying that door knob more times than you saw the watchman standing at the Greene street entrance watching the poeketbooks? A. I saw that sometimes, and I saw that sometimes.

Q. About the sane number of times? A. I can't tell you, maybe that more was the pocketbook to look at, maybe sometime more the key to try, but I saw that.

Q. In other words you say maybe Mr. Blanck tried that

that door more times than the watchman looked at the pocket-books? A. I can't tell you exactly more, but maybe, I didn't count them.

Q. You say maybe more times.

THE COURT: You have got that, now; something else.

Q. (Through Interpreter) Can you state when you last saw a person go to the Washington place door before you left? A. (Through Interpreter) I can't say that, I can't remember that.

Q. Were you discharged, or did you leave? A. No, I leave myself the place.

Q. You were not discharged? A. No, I go myself. I leave in the place.

Q. How did you come to be a witness in this case? A. I am just living in Newark, and I know that where I worked in that firm nine years I am willing myself to go and say that what I know, and I wouldn't say nothing for no works, that is what I know.

Q. (Through Interpreter) Did you write to Mr. Harris and Mr. Blansk? A. No.

Q. Did you go and see Harris and Blanck? A. No.

Q. Did you send any word to Harris and Blanck? A. Never.

Q. Did you telephone to Harris and Blanck? A. Never.

Q. How did they know that you could be used as a witness? Do you know? A. I see the papers all the time, and I read every day the papers.

Q. (Through Interpreter) Then what did you do? A. (Through Interpreter) I saw it by the papers that people were wanted in the court who were able to say, after having worked a long time what they had seen there in the factory, and I came here to say what I knew.

Q. (Through Interpreter) And you just came here to-day. A. I came last night to my brother, and this morning I came here.

Q. (Through Interpreter) Did you get a subpoena? A. (Through Interpreter) No.

Q. When did you first speak to Mr. Harris or Blanck or Mr. Steuer? A. When?

THE COURT: About this case?

THE WITNESS: To-day.

BY MR. STEUER:

Q. What time? A. Before we went to dinner; it was half past twelve or one o'clock.

BY MR. BOSTWICK: (Through Interpreter)

Q. Had you been in this factory at any time for one year prior to this fire? A. No, I was not; since I left I didn't go back there any more.

Q. And you don't know whether the Washington place on the ninth floor was locked the day of the fire or not?

MR. STEUER: I object to that; the man wasn't there a year before.

THE COURT: Objection sustained.

A. In April, 1910, go away from the place.

Q. You said Mr. Blanck tried all the doors; what do you mean by all doors? A. He used to come to try the doors.

Q. Not how, but what doors. (Question now put through Interpreter) A. He used to come and take hold of the handle and try the key, turn it, the Washington place door as well as the Greene street door and then go to the other floor.

Q. And he would try the Greene street door in the same way as he did the Washington place door? A. Well, all the doors he used to examine, also the toilet doors.

Q. (Through Interpreter) Would he turn that key both ways, first one way and then the other way? A. I was sitting at my machine, and I couldn't see exactly what he did, but he used to come up and go to the door and turn the key, it seemed to one side and the other side, and try it.

MR. STEUER: And also the knob, Mr. Rosenthal (addressing Interpreter) .

A. (Continuing through Interpreter) He used to try with the key whether it locks, and then take hold of the handle to see whether it opens.

Q. (Through Interpreter) And at what time of the day this of which you are speaking? A. Through Interpreter) Some times nine o'clock in the morning, or some times four o'clock in the afternoon.

Q. Didn't you sit where you couldn't see the Greene street door? A. (Through Interpreter) I had occasion to go to that part of the loft near the Greene street door to take some work or some training.

Q. Are you quite sure you have seen Mr. Blanck try that street door that way? A. Yes.

EDWIN E. WOLF, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. No. 1 Ninety-Third Street.

Q. Mr. Wolf at the time of the fire which occurred at the place of business of Harris and Blanck, were you in the employ of the company or firm? A. I was.

Q. Were you in the City of New York or the State of New York at the time the fire occurred? A. I was not.

Q. In what capacity were you employed with them Mr. Wolf? A. I was manufacturer's agent; employed by there as a salesman on commission.

Q. When you say manufacturers' agent, does that mean that you gave the whole of your time to Harris and Blanck or that you represented other firms in the same line of business? A. That I represented other firms in the same way.

Q. But they were one of the firms you represented at that time? A. Yes, sir.

Q. Have you any present connection of any kind with Harris and Blanck, Mr. Wolf? A. None at all, sir.

Q. When were your relations with Harris and Blanck terminated, Mr. Wolf? A. About the 1st of July.

Q. About that time? A. Yes, about that time.

Q. At that time you ceased to represent the shirtwaist industry? A. Yes, sir.

Q. For how long, Mr. Wolf, had you been employed with Harris and Blanck? A. About two years or a little less. Q. Was that continuous, Mr. Wolf? A. Yes, sir.

Q. During the time that you were employed with Harris and Blanck, did you have any special place where you might be found in their establishment? A. Usually in the sample room, after a little ante room this side of the sample room.

Q. How? A. A little ante room by the sample room.

Q. Either in the sample room or in a little room to one side of the sample room? A. Yes; just before you come to it.

Q. Where was it, on which side of the place kept by Harris and Blanck was this sample room or the ante room near to the sample room? A. On the tenth floor.

Q. When you went to see -- when you went to the place of business of Harris and Blanck, Mr. Wolf, how did you go there? A. I took the elevator on the Washington Street side.

Q. That is the passenger elevators? A. Passenger elevators, yes.

Q. When you left the building, that is when you went to go out of the building, Mr. Wolf, how did you generally leave? A. The same way.

Q. Did you ever have occasion, Mr. Wolf, during the two years you were employed there to go to either of the other lofts occupied by Harris and Blanck? A. Yes, sir.

Q. Am when I say the other, I mean the ninth and the eighth lofts, and did you so understand my question? A. Yes, sir.

Q. Will you tell us please, Mr. Wolf, with what frequency you were, when you were in New York, you went either to the ninth or to the eighth floors; and also if you will what would take you to the ninth or eighth floors? .A. I was not very frequently required to go on the different floors except I wanted to see Mr. Blanck or Mr. Harris and they would be on either one of those floors, and then only unless they were down there and I would go down there to see them; or it might be that I was showing somebody through the factory and I would take them down just that way, but that was not so very often.

Q. In addition to seeing Harris or Blanck on any occasion, and in addition to showing people through the factory, did you go down with relation to merchandise of which you had made a sale, or for which you had procured the order? A. Well I sometimes would go into the shipping department with the shipping clerk in watching to see the orders would go out; occasionally some numbers that I was particularly interested to see shipped and it was not coming up as fast as I thought it ought I would go down to see what the trouble was.

THE COURT: What floor was that on?

THE WITNESS: That was usually -- I would go down to the eighth or the ninth, usually the eighth.

Q. I think His Honor has reference to which floor the shipping department is on. A. The shipping department was on the tenth floor outside the sample room about half way back to the Greene Street elevators.

Q. When you went to the ninth or the eighth floor lofts from the tenth floor lofts, Mr. Wolf, how did you go? A. Most usually down the Greene Street side.

Q. And when you say "Greene Street side" does that mean the staircase or the elevator? A. The staircase.

Q. Did you go, on occasions, to the ninth and eighth floor when you did not go by the Greene Street side? A. Yes, sir.

Q. How did you go when you did not go by the Greene Street side? A. Mostly the elevator when possible; on very few occasions that I have ever used the other side.

Q. That is the Washington Place stairs? A. The Washington Place stairs, I don't think there was possibly half a dozen times in the two years.

Q. A half a dozen times during the two years? A. Yes, sir

Q. Do you say to this Jury positively Mr. Wolf, that you did ever go down the Washington Place stairway from the tenth floor to the ninth floor? A. Yes, sir; I can say that truthfully.

Q. And do you say that you did positively, you did go down the Washington Place stairway from the tenth to the eighth floor? A. Yes, sir.

Q. On the occasions when you went by the Washington Place stairway from the tenth floor to the ninth floor, how did you get into the ninth floor loft? A. Well now the first time that I ever remember going down the stairway was when I first was there; that was around September or October or November, early in the

season and I think the door was open.

Q. You mean it stood open? A. It stood open, it was around the time of the strike.

Q. Yes. A. And I can't say that I ever tried to find -- and ever found that it did not open.

Q. Did you ever in going down from the tenth loft to the ninth loft by the Washington Place stairs ever have any difficulty in getting into the loft? A. No, none at all.

Q. Did you have to do anything more difficult to get in, into the loft than to turn the knob of the door? A. Never.

Q. Do those answers apply equally to your efforts to get into the eighth floor? A. I think so.

Q. Well now, we don't know what you mean by "I think so"; if you ever had any more trouble or not, did you? A. Never had any trouble at all getting in, never on the few times I used it.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Wolf, on March 25th, 1911, you were not at the place of business in the City of New York of the defendants? A. That was the date of the fire?

Q. Day of the fire? A. No, sir, I was not.

Q. And you do not know what the condition of the lock or the door was on the eighth, ninth or tenth floor on that day? A. Yes ~

MR. STEUER: Don't that follow as a matter of course.

THE COURT: He has answered and I will allow it to stand

Q. You state you went on very few occasions, perhaps half a dozen in two years to the lower floors from the tenth floor? A. Yes, sir.

Q. The two years that you speak of are the two years immediately preceding the fire, or immediately proceeding July 1st when you left? A. About July 1st when I left.

Q. Was that the two years immediately proceeding you went you say through there on a very few occasions? A. Very few occasions, yes, sir.

Q. Might not some of those occasions have been in the summer time? A. They might have been.

Q. And have you any recollection as to the time of day that you would be apt to go to the eighth or to the ninth floor? A. No special time of day; but I can recollect this much: that the stairway was always very dark and for that reason I never went down it.

Q. There was no natural light in the stairway? A. No, I do not believe there was; I do remember it was very dark compared with the other stairway.

Q. But there was no artificial light, no electric light? A. No electric light; I remember it was very dark and I had occasion to pass by there three or four weeks before the fire occurred, and I had occasion to go down to the eighth and ninth floors. But I don't know whether I took the Washington Street stairway that time or not; I remember the fact that I did notice a light in that hallway and that was the first time I ever saw a light

in there. Those occasions that I had to go down to the -- through the stairway, that I had to go down to the eighth and ninth floors were as follows:

Q. Now just a moment, you went down to those floors at the time of the strike, did you not? A. yes, sir.

Q. And the door you say you think was open at that time? A. Yes, sir.

Q. Now did you know that that was one of the very questions that caused the strike, the leaving of this door open -- unlocked?

MR. STEUER: I object to that on the ground that that is not the fact.

THE COURT: I will allow the question.

MR. STEUER: I except.

A. Why, no, I did not.

Q. You didn't know that? A. I will add further to that, if you want —

Q. No, thank you.

MR. STEUER: Wait a moment.

MR. BOSTWICK: Mr. Steuer will re-examine you.

MR. STEUER: Pardon me, will you read the last question?

(Last question repeated by the stenographer.)

Q. That I may make any question a little clearer to you Mr. Wolf: Did you know it was the contention of the employees, and one of the reasons that caused the strike, that they demanded that that door should be left unlocked? A. No, sir, I didn't

know that and I never did hear of it.

Q. Now Mr. Wolf, in answer to one of Mr. Steuer's questions you said "I cannot say I ever tried it and could not find it open. you have expressed there by those tense I think a certain doubt in your mind. There is a doubt in your mind as to whether you ever tried that door? A. Oh, no; there is no doubt in my mind that I ever went down this stairway and didn't get in.

THE COURT: Have you now any recollection as to when going down the stairs and finding the door ajar, that is to say actually open, going down the stairs and finding the door closed but not locked?

THE WITNESS: As I said before I have a faint recollection that the first time I went down there, I found it open and ajar; and on the tenth floor it was right beside the salesman's desk and was very often opened by mistake by customers, leading to the same stairway.

Q. Now, Mr. Wolf, you say that you cannot tell us exactly what time you would go to the eighth and ninth floors upon the few occasions you went there. Will you state how early in the morning it might have been. A. I couldn't state that very well because sometimes I didn't get down there until the afternoon and sometimes I was possibly there at eight-thirty in the morning; and sometimes I would not get there at all.

Q. But you know from the nature of your work that you would not have had occasion to go down stairs the very first thing upon your arrival to the salesroom? A. If you will let

me answer that truthfully and without anything at all: If my work took me down there at eight o'clock in the morning I would be down there; if I found some goods to be shipped and they were not shipped the evening before why I might possibly go down there and find out why those goods were not coming up to the purchase department.

Q. Upon these occasions too you naturally went down on the Greene Street side, through the Greene street door? A. It was that way most always because the entire factory work went up that stairway.

Q. I am trying to call your attention to the fact that when you went down stairs it was usually during the working hours, was it not? A. Yes, sir; certainly.

Q. And the operators were at their machines? A. Yes, sir.

Q. Add when you went in there you saw the operators working at their machines? A. Yes, sir.

Q. You hare no personal knowledge of the course of business that is when the people were leaving the factory at night, have you? A. I have been there very many days after they have gone, in the evening.

Q. After they have gone? A. Yes.

Q. I am speaking now of the time when they went out. A. Well, we used — when I first went with them the employees was going down the Washington Street elevator.

Q. That was stopped? A. That was stopped; I think it was; I am sure that it was stopped; I heard the elevator man

say so that the rest of the people kicked --

Q. What the elevator man said is not proper evidence to state here. A. I heard it, put it that way.

Q. And they ceased to use the Washington Place elevator and then they had to cross over and all go out the Greene Street way? A. I don't know anything more about it.

Q. That is what I say, you don't know about their method of going out at night? A. No, sir.

Q. You didn't see them search, if there was any searching? A. I don't know anything about that at all.

Q. You don't know anything about that at all? A. No, sir.

Q. You were not in those lofts at that time? A. I had no business down in that part of the place.

Q. And therefore you were not in the loft at that time? A. That was not any of my business.

Q. And that being none of your business, you were not in the lofts when they went out at night? A. I was in the building as late as half past six or seven o'clock.

Q. But you were not in the eighth and ninth lofts were you? A. That is none of my business, I don't know about that.

Q. If you had been there you would have seen the searching wouldn't you?

MR. STEUER: Seen what searching, there has not been any suggestion of searching here.

THE COURT: Proceed.

Q. Now, Mr. Wolf, you have no recollection as I understand

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it of ever having been on the eighth or ninth floors — no present recollection, when the operators left the building? A. No.

JOHN CASEY, a witness called on behalf of the defendant being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you reside? A. 67 Bedford Street.

Q. Mr. Casey, did you ever work at the premises 23 to 29 Washington Place? A. Yes, sir.

Q. Talk over this way please and out loud. A. Yes, sir.

Q. Whom did you work for Mr. Casey? A. Under Mr. Stern, Superintendent.

Q. Of the building? A. Of the Asche building.

Q. And what did you do Mr. Casey? A. Engineer.

Q. How long did you work in that building as the engineer? A. Going on five years.

Q. Did you work there up to the time of the fire? A. Yes, sir.

Q. And after the fire? A. Afterwards.

Q. During the time you were working there as engineer did you ever go up stairs to the eighth and ninth lofts with Mr. Stern? A. Yes, sir.

Q. And did you go into the eighth and ninth loft with Mr. Stern on the Washington Place side? A. Yes, sir.

Q. Did you erer yourself, go up to the eighth and ninth and tenth lofts on the Washington Place side?

MR. BOSTWICK: Mr. Casey, just a moment. I object to the form of the question and the several proceeding questions on the ground that I think they are leading the witness and I think the witness should be asked where he went and whether he went in one door or the other and not suggest which way he went in.

THE COURT: I will allow this question.

Q. (Repeated by the stenographer). A. Yes, sir.

Q. How often, Mr. Casey, would you go up to the different lofts in that building? A. Well, several times a day; sometimes three, four, five times.

Q. And that applied to every left in the building? A. Not every loft; probably the eighth, ninth and tenth, might be the second or third below.

Q. And the second and third below? A. Yes, sir.

Q. How often did you go up — how did you go up when you went up to the eighth, ninth and tenth lofts, Mr. Casey? A. I would go up in the freight elevator and probably get off at the tenth floor and walk down to the ninth.

Q. And what called you to the tenth or the ninth or the eighth lofts Mr. Casey? A. I would get a call that a radiator was leaking.

Q. What else? A. Some of the toilets or something was the matter up there.

Q. On the occasion when you went up by the freight elevators, how did you come down?
A. Sometimes I walked across the

loft and went down the hall or I came down the passenger car.

Q. And did you use the freight elevators going down at any time? A. Often, yes.

Q. Did you use the passenger elevators going up at any time? A. Pretty near about the same thing.

Q. Now did you ever use the stairs on the Greene Street side going down from the tenth to the ninth? A. Yes, sir, I walked down the whole lot of them.

Q. Did you ever use the Washington Place stairs going down from the tenth to the ninth floor and from the ninth to the eighth floor? A. Yes, sir.

Q. Did you ever go into the ninth loft from the Washington Place stairs when you came down from the tenth loft? A. Yes, sir, I came in and crossed over and went down the freight elevator.

Q. Did you ever go into the eighth loft from the Washington Place side? A. Yes, sir.

Q. Now on the occasions when you went to the ninth or eighth loft by the Washington Place side door, how did you get in, what did you do to get in? A. Just opened -- turned the handle and walked in on the floor.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Casey, you have been how long, did you say, in the employ of Mr. Stern? A. Going on five years.

Q. You said that you had gone to the eighth and ninth loft with Mr. Stern? A. Yes, sir

Q. Did you ever go to the eighth or ninth loft without Mr. Stern? A. Yes, sir.

Q. Now wasn't it your common practice when you had a call to go up stairs, to go up on the Greene Street freight elevators? A. Well, that depends upon which side I was on; if I was on the passenger side I would go up that way.

Q. When you went up to the ninth floor and you got off the freight elevators, there was in enclosure there? A. No, sir.

Q. No enclosure there? A. No, sir.

Q. That opened right out into the loft? A. Right out into the loft.

Q. There was nothing in front there? A. Yes, sir.

Q. You have been in the habit of going to that place seven times or several times, as I understand your testimony, several times each day? A. Yes, sir.

Q. Now when you stepped out of — if you went up the Washington Place elevators and stepped out on the ninth floor, was there anything there in front of the elevators? A. There was a kind of a partition there coming in, but it had doors on it.

Q. And a partition there, was that on the ninth or the eighth floors? A. Either the eighth or the ninth.

Q. If you and Mr. Stern stepped out of the same elevator — A. Yes.

Q. -- you could both see the same thing, couldn't you? A. Yea, sir.

Q. Now I want to know whether you understand me. Understand what I have to say. I don't want you to misunderstand me or to be misled, you understand I am talking about the ninth floor? A. The ninth floor.

Q. And you understand when I say to you when you came up the Greene Street or freight elevators and you get out you were right in the loft weren't you? A. Right in the loft; yes, sir.

Q. And as you stepped out there was no partition around there A. Not what I know of.

Q. Not that you know of? A. No, sir.

Q. And you went there very frequently on the freight elevator side? A. On both sides.

Q. On both sides. There could not have been any partition unless you saw it, could there?
A. No, sir.

Q. Now when you went to the Washington Place side of the building on the eighth floor or the ninth floor did you ever see a key in the lock? A. Yes, sir.

Q. Now what kind of a key was it, Mr. Casey? A. Well, one of those ordinary keys, small key, oh about six inches long.

Q. How much of the key -- you say it was six inches long. Do you realise how much six inches is? I don't want you to be misled, I want you to give a correct notion to the Jury. That is about six inches by this rule (Holding up ruler). A. Yes, sir.

Q. That pencil from tip to tip is just exactly six inches.

A. Yes, sir.

Q. Now did you see the key, six inches long in this door? A. Yes, sir, together in that door to the best of my knowledge.

Q. To the best of your knowledge? A. Yes, sir, to the best of my knowledge.

Q. Now long before the fire did you go to the ninth floor? A. Sometime in the afternoon, I could not tell you about it exactly, about three.

Q. About the same day? A. About the same day.

Q. On March 25th, 1911? A. 1911, yes, sir.

Q. On the same day, March 25th, you were on the ninth floor? A. I was on the ninth and tenth, same day; I could not exactly tell you the time.

Q. But in the loft? A. Yes, sir.

MR. STEUER: Mr. District Attorney, I will have to object to that kind of procedure; we will have one man examining, not this loud way of conducting the rest of it.

THE COURT: Proceed.

Q. You are speaking of the day of the fire, are you not, Mr. Casey? A. That is what you are asking me.

Q. That is what I was asking you. A. Yes, sir.

Q. And on the day of the fire on March 25th, 1911, you were in that loft? A. I have been in the loft, the ninth and tenth loft, I think.

Q. On the Washington Place side, did you see any key in that

door? A. Yes, sir.

Q. Now describe that key. A. The key was about like the general run of them, about six inches long, plain key.

Q. When you say the general run, I think you mean by that that the key was six inches long? A. That the key was about six inches long to my judgment; there was about an inch of it in the lock, not any more than that, about an inch or so, leaving about five inches extending out.

BY THE COURT:

Q. What is your trade, Mr. Casey, what is your occupation? A. Engineer, sir.

Q. And you are a mechanic? A. Yes, sir.

Q. A machinist? A. Not sir; not a machinist.

Q. What day of the week was the fire, do you remember? A. On a Saturday afternoon.

Q. About how long was it before you heard of the fire that you went to the ninth loft on that day? A. Well it must have been about a couple of hours afterwards Your Honor.

Q. That is to say you heard of the fire about two hours after you had been in the loft, is that it? A. Yes, Your Honor.

Q. You were in the ninth loft about two hours before you heard of the fire? A. Yes, sir, Your Honor.

Q. Were you in the building at the time that the fire started on the 25th? A. I was washing up, Your Honor, getting ready for to go home.

Q. Were you in the building? A. Yes, sir, Your Honor.

Q. At that time? A. Yes, Your Honor.

Q. And two hours before that time you had been in the ninth loft? A. Been up there doing something on the ninth and tenth.

Q. Had you been inside of the ninth loft about two hours before you heard of the fire? A. Yes, Your Honor.

BY MR. BOSTWICK:

Q. Now, Mr. Casey, was there anything that you saw about that key that you remember?

A. The only thing I can remember of there being some kind of a string attached to it fastened to the door, and it was sticking in the door.

Q. Now long was that string Mr. Casey? A. I could not really tell you how long; it might have been six or eight inches long.

Q. Do you think it may have been something like three inches? A. No, not quite, there was enough to let it hang.

BY THE COURT:

Q. What do you mean by long, what do you mean by the length of it? A. About eight inches long.

Q. How wide? A. Well it was a general string, regular common cord.

BY MR. BOSTWICK:

Q. Now you are friendly with the defendants, Harris and Blanck, are you not? A. I have always been friendly to everybody in that house.

Q. Aren't you specially friendly to them? A. No, sir.

Q. Now did you ever try the doors from the landing side? I think you testified you did, but I do not know. A. Yes, sir.

Q. Did you say whether you found them locked or unlocked? A. I found them unlocked; I got off probably at the eighth floor and walked up and got in on the ninth and tenth floor from the outside.

THE COURT: Did you have keys to those doors yourself?

THE WITNESS: No, Your Honor.

Q. Mr. Casey, do you remember on April 3rd, 1911 appearing at the District Attorney's office and this question being put to you and your making this answer: "Q. You never tried the doors from the landing side? A. No."? A. I don't remember it.

Q. Do you remember this question being put to you and this answer being given by you: "Q. And you don't know whether they were kept locked or unlocked? A. No, sir."? A. I don't remember it, sir.

Q. Do you remember this question being put to you and this answer being made by you at the same time in the District Attorney's office: "Q. You never thought of going up the Washington Place side to get into this factory, did you? A. No, sir; I always went on the freight elevator because that leads right up to the loft."? A. Yes, but then I came down the other way.

Q. That is not the question. Did you make those statements

and did you make those answers in the District Attorney's office? A. I made that answer, yes, sir; I did make that answer that I went across on the floor and went down the other way.

Q. Was this question put to you and did you make this answer –A. I don't know.

Q. Wait a moment until you hear the question. Was this question put to you and did you make this answer: “Q. Never have used those stairways? A. Nobody ever came down beyond the third floor; Bernstein and Meyer used it when they went up — they went two flights up?” A. I meant there was nobody —

Q. I don't mean whether that is so but what I mean is when you made that statement, did you hear that question and make that answer, in the District Attorney's office? A. I made that statement too and they came up in the loft —

MR. BOSTWICK: I move to strike that out if Your Honor please.

THE COURT: You will be given an opportunity to explain. Strike out all except his answer that he did.

Q. Did you or did you not make these answers in the District Attorney's office? A. That I disremember.

MR. STEUER: Will you let me see that statement made in the District Attorney's office.

MR. BOSTWICK: I respectfully decline to allow the statement to be inspected.

MR STEUER: And I except.

Now, I ask that the paper be marked for identification

and be furnished to the Defendant's Counsel for the purpose of enabling him to conduct his redirect examination; and also for the specific purpose of enabling the defendants' counsel to ascertain whether the alleged questions and answers appear upon that paper.

THE COURT: So far as the record shows there is nothing before the Court respecting a paper.

MR. STEUER: Your Honor then I understand that the paper is not to be furnished to the defendant?

THE COURT: I know nothing about any paper.

MR. STEUER: May it please Your Honor, it seems to me it is very strange that that state of the record should exist. It was perfectly apparent to everybody that the District Attorney held such a paper and read from it.

THE COURT: I know nothing regarding the existence of any paper, as far as the record is concerned; this witness has been merely asked whether on a certain occasion he was asked certain questions and made certain replies.

MR. STEUER: Your Honor I respectfully ask that the District Attorney produce to me now the paper which Mr. Rubin has in his hand.

MR. BOSTWICK: The District Attorney declines to do so most respectfully.

MR. STEUER: And I respectfully except; and I demand formally that the paper be furnished to me in order that I may be permitted therefrom to conduct the redirect examination

the paper which Mr. Rubin now has in his hand.

THE COURT: The Court knows nothing about any papers; and the request is declined.

MR. STEUER: I respectfully except.

Does the District Attorney deny that he held a paper in his hand reading the answer therefrom?

THE COURT: Mr. Steuer, proceed with your examination of this witness.

MR. STEUER: I respectfully except. That is all Mr. Casey.

ABRAHAM BACHARACH, a witness called on behalf of the defendant, being first duly sworn, testified as follows:

DIRICT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. No. 10 Elinor Place, Yonkers, New York.

Q. Mr. Bacharach, will you please try and talk loud so we can hear what you say. What is your business sir? A. Importer and manufacturer of embroideries.

Q. Are you in business for yourself or connected with any firm? A. I am in business for itself with a partner.

Q. What is the name of the firm? A. Bacharach, Newfer & Company.

Q. Where is your place of business? A. 3, 5 and 7 West 22nd Street.

Q. Mr. Bacharach, do you deal with the defendants, Harris

and Blanck? A. I do.

Q. And in what way do you purchase from their or sell to them? A. Sell them merchandise.

Q. How long, Mr. Bacharach, have you been selling merchandise to these defendants? A. I should judge about ten or eleven years.

Q. Have you been selling them merchandise during all the time that they have been tenants of the building at the corner of Washington Place and Greene Street? A. Yes.

Q. About how frequently Mr. Bacharach, did you call, if at all, at the premises of these defendants? A. Well I should judge on the average of once a day.

Q. Did you, Mr. Bacharach deal with any other tenant in that same building? A. I did not.

Q. So that whenever you went to that building it was to go to the premises occupied by Harris and Blanck? A. Yes, sir.

Q. With whom in the firm, Mr. Bacharach, did you transact your business? A. In the later years with Mr. Harris only.

Q. And in the former years? A. Once in a while Mr. Blanck.

Q. What floor, Mr. Bacharach, and by what means — what floor did you go to and by what means did you go when you went to the premises occupied by these defendants? A. I took the elevators to the tenth floor.

Q. There are several elevators as I understand it in that building. A. The Washington Place elevators, the passenger elevators.

Q. The passenger elevators? A. Yes, sir.

Q. Did you ever go up on the Greene Street side, Mr. Bacharach, by the freight elevators?

A. I went up there once with one of my boys; he could not get the packages up; and I went there to speak a word for him and I went up with him.

Q. That is when a delivery was actually being made? A. Yes, sir.

Q. When you got to the tenth floor — or will you tell the Jury please, where it was that you transacted your business with Mr. Harris and Mr. Blanck, Mr. Bacharach? A. I transacted it on the tenth, the ninth and the eighth floor, wherever I could find Mr. Harris.

Q. Where did you, mainly, transact the business with Mr. Harris, Mr. Bacharach? A. Mainly on the tenth floor.

Q. How frequently, would you say Mr. Bacharach that you have personally transacted business with the defendant Harris on the ninth and eighth floors? A. I could not say how many times, it is so many times; I have transacted business with him on the eighth and ninth floors, I would not want to say how many times.

Q. Mr. Bacharach, when you went to the ninth floor where did you go from? A. From the tenth to the ninth.

Q. When you went to the ninth did you always come from the tenth, or did you ever come to the ninth directly from the street? A. No; I always went to the tenth floor first.

Q. So that whenever you did business with Mr. Harris on the

ninth floor you had first been on the tenth floor and gone to the ninth? A. Certainly.

Q. And that was equally true when you did business with him on the eighth floor; you had first been with him on the tenth and then came to the ninth or eighth floor? A. Yes, sir.

Q. Will you tell the jury please how you went from the tenth to the ninth floor on the occasions when you did it? A. I occasionally did go down on the elevators, occasionally walked down through the Washington Place door and occasionally through the Greene Street door.

Q. When you went through the Washington Place door, by the Washington Place stairway and went into the ninth loft, tell the Jury what you did in order to get into the loft? A. I walked down and opened the door and went in.

Q. What did you do when you went to the eighth loft Mr. Bacharach? A. I did the same thing.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Bacharach, if I understood your testimony correctly you transacted — went first to the tenth floor of the building. A. When.

Q. Upon your arrival at the tenth floor you would look for Mr. Harris, would you not? A. I would ask for him.

Q. You asked for Mr. Harris? A. Yes. sir.

Q. And if you found that Mr. Harris was not right there would you look for him on the Greene Street side of the building? A. I would ask the young lady to find out where he was and tell

him I was there.

Q. And if she told you he was in the back you would go in back? A. I asked first if he was in and for her to go and ask him if he wants to see me.

Q. You first would send to him to find out if he was down stairs and she would go and tell him that you were there and ask if he wanted to see you now? A. If he was on the tenth floor she would go and see him.

Q. If he was not on the tenth floor would she go to where he was or would you go to where he was in some other part of the building or send the young lady to find out first whether he was ready to receive you? A. Sometimes the young lady went for him first and sometimes I went for him myself.

Q. And sometimes on different occasions you would walk into the place and you would go directly and look for Mr. Harris? A. Yes, sir.

Q. This part of the store by the Greene Street side is not it the back of the store? That is what you mean when you say the back of the store? A. The back, yes.

Q. Towards the freight elevators? A. Yes, sir.

Q. If you found when you got there that Mr. Harris was down stairs, you would go down by the Greene Street stairs would not you? A. I certainly would.

Q. To the ninth floor? A. Yes, sir.

Q. And if you didn't see him on the ninth you would go down to the eighth? A. Yes, sir.

Q. Upon all those occasions, do you remember perfectly now if you used the Greene Street stairway? A. I used the one most convenient, always.

Q. If you having been told that Mr. Harris was down on the eighth floor or the ninth floor, the natural way for you to go down would be by the passenger elevator, wouldn't it? A. Some times I could not go down that way.

Q. I say that would be the natural method? A. Occasionally

Q. Very often you used that, more often than any other way? A. Quite often, yes.

Q. And it would be only when the passenger elevator either was delayed and you were in a hurry that you would go down by the stairway as you have testified? A. Sometimes, and then the young man sometimes would not take me down in the passenger elevator.

Q. And then he would sometimes object to taking you down or he would not take you down? A. He did not take me down.

Q. And at those times you would be forced to go down, you would have to talk down.
A. Generally the Washington Place door was the way.

Q. In every one of those cases, Mr. Harris you had been told, that he was down stairs first?
A. I don't know that he went down, I was told that he was down there.

Q. Told that he was down there? A. Yes, sir.

Q. So that you didn't know whether Mr. Harris unlocked any of the doors going down stairs or not? A. Unlocked which

door?

Q. You have been testifying about this door on the Washington Place side on the eighth and ninth floors, have you not? A. Yes, sir.

Q. Now, I say that having been advised that Mr. Harris was down stairs and you went down to find him, you didn't know whether Mr. Harris on the way down stairs had unlocked any of those doors or not? A. I don't know, I didn't see him.

Q. All you know was that upon those occasions you found it available to enter? A. Certainly.

Q. Now about what time would you call to see Mr. Harris? A. most any time of the day.

Q. Well did you have any usual time? A. No; I did not.

Q. Did you call more often in the morning than in the afternoon or was it equally divided or don't you remember? A. Equally divided; sometimes I was there in the morning and came back in the afternoon and on those occasions I went down without asking for him.

Q. About how early in the morning, Mr. Bacharach would you get there. I don't mean to pin you down to the exact minute. A. Oh, half past ten or eleven o'clock after I had been over to my office, through with my office work and mail.

Q. Barely get over there earlier than half past ten? A. may have been on some occasions.

Q. On some occasions, but would you say it would be very rare that you were there before ten o'clock? A. Yes, very rare.

Q. And still rarer when you get there before half past nine o'clock? A. Yes.

Q. And you have no recollection of ever having been there at half past eight o'clock? A. No.

Q. When in the afternoon would you ever appear there shortly after the lunch hour, more often at that hour than any other hour in the afternoon? A. No; I was there as late as five or six o'clock.

Q. As late as five or six o'clock? A. Yes, sir.

Q. And upon those occasions you were on the tenth floor, weren't you? A. Occasionally I went down stairs.

Q. Were you ever on the floor when the gong sounded and the people quit work and went out? A. Sometimes around noon time, if my time kept me there.

Q. That is not my question Mr. Bacharach. I asked you whether you were ever there at closing time at night when they quit work and the bell sounded and you saw them get their things and file out? A. Not as I can remember.

Q. You don't think you were ever there at that time? A. I can't remember whether I was or not.

Q. Now when you came up, with the exception of the time when you came with your boy with some goods to make an actual delivery and took the freight elevator, it was your custom to go up in the passenger elevator to the tenth floor? A. I have walked up too from the ninth to the tenth floor.

Q. Was not it your custom -- let me ask you this, with the

exception of the one occasion that you described in your last answer, I ask you whether it was not your custom to take the passenger elevator to the tenth floor? A. No, sir.

Q. What was your custom? A. A great many times to walk up or else —

Q. Walk the whole nine flight of stairs? A. You mean from down stairs?

Q. I don't think you and I understand each other Mr. Bacharach. A. I don't think so either.

Q. I say when you first arrived at the Washington Place building it was your custom, to enter the Washington Place door.

THE COURT: That is on the street level.

A. Certainly.

Q. And to take the passenger elevator? A. To take the elevator up, certainly.

Q. And you would take it to the tenth floor and that was your custom? A. Yes, sir.

Q. Now you say that upon some occasions you have gone from the tenth floor to the ninth floor? A. Yes, sir.

Q. And by the passenger elevator? A. Yes.

Q. And sometimes to the eighth floor by the passenger elevator? A. Yes, sir.

Q. And you know which those floors are, don't you? A. Yes, sir.

Q. And you have been there very often? A. Yes, sir.

Q. Now you were not there the day of the fire? A. I was

not.

Q. And you knew nothing about the condition of the Washington Place floor or the Washington Place door on the ninth floor at that time? A. No, sir.

Q. When you got out of the elevator, the passenger elevator on the ninth floor, was there any partition there? A. I never got out I don't believe on the ninth floor — you mean on the ninth floor from the passenger elevator?

Q. Several times you have testified you used to take it and go in and out of it. A. I thought you meant coming up, I have got mixed up. I don't remember very well whether there was or not

Q. You don't remember. Upon one occasion when you came up with the freight elevator with the boy, what floor did you come to? A. Went up to the tenth floor.

Q. And you have gone down the Greene Street way stairs to the ninth floor? A. Yes, sir.

Q. Now, was there any partition around there? A. I didn't notice any.

Q. And yet, as I understand it, it was your practice to go to those floors once a day? A. On an average; yes, sir.

MR. BOSTWICK: That is all.

SIGMUND FUCKS , a witness sailed on behalf of the

defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 956 Intervale Avenue, Bronx.

Q. Now, Mr. Fucks talk up over here like as if you wanted an order and talk up loud.

What is your business, Mr. Fucks? A. Painter.

Q. You are not talking for an order now. A. Painting business.

Q. Where is your place of business Mr. Fucks? A. 302 West 118th Street.

Q. Do you know Harris and Blanck? A. Yes, sir.

Q. Did you ever do any work for them in their lofts at Washington Place? A. Yes,
sir.

Q. And what kind of work did you do for them? A. I did the ninth floor.

Q. What do you mean, you did the ninth floor? A. I fixed up the ninth floor.

Q. How did you fix up the ninth floor, what did you do on it? A. I do the ceilings, the
walls and the woodwork.

Q. The ceiling and the walls and the woodwork? A. Yes, sir.

Q. Did you de any work on the toilets? A. I did work on the toilets.

Q. Did you do any work for Harris and Blanck on the eighth floor? A. I did work on the
eighth floor too.

Q. Did you do any w«k for Harris and Blanck on the tenth floor? A. I did work on the
tenth floor too.

Q. Tell the Jury what work you did for Harris and Blanck on the eighth floor. A. I fixed
it --

MR. BOSTWICK: Let us have that last answer so we can hear it.

A. (Continuing) I fixed up the toilets on the eighth floor.

Q. Did you do any other work on the eighth floor? A. On the eighth floor I fixed up the loft.

Q. What do you mean you fixed it up? A. Kalsomined the ceiling and the walls.

Q. On the eighth floor? A. On the eighth floor.

Q. What work did you do on the tenth floor? A. On the tenth floor I fixed it up, the lofts, the ceilings and the walls.

Q. When you say you did work on the toilets, what did you mean by that Mr. Fucks, what did you do in the toilets? A. Washed out the ceilings and walls and kalsomined and varnished the woodwork.

Q. When did you do the work of fixing up the loft on the eighth floor, do you remember? A. On the eighth floor, that is two years ago I fixed the eighth floor.

Q. When did you fix the ninth floor? A. The ninth floor I fixed last year, last summer.

Q. When did you fix the tenth floor? A. The tenth floor I fixed up possibly about four years ago.

Q. You said you fixed up the ninth floor last summer. Last summer was after the fire. Did you do any work for them after the fire? A. After the fire was, no.

Q. You mean the summer before the fire? A. The summer before the fire.

Q. On what side of the building Mr. Fucks are the toilets? A. Or the Washington Place side are the toilets.

Q. Now during the time that you were working there on the ninth floor did you ever go to the eighth floor? A. Yes, sir to the eighth floor.

Q. And during the time that you were working on the ninth floor did you go to the tenth floor? A. Yes, sir.

Q. Will you tell the Jury please how you went from the ninth floor to the eighth floor. A. I went from the Washington side door, through the door out of the tenth and ninth and eighth floor.

Q. Why did you go by the Washington Place side? A. Well, because the toilets was on the Washington Place side and I would not go across the loft, it was easier for me, the toilets was on the Washington Place side.

Q. If you wanted to go from the ninth floor toilets to the eighth floor toilets, if you wanted to go by the Greene Street side you would have to walk all the way across the building A. All the way across the building.

Q. And then you would go down stairs and then you would have to go all the way across the building again? A. Yes. sir.

Q. If you went out by the Washington Place side, you were right alongside of the toilets? A. Yes, sir, right alongside of the toilets.

Q. How often did you go, Mr. Fucks, from the eighth to the ninth floors and from the ninth to the tenth floors in this building? A. Through the day I was about five or six or eight times.

Q. During the day? A. During the day.

Q. How long did you work on the ninth floor in the summer of 1910? A. I worked about three weeks.

Q. And during those three weeks, how many times a day would you go from the ninth floor to the eighth and to the tenth floor? A. Six or seven; I can't remember exactly.

Q. Did you ever find anyone of those Washington Place doors locked so that you could not go in? A. I never found the doors locked, they was always open.

Q. During the three weeks that you worked on the ninth floor were there any girls working on the floor? A. On the ninth floor nobody was working there.

Q. Now during the lunch hour, Mr. Fucks, were there any girls on the ninth floor? A. They used to come up during the lunch hour after they have their lunch, and then they used to fool around and dance and so forth.

Q. On the ninth floor? A. On the ninth floor.

Q. At that time which way did the girls come up there Mr. Fucks? A. They came up there both sides, from the Washington Place side and from the Greene Street side.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. This was while they were making repairs on the ninth floor, wasn't it? A. We was working there.

Q. They were making repairs all through that loft? A. Yes, sir, they were making repairs.

Q. You know Mr. Bernstein, don't you? A. Mr. Bernstein yes, sir, I know him.

Q. The manager? A. Yes, sir, I know Mr. Bernstein.

Q. You used to see Mr. Bernstein when you came there to work? A. Sometimes I did and sometimes not.

Q. And these doors were left open while you were doing the work? A. They were not open.

Q. They were left unlocked during the time or while you were making the repairs on the ninth floor? A. They had always been when I was there.

Q. When you were there? A. When I was there, working there, they were so.

Q. While you were working there there was no manufacturing going on? A. Not on the ninth floor, no.

Q. No manufacturing whatever? A. No, sir.

Q. Not on the ninth -- no operators at work on the ninth? A. No, nobody was working on the ninth floor.

Q. And you were last in that building when? A. I was last in that building about on the 1st of March or the 2nd of March I was last in that building.

Q. That is of this year? A. Of this year.

Q. What were you doing there? A. I was fixing up the sixth floor.

Q. When were you last on the ninth floor of that building?

A. On the ninth floor, I was about, after the first of March I was not.

Q. What were you doing there, to fix something? A. Mr. Blanck called me up there, pulled off a piece of plaster on top of the doors over the toilets and Mr. Blanck showed me it and wished me to fix it up.

Q. About what time of the day was that? A. In the middle of the day or in the afternoon of the day.

Q. Before that when were you last in the building? A. Before what?

Q. A. year ago last summer, wasn't it? A. No, I was there before the fire was about -- after the first of March I was there.

Q. You have just told us about that, haven't you? A. Yes, sir.

Q. Now before that when were you there. A. Before that I was in the building fixing up the ninth floor.

Q. When was that, a year ago last summer? A. That was in September.

Q. I didn't get you then. Didn't you say that you fixed up the ninth loft, that that was last summer? A. In September, in August and September I was working there.

Q. And wasn't that the summer before last? A. Last summer, yes.

Q. Last summer was after the fire. A. No, no, it was before the fire, the summer before the fire.

Q. I think you understand it now. It was a year ago

last summer that you made the repairs on the ninth floor? A. Before the fire was, the summer, the summer before.

Q. The summer before the fire? A. Yes.

MR. BOSTWICK: I think we are agreed about that.

MR. STEUER: Oh, absolutely.

Q. And that was the last time you were on the ninth floor other than the time you saw Mr. Blanck and had this conversation about the plaster? A. Yes, sir.

Q. You were not there on March 25th, 1911? A. No, sir.

Q. And you don't know anything about the conditions of the doors on that day of course? A. No.

BY THE COURT:

Q. You say you were on the ninth loft in the beginning of March, 1911? A. Yes, sir.

Q. Is that so? A. Yes, sir.

Q. And that you went there on one day during the beginning of March, 1911, was that so? A. Yes, sir.

Q. And what time of the day did you reach that loft on that occasion? A. On the — after the first of March --

THE COURT: About the first of March you say that you went in the ninth loft?

THE WITNESS: Yes, sir.

Q. What time of the day did you get there? A. In the afternoon.

Q. About what time? A. About two or three o'clock.

Q. What time of day did you leave the ninth loft on that

occasion? A. I always leave at five o'clock.

Q. When you were there about the beginning of March, 1911. What hour of the day did you leave the ninth left? A. I was there in the afternoon.

Q. About how long were you in the left in the beginning of March, 1911? A. I was only in there about two hours fixing up.

Q. In what part of the loft were you on that day? A. On the Washington Place side.

Q. How did you get to the loft on that day? A. From the Washington Place side -- through the Washington Place side.

Q. And when you say through the Washington Place side, what do you mean? A. I went up with the elevator to the tenth floor and then I went up and fixed up the ninth floor.

Q. You went up on the elevator to the tenth floor? A. Yes, sir.

Q. What elevator? A. From the Washington Place side.

Q. And when you got up to the tenth floor — A. I walked down to the Washington Place side, to the door down to the ninth floor.

Q. And when you walked down that time from the tenth floor to the ninth floor, what stairs did you go down? A. The stairs was from the Washington Place side stairway.

Q. Was there anybody with you at that time? A. Nobody was with me.

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Q. When you got to the door on the ninth floor, what did you do? A. I opened the door and I went out and I went down the stair way.

Q. And when you left the loft that day, how did you leave it? A. I left if by the Washington Place elevators.

RE DIRECT EXAMINATION BY MR. STEUER:

Q. Well now when you worked on the eighth loft at the toilets at the fixing up of the ceilings and all that, did you go to the ninth and tenth lofts?

MR. BOSTWICK: I object to that as not proper re-direct.

THE COURT: I think he was over that on direct.

MR. STEUER: That is entirely satisfactory.

SAMUEL BERNSTEIN, witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 103 West 117th Street.

Q. Mr. Bernstein, are you related to Mr. Harris or to Mr. Blanck? A. Yes, sir; I am.

Q. To which one are you related or are you to both? A. To both.

Q. How are you related to them, Mr. Bernstein? A. Mr. Blanck is a brother in law of mine; and Mr. Harris' wife is a cousin of mine.

Q. The two wives of these two men are sisters? A. The

two wives of these two men are cousins.

Q. Cousins is it? All right. Anyway you are related to both of them. A. Yes, sir.

Q. Prior to the fire, on the day of the fire, the 25th of March, 1911, did you work for Harris and Blanck? A. Yes.

Q. You will have to talk up loud. Are you the Mr. Bernstein that has been mentioned and referred to here as the superintendent and manager? A. Yes, sir.

Q. On which floors, Mr. Bernstein, did you do your work? A. On the eighth and ninth floors.

Q. And how many times a day, Mr. Bernstein, did you travel from the eighth to the ninth floor and from the ninth to the eighth floor? A. I cannot exactly state; might be two hundred different times.

Q. And Mr. Bernstein, how many years did you work for those people? A. Well, I have been with them for twelve years.

Q. Twelve years? A. Twelve years; during the time I have been away fro about one year.

Q. During those twelve years you were away from them for one year? A. Yes, sir.

Q. So you worked for them only eleven years? A. Yes, sir.

Q. Did you work for them all the time that they were at these premises in Washington Place?? A. One year I was away during the time.

Q. Did you work for them when they had the ninth loft only?

A. Yes, sir.

Q. Did you work for them when they had the ninth and eighth loft only? A. Yes, sir.

Q. And then when they got the tenth loft? A. Yes, sir.

Q. Won't you tell us in a general way Mr. Bernstein, tell the Jury what your duties were in that place? A. Yes, sir; I was taking --

THE COURT: A little louder Mr. Bernstein, it will be much easier for the Jury to understand you.

A. (Continuing) I was taking full charge of the floor, being manager and superintendent of the place; engaged all the help, showing them all the work; taking charge of the cutting room all told up to the pressing department.

Q. When you say the pressing department, where was that? A. That is located on the tenth floor.

Q. You mean you had nothing to do with the pressing department? A. Nothing to do with the pressing department or shipping department.

Q. You had nothing to do with the shipping department? A. No, sir.

Q. Mr. Bernstein in these very many times a day that you go from the ninth floor to the eighth floor, and from the eighth floor to the ninth floor; will you tell the Jury please how you would go from one floor to the other? A. I would go just where I was standing; if I was near to the Washington Place side I went up the Washington Place side; most of the time I went up

the Greene Street side.

Q. Now how often a day, give the Jury the lowest estimate every day, Mr. Bernstein, would you go up the Washington Place stairs from the eighth floor to the ninth floor; and down from the ninth floor to the eighth floor? A. It might have been ten different times.

Q. In each day? A. In each day.

Q. During the years you worked and had charge of this place? A. Yes, sir.

Q. Mr. Bernstein at any time when you went from the ninth floor to the eighth floor, or from the eighth floor to the ninth floor on the Washington Place side, did you use a key? A. Never used a key.

Q. Did you have any key? A. Yes, sir; there was a key sticking in the hole with a string.

Q. Sticking where? A. Sticking in the key-hole tied to the knob.

Q. I mean, did you personally, Mr. Bernstein, carry a key that you could use on the lock of the ninth floor or the eighth floor? A. No, sir.

Q. You were present at the time of the fire, weren't you? A. Yes, sir.

Q. Which floor were you on, Mr. Bernstein? A. I was on the eighth floor.

Q. Did you lose a brother in that fire? A. I did sir, yes.

Q. And you lost other relatives besides your brother? A. Yes, sir; I lost a good many relatives.

Q. Do you work for Harris and Blanck? A. I do not, no, sir, not now.

Q. Have you any relation with Harris and Blanck other than what you have described, being a brother in law of Mr. Blanck and being related as cousin on your wife's side to Mr. Harris? A. No other connections at all.

Q. No other connection of any kind? A. No, sir.

Q. Will you tell the Jury please where you were and what you were doing at the moment when you first heard that there was any trouble on the eighth floor? A. I was standing near a desk of a cousin of mine by the name of Dinah Lifschitz, she was a book-keeper that had charge of the accounts of the operators, carried their time; that was done on the eighth floor facing west, on the west side near the northwesterly side; and there was a new girl had been working for about two days, I don't recollect the name, and Dinah called me over to make a price for the girl; the bell had rung --

Q. Wait a moment. By making a price, what do you mean? I don't like to interrupt you? A. I mean a price for her, she was supposed to work week work and she didn't know the price; she worked for a few days and I usually made a price for them; and she asked me what she was going to get and asked me to make a price. And I made a price with her of \$14. and she was perfectly satisfied; and then when she walked away from me and I

heard a cry -- Mr. Harris' sister, I seen her running towards me and hollering "Fire; there is a fire Mr. Bernstein". When I turned around I seen a big blaze and some smoke. I ran towards the other side; I seen a couple of cutters around there and they were using some pails of water.

Q. Will you tell the Jury where that was now, Mr. Bernstein? A. This was on the Greene Street side, North Greene Street side.

Q. North Greene Street side? A. Yes, sir.

Q. Perhaps it would help you if I showed you a diagram that we have been using of the eighth floor? A. (Diagram laid before witness) This is the cutting table (Pointing).

Q. Could you get along just as well if we held the diagram around the other way? A. Yes (Diagram turned around.)

Q. Now the way this diagram is laid out is, that this here is Washington Place (Indicating); and that is Greene Street (Pointing). A. Yes.

Q. Now over here are the Greene Street elevators (Indicating) A. Yes, sir.

Q. And there is the Greene Street door from the stairs (Pointing). A. Yes.

Q. And here is your Greene Street door in the partition (Indicating). A. Yes, sir.

Q. Do you see that? A. Yes, sir.

Q. There is your fire escape (Pointing). A. Yes, sir.

Q. Over here are your cutting tables (Indicating). A. Yes, sir.

Q. And over here are your cutting tables which we will have you lay out in a little while (Indicating) and here are the machine tables (Indicating). A. Yes, sir .

Q. Then over here is what you have referred to as the west side of the building (Indicating) and that is Waverly Place I think or University Place. A. It is University Place — not exactly University Place.

Q. The University Building is on this side somewhere (Pointing). A. Yes, sir.

Q. Now over here are the passenger elevators (Indicating) you see the two? A. Yes, sir.

Q. And there is your Washington Place door (Indicating). A. Yes, sir.

Q. And here is the dressing room (Pointing). A. Yes, sir.

Q. And over here the toilet rooms (Indicating) A. Yes, sir,

Q. You see where they are? A. Yes, sir.

Q. This whole thing is the eighth floor (Indicating diagram); and this is the floor as I understand it that you were on at the time when you were talking to Dinah Lifschitz and this other girl? A. Yes, sir.

Q. And when you heard somebody say “Mr. Bernstein there is a fire.”? A. Yes, sir.

Q. Will you be good enough to point out to the Jury now where it was that you went to when you heard the word “Fire” and where you saw the cutters pouring water? A. I went towards

the Greene Street side near the elevators.

THE COURT: Suppose he indicates first where it was on that diagram that he was at the time.

Q. Over this way is the fire escape (Pointing) and you get the lay out now, don't you ? A. Yes, sir, over here is the Greene Street side (Indicating)?

Q. Yes, sir. A. Over here (Indicating) there was cutting tables.

Q. Here (Indicating). A. Over here (Indicating) there was cutting tables and over here (Indicating) were cutting tables; and here is one here (Indicating); and over here were cutting tables (Indicating); just about there (Pointing) I was. There is a little desk, and over here are some windows (Indicating).

Q. You are outside of the building there. A. I know, but over here was a little desk, a little desk standing right near the windows facing the University College.

Q. That was whose desk? A. Dinah Lifschitz' desk.

Q. And that was Dinah Lifschitz' desk? A. Yes, sir.

Q. Could you tell the Jury how far from the University wall, how far away from the University wall into the loft was Dinah Lifeohitz1 desk? A. Oh, about ten feet.

Q. About ten feet in? A. Away from the wall.

THE COURT: Towards Greene Street?

THE WITNESS: Towards Greene Street, ten feet from the wall.

Q. Into the loft? A. Into the loft.

Q. How far from the toilet rooms, that was close to Dinah Lifschitz' desk, wasn't it, how far was it from her desk? A. Oh, about twenty or twenty five feet.

Q. So that a point which would be ten feet from the wall in towards the loft and which would be twenty five feet --A. This way (Pointing).

Q. Towards the north of the building? A. Yes, sir.

Q. Towards the fire escape wall, would be the point where Dinah Lifschitz' desk was and where you stood? A. Yes. sir.

Q. And you said that at the time when you were talking you were facing west? A. Facing west.

Q. That means out of the building? A. Out of the building; yes, sir.

Q. All right. Now will you tell the Jury --

MR. STEUER: Would you let me have that ruler a minute Mr. Bostwick. (Ruler handed to Counsel) Two and one half inches Mr. Bostwick would be the ten feet, wouldn't it, four feet to the inch?

MR. BOSTWICK: Yes.

MR. STEUER: That would be two and one half inches then. It would be over here two and one half inches (Pointing).

Q. That was twenty or twenty five feet you said? A. About that.

Q. That would be between five and six inches from this toilet (Pointing) A. Six inches about.

Q. No, it would be between five and six because it is a quarter of an inch to the foot and from twenty to twenty five feet would be from five to six inches.

THE COURT: Divide twenty five by four, that would be six times and a little over six.

A. A little over six.

MR. STEUER: Put it six then; six and a quarter (Indicating on diagram).

Q. That point would bring us about here (Pointing) is that where you say that desk was, that would be right near one of the windows. A. It would not.

THE COURT: It is over in this corner (Indicating).

THE WITNESS: I said this corner (Pointing).

Q. Near the window where? A. Near the window on the westerly wall.

Q. Now will you tell the Jury what you did after you heard either Harris or Miss Harris or whoever it was say whatever she said. A. When I turned around I heard a cry of fire; and I turned around and seen a blaze and smoke; I ran towards where it was, where they were pouring water.

Q. Where did you see the smoke and blaze? A. Just about here (Indicating on diagram); just about the second window from the left on the Greene Street side near the freight elevator.

Q. The second window inside of the loft? A. The first window inside of the partition.

Q. The first window inside of the partition? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. At first window would be here (Indicating)? A. Yes, sir.

Q. You notice somebody made a mark somewhere along there where they first saw the fire (Indicating) and that is about the place where you would locate it? A. Yes, sir.

Q. Now what did you then do, Mr. Bernstein? A. I cried out for pails of water; and just then Frank, an elevator boy just came up and he handed me some water; in the meantime that Frank, the elevator boy, he handed me some pails of water --

Q. Yes. A. And in the meantime the elevator door was open, it was a big draught, it was very windy that day and it blew right through you know awfully and it was impossible for me to put it out. Then I saw Louis Sandermann, the Assistant --

Q. Who is that? A. Louis Sandermann.

Q. Who was he? A. Assistant shipping clerk from the tenth floor I just then saw him and I said "Louis, get me the hose as quick as you can." He got down the hose from the eighth floor and handed it over to me and I said "Is it open wide"? But it didn't work, no pressure, no water.

Q. Did you try it? A. I tried it, I had it ready, I opened it, I can't turn it any more, I turn it one way and then the other and fire it away, it don't work.

Q. You fired it away? A. No use, I throw it away; a little fellow by the name of Utter, I don't know his first name, only worked in the factory a couple of months —

Q. Was that his last name, Utter? A. Yes, Utter; he was the assistant machinist and he handed me the hose from the ninth floor; that boy was lost in the fire; that didn't work. I fired that away.

Q. Will you tell the Jury what you did with the hose, Mr. Bernstein? A. As soon as I got the hose I said "Where is the water, where is the water?" He said "There is no pressure, nothing coming; no good; I would not hold on to it and keep turning it but no water; I fired it away and, got a few more pails of water; the fire was getting bigger, on the end, right on top of the table, the lawn was on fire, there was about 120 ply of lawn there, layers on top of the table, and I seen that on top of the table that the fire was running away from me; so when the boy was pulling me by the hand and hollering he was so frightened and I turned around and looked at him and the boy was burning, he ran away from me, he was a button-hole worker from the ninth floor; and then I started for the girls. I sent them back away, the girls you know, they were running for their coats. I said "For God's sake don't run for your coats get out of here as quick as you can" and I pulled them out. One of the girls I slapped in the face, she was fainting and I got her out. Brown came over there by me and I sent him to go over to the other side, I said for him to get away from me you can't put this fire out. I seen there was no way to put it out in that floor.

Q. Who was Mr. Brown? A. Brown is the machinist on the eighth floor; and he went towards the other side and I worked

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on the Greene Street side and we got them all out.

Q. He went over on the Washington Place side? A. Yes, I sent him there.

Q. Where did you go? A. I stayed at the Greene Street side getting the girls out; I would not let them go for their clothes, they had some new clothes, it was near spring and they were wearing their new clothes; I seen a girl going back after her pocket book; she said I have got my pocket book by ay machine and I just made her go along out without it, I just trove them out. It was getting all dark with smoke there and there sat my cousin Dinah Lifschitz, I was trying — she was trying to get up stairs an the telephone or that writing machine whatever it is called.

Q. It is not a telephone, what do you call the machine? You know what the name of it is? A. They call it a —

Q. It is a writing machine, a tetelegraph, or metagraph or something.

THE COURT: Telautograph, is that it?

Q. Telautograph? A. And she was working that and there was no answer. First she screamed out fire through the telephone and she screamed so loud I stopped her; she soared ~~ she scared that girl she said afterwards, admitted she scared her so that she dropped the receiver. Didn't get any answer from the tenth floor. We connected with the tenth floor if we wanted the ninth floor and had to be connected that way to the ninth.

MR. BOSTWICK: In order that I may keep the record

straight I ask that it be stricken out all that happened on the tenth floor, that has been described as happening on the tenth floor.

MR. STEUER: To that I consent that that be stricken out all except the admission that there had to be a connection with the tenth floor in order to get the ninth floor, that should stay in.

THE COURT: That stays in.

Q. What did you do Mr. Bernstein? A. When there was no answer I said "For God's sake these people don't know, how can we make them know" and then I turned around and seen how the flames were spreading and I said "Well we will all get lost here." She said "I can't get anyone." She was simply crying you know.

Q. You are now speaking of Dinah? A. Of Dinah Lifschitz, because I ordered her to do that so she dropped that. I said "Dinah, there is only one man here, and all the girls are out of the eighth floor; and I ran up I wanted to put my way up through the blaze and smoke. I wanted to get into the ninth floor; I remembered I had a number of relatives, a brother and I remember I had cousins and all these people were very dear to me.

Q. And they were on the ninth floor? A. They were all on the ninth floor. I could not get in to the ninth floor; it seemed that there was about, we will say about twenty feet away from the door there was cans of oil for the machine oiling [?]

motor oil that was all fixed around so that no fire or anything should catch in there or anything of this kind; I supposed that that was burning, I don't know, but the blaze was so strong or something, and I could not get in there, I could not get into the ninth floor.

Q. That is into the ninth floor, on the ninth floor the blaze was at the — A. On the Greene Street side.

Q. What did you do then. A. I then ran up on the tenth floor; when I got up to the tenth floor I found the fire was then upon even the tenth floor.

Q. It was then up in the tenth floor? A. Then on the tenth floor.

Q. And it was all burning up in there? A. It was burning at the time when I got up there; and I seen Mr. Blanck and Mr. Harris, and all the pressers and cutters running around like wildcats, they didn't know where they were, they were all crying of fire and they didn't know where they were. I told them the only way for you to get out is on the roof here, I says, the one way for you to get out, there is no other way. I knew where I was. I knew where I came from. So they followed my advice and they ran up that way. I seen a Mr. Silk, a salesman of Krauer & Tynburg standing on a table, I seen him, he was trying to knock out a skylight that was up there and was trying to do that and to get up through it.

Q. The skylight that you are speaking of now is the skylight is the loft itself? A. In the loft itself, in the middle of

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the loft over towards the Washington Place side.

Q. And this is on the tenth floor that you are now speaking of. A. The tenth floor I am now speaking of.

Q. Where were Mr. Blanck's children? A. Mr. Blanck's children were right in his arms, he was holding onto them.

Q. And about what part of the loft, where was Mr. Blanck at that time? A. He was about the middle of the loft just near the skylight I am speaking of; they were right there. And I came over and got on some goods -- I said the only way you can get out of here is over this way and I said you want to be quick about it. And the shipping clerk Addis Markowitz took away Mr. Blanck's child, one of them, the smaller one, and Mr. Blanck held the older girl and they fight their way out of there; and I was the last one to leave that floor too. There was a girl there, a forelady by the name of Lucy; she was the forelady of the presses and she fainted, and I slapped her in the face on the floor and woke her up and I carried her up the stairs to the roof. I felt as strong as a bull at that time; I don't know where I got it from; I carried her all the way on to the roof and there she was fainting again but I stuck to her also; and they were a few other girls around there; Mr. Alders' daughters, the old man, a relative of ours, an uncle of mine, him and my cousins they were there too.

Q. Is that the man that has got charge of the tenth floor? A. He had charge of the tenth floor, and I stood there, and I helped them, all, and I pushed the first man up, he was a cutter

and when he got up on the roof he began to run away instead of standing there and helping the rest of us. When we got up to that place we were all standing there and I seen Mr. Harris was there, and the other, the adjoining roof there must hare been eight or seven feet away and this first fellow that I pushed up was a Mr. Wolfson and immediately Mr. Harris and I helped him up he was going to ran away and I said "For God's sake stay here and give us help to push the other people up through; and he stayed there and we pushed them all up through until there was only another man and myself a Mr. Tichenor, a salesman and he was a large man, weighed 250 pounds and we had some trouble with him; I was the last one there and I seen the flames was coming up through, up through the roof on the up town side, the Greene Street up town side and nobody was there to push me up any more; so I ran across the roof all the way to the Washington Place side where the University College is and they rushed me over a step ladder and when I got up on top of the step ladder I saw as I was getting up on top of the step ladder five or six girls falling from the windows.

Q. Falling from the windows? A. Yes; falling from the windows, jumping from the windows.

Q. Mr. Bernstein during all the time that you worked for these defendants when you went to the eighth floor or to the ninth floor on the Washington Place side I think you said that you walked through the door without using any key? A. Yes, sir.

Q. Will you tell the Jury please, during all those years

where the keys were on the Washington Place side, Mr. Bernstein? A. They were sticking in the key hole tied with a string on the inside of the lock.

Q. Now, Mr. Bernstein for the completion of the diagram that was shown to you before, -- do you now distinctly remember how many cutting tables there were on the eighth floor? We will first start with this section that runs to the Greene Street side East of the machine tables (Diagram laid in front of witness). A. Five tables over here (Pointing.)

Q. Five tables. Will you tell the Jury Mr. Bernstein, starting with the Greene Street side what was the nearest point to the Washington Place side of the first table? Do you understand me? A. Yes, I understand, you mean the place in front of the table.

Q. Yes, sir, at the Washington Place windows? A. Oh, there was about seven feet, about ten, twelve; we had them all spaced, not even, they were not even there (Pointing).

Q. Now you see you are not doing us any good, because unless you confine yourself to one table we won't be able to do anything with it. A. The first table was about seven feet away.

Q. The purpose of this testimony is to have the gentleman who drew this diagram, after we get through with your testimony to draw these tables according to your testimony. A. yes, sir.

Q. It is necessary for you to be as accurate as you possibly can Mr. Bernstein, otherwise everything will be of no value. A. The first of the two tables is seven feet away,

seven feet distant.

Q. From the Washington Place side? A. From the Washington Place side.

Q. How wide were those tables? A. Forty inches wide.

Q. Forty inches? A. Forty inches.

Q. How long were they, if you know, extending towards the northern wall? A. How long they were?

Q. Yes, sir. A. They were about 45 to 50 feet long.

Q. Will you be good enough to tell us how near to the partition on the Greene Street side was the end of the table? A. The Greene Street side?

Q. Yes, sir. A. About nine or ten feet.

Q. Nine to ten feet? A. Yes, sir.

Q. The only other measurement I think we need of that first table is: If you will tell the distance from the Greene Street wall. A. About five feet.

Q. Five feet. Now I want to go over that with you so as to be sure that this is your best recollection and judgment. A. Yes, sir.

Q. You said about seven feet from the Washington Place side. A. These two tables.

Q. Two tables? A. Yes, sir.

Q. Let me talk of one. wont you please Mr. Bernstein. Seven feet from the Washington Place wall? A. Yes, sir.

Q. Five feet from the Greene Street wall? A. Yes, sir.

Q. And nine to ten feet from the partition? A. From the

partition.

THE COURT: And four feet wide?

THE WITNESS: Forty inches wide.

THE COURT: I beg your pardon, forty inches wide.

THE WITNESS: Forty inches.

Q. We will come to the second table.

THE COURT: First get the distance between the tables.

Q. What was the distance Mr. Bernstein between the first and second tables? A. About 32 inches, that is what we always –

Q. About 32 inches? A. Yes, sir.

Q. You don't think it was quite three feet? A. Not quite feet.

Q. You just said "That is what we always" and then what going to say? A. Room for two men to pass through.

Q. Then 32 inches west of the first table is table No. 2 ? A. Yes, sir.

Q. And we are counting from the Greene Street wall? A. Yes, sir.

Q. Now the size of the table, was that the same as the first table? A. The very same.

Q. So we do not need to take any measurement of table No. 2? A. No, sir.

Q. And the distance between table No. 2 and table No. 3? A. That was the same distance.

Q. The same distance 32 inches? A. About 32 inches.

Q. Now the distance from the end of the table to the Washington Place wall? A. That was about nine to ten feet.

Q. Nine to ten feet? A. Yes, sir.

Q. Are you sure that the distance of table No. 3 to the Washington Place wall was greater than it was on the first two tables? A. Positively.

Q. On the Washington Place side? A. Yes, sir.

Q. The distance from the other end of the table to the partition? A. The distances were all alike, they were all even.

Q. They ended exactly at the same point? A. Exactly the same point.

Q. How many tables did you say there was in that section? A. Five tables.

Q. Was table No. 4 32 inches from table No. 3? A. Yes, sir.

Q. The distance from table No. 4 to the Washington Place wall? A. It was about 12 or 13 feet, being there was a motor standing there running the machines.

Q. Does this (Indicating) do you know indicate the motor? A. Yes, sir, it should indicate it.

Q. And you say the distance was about — A. That is for the fourth table.

Q. You say it was from 12 to 14 feet or 13 feet from the Washington Place wall? A. Yes, sir.

Q. I think the end distance was the same? A. The same.

Q. I want to ask you whether all these tables were in front — that is the width of them, were they all the same width? A. All the same width.

Q. How many tables did you say there was? A. Five.

Q. Now table No. 5. A. Table No. 5 was used for — it was a cutting table but we used to put strips away, working strips.

Q. It had been a cutting table? A. It had been a cutting table but we put some strips aside and we put them on that table. It was about fifteen feet away from the Washington Place wall.

Q. And ended about the same point on this (Indicating) A. No, not exactly.

Q. How about the end. A. A little further, a little.

Q. The distance from the north nail was a little larger on the fifth table than it was on the fourth? A. Yes, sir.

Q. And the first four were exactly the same? A. Exactly the same.

THE COURT: How far was the side of the cutting table that was nearest the first row of machine tables away, what was the distance?

THE WITNESS: The first cutting table?

Q. You understand what the Judge means? A. I understand what the judge means. It was about six or seven feet.

Q. Now coming over to this side over here (Indicating); we are now speaking of the north wall or side cutting tables.

A. Yes, sir.

Q. How many cutting tables were there in this section of the room on that side? A.

On the north side?

Q. Yes. A. Two cutting tables.

Q. Will you place those cutting tables for us? A. Yes, sir.

Q. Commencing with the westerly wall, what was the nearest point to that westerly wall of the cutting tables in this section? A. It was about four feet from the wall.

Q. How wide was the cutting table? A. 40 inches wide.

Q. And how far was the most northerly point of the cutting table from the north wall ? A. About three and one half feet.

Q. Three and a half feet. A. About that, enough for a man to pass.

Q. And there was you say two tables? A. Two tables.

Q. What was the length of the tables, you have just given the position of them? A. About 36.

Q. About 36 feet? A. About 33 to 36 feet.

Q. 33 to 36 feet? A. Yes, sir.

Q. And each ran parallel with the north wall? A. Yes, sir.

Q. Where was the second table? A. The second table was about 32 inches apart.

Q. 32 inches apart? A. The same distance apart.

Q. And running nearer to the sewing machine tables?

A. Nearer the sewing machines.

Q. What about the size, was it the same as the others? A. Same all of them, same size.

Q. Have you described all the s cutting tables that there were on the 8th floor? A. Yes, sir.

BY THE COURT:

Q. Were there any tables on that 8th floor besides the cutting tables and machine tables? A. No, sir.

Q. Were there any partitions on that floor that are not shown on that diagram, People's Exhibit No. 1. A. No, sir.

THE COURT: Don't you want him to do the same thing with the 8th floor where the cutting tables were left out?

THE WITNESS (Interrupting) There were no cutting tables there.

MR. STEUER: No cutting tables on the 9th floor.

THE COURT: Examining tables.

BY MR. STEUER:

Q. Now in the westerly section of People's Exhibit No. 2 which is the diagram of the 9th floor and held exactly in the same position as you held the diagram on the 8th floor, do you understand the location thoroughly? A. Yes, sir,

Q. How many examining tables were there altogether? A. Four examining tables.

Q. How many examining tables were there that ran parallel with the westerly wall? A. Altogether four; we are talking of four examining tables.

Q. I say how many were there that ran parallel with the westerly wall? A. Two.

Q. And how many ran parallel with the northerly wall? A. Two.

Q. Will you describe the location of the two that ran parallel with the westerly wall. First tell us how far from the westerly wall was the nearest of those examining tables to that wall? A. The examining tables were about five feet from the wall.

Q. Into the loft? A. Into the loft.

Q. What was the width of those examining tables? A. About thirty six inches I should think, a yard wide.

Q. Thirty six inches wide. They were not as wide as the cutting tables, were they? A. No, sir.

Q. What was the distance of that same examining table, that is examining table No. 1 from the north wall? A. Same distance.

Q. Five feet from the north wall? A. Yes, sir.

Q. And five feet from the westerly wall? A. Yes, sir.

Q. How far was the nearest point of that same table from the toilet room, or did it extend in front of the toilet room? A. No, we had a filter here that was put there.

Q. Oh, not what I mean — we will get to that later. A. The tables ended just there and must have been from that place to the toilet about twelve feet.

Q. You mean that the Rapid Safety Filter Company had a filter

on each floor? A. On each floor.

Q. What do you say in relation to the filter, what had that to do with the table? A. So that nothing might get wet by the water, there was a few boards put up, just a few boards, just a partition put up so that the water would not damage the waists; and that is where the tables finished.

Q. A passageway of about four feet you call that? A. One table, and this is a second table in the centre of these two tables was a passageway of about four or five feet, just a passageway.

Q. I think I misled you.

BY THE COURT:

Q. There were two examining tables on the University Place side. A. On the University Place side too.

Q. Did they run in their length — A. They ran —

Q. In the direction of the fire escape, or did they run in their length towards the Washington Place side? A. They ran in their length towards the Washington Place side and two of them — that is two this way (Indicating) and two in one way (Indicating).

Q. When you say two of them in one length, you mean that the examining tables that were on the fire escape side touched the examining tables that ran in the other direction, is that what you mean? A. That is just what I mean.

Q. In other words there were two examining tables that ran lengthwise from the fire escape wall? A. Yes, sir.

Q. Towards the Washington Place wall? A. Yes, sir.

Q. There were two examining tables that ran -- A. Toward the University.

Q. Towards Greene Street? A. Towards Greene Street.

Q. And parallel with the fire escape wall? A. Running with the wall.

Q. Running in the same direction as the fire escape wall? A. Yes, sir.

Q. And those two tables joined the two tables that ran in the other direction? A. Yes, sir.

MR. STEUER: Making a right angle?

THE WITNESS: Yes, sir.

Q. At a right angle similar to the position of these two tables here (Indicating attorneys' tables) I mean in the sense that they make an angle. A. The only thing, there was a passageway of about four or five feet.

BY MR. STEUER:

Q. The Judge is quite right, isn't he? Suppose these were the two inside tables (Illustrating) You see they were joined this way (Illustrating) weren't they? A. Yes.

Q. Now the next table that ran parallel with this one (Indicating) so and there would be an aisle? A. No, sir.

Q. How then? A. We will say this is the north side (Indicating)

Q. Which? A. This table is the north side.

Q. Here (Indicating)? A. Yes, sir, we will say this is

the north side.

BY THE COURT:

Q. We will take the fire escape as on the side of the Jury (Indicating Jury rail) There is the examining table (Indicating) A. Yes, sir.

Q. And over in that direction (Pointing) is the University Place wall? A. Yes, sir, University Place wall; there was the two tables standing. This is the fire escape on this side (Indicating) and there was about five feet apart here where there was a passage (Indicating) and in the middle of the table you work at, is this passageway of about four or five feet or something on the other side.

MR. BOSTWICK: I don't get that.

THE WITNESS: This is a fire escape over here (Indicating).

MR. BOSTWICK: May I make a suggestion to the Court, don't you think that if he went to that piece of paper he could draw a picture of it.

BY MR. STEUER:

Q. Could you draw it? A. yes, sir.

THE COURT: You can draw it on a small piece of paper.

MR. STEUER: Then we can get the idea and furnish the dimensions.

THE COURT: Before he leaves, get from him any other tables there may have been is there or articles that there

may have been on that floor.

MR. STEUER: Go to that paper and draw it (Indicating paper on board.)

MR. BOSTWICK: I ask that this be marked for identification for the benefit of the engineers when they try to cut in the cutting tables on the other floor, if it is possible (Referring to paper taken from Board.)

THE COURT: The marks on that paper were made by the witness Rubin.

MR. STEUER: All right, if it will help it any, go ahead.

(Paper marked People's Exhibit 45 for identification.)

BY THE COURT:

Q. It would be very much easier for the witness to sit down with a small piece of paper in his hand. Let that piece of paper represent the walls of the loft (Handing paper to witness).

You can write there (Pointing) "Fire escape wall". A. Washington Place.

Q. Washington Place fire escape. A. Yes, sir, that is the north side.

Q. That is Washington Place (Indicating) A. Yes, sir.

Q. That is Greene Street (Indicating); that is a fire escape wall (Indicating); that is the University Place wall (Indicating). A. It is. (Witness drawing on paper.)

THE COURT: Never mind about the size, indicate the position of them.

The witness has done it and it can be marked as an exhibit for identification.

(The same marked Defendants' Exhibit I for identification.)

BY MR. STEUER:

Q. On the paper marked defendants' exhibit I for identification is what you now have on there, -- does that mean four tables? A. Four tables.

Q. And those were the four examining tables on the ninth floor? A. Yes, sir.

Q. Now I have marked those four tables, one, two, three and four, do you see that? A. Yes, sir.

Q. Now No. 1 and 2 run parallel with which wall? A. With University wall.

Q. And 3 and 4 run parallel with which wall? A. With the north side wall.

THE COURT: That is the fire escape wall.

THE WITNESS: Fire escape wall.

Q. Fire escape wall. I want you to tell the Jury how wide these tables were, if they were all the same width, and if not how wide each one of them was. A. They were all of the same width and they were about 36 inches wide.

Q. Now how long was table No. 1, you remember which one that is. A. I understand. Table No. 1 was about ten feet long.

Q. What was the distance between table No. 1 and table No. 2

A. About four to four and one half feet.

Q. How long was table No. 2? A. Table No. 2 was about 12 to 14 feet.

Q. What was the distance between tables No. 2 and -- tables 1 and 2 from the wall?

THE COURT: From the University Place wall.

Q. (Continuing) From the University Place wall? A. About four to five feet.

Q. What was the length of table No. 3? A. About 18 feet.

Q. What was the length of table No. 4? A. 15 to 16 feet.

Q. What was the distance between tables No. 3 and 4? A. Four to five feet.

Q. What was the distance from tables 3 and 4 to the north wall of the building?

A. About four feet.

THE COURT: Were there any other tables on that floor besides the machine tables and these four examining tables?

THE WITNESS: Yes, there was one more table that the girl used to give out the work to the operators.

Q. Where was that table? A. There was also on the north side some parallel with these tables, there was a space between those two tables where there was a clock standing for the girls to punch their time, the week workers, which there was a space of about six foot.

Q. Now where was the table you spoke of before you spoke of the clock? The table where you said the girl did the giving out of work. A. The table where they gave out the work was

parallel with the same two tables and they were six foot apart — from that table.

Q. Parallel with which two tables? A. Of the north side.

Q. That is tables 3 and 4 on this Exhibit I for identification? A. Yes, sir.

Q. Was it one table? A. One table.

Q. How long was that table? A. Oh, it is about seven foot.

Q. How wide was that table? A. The table was about 40 to 42 inches wide.

Q. And you say it was about 6 feet? A. Yes, sir.

Q. In front of each one of these tables, did they stand three or four? A. It did not stand in front of them, it stood right in the same way.

Q. Then it did not stand parallel with them, it stood along the same wall? A. Along the same wall.

Q. And about six feet from table No. 4 A. From table No. 4.

Q. Is that right? A. That is right.

BY THE COURT:

Q. A little closer to Greene Street, it was nearer to Greene Street wall? A. Yes, sir, nearest to Greene Street.

Q. Now were there any other tables on that floor besides those that you have mentioned? A. There was a desk where the book-keeper -- towards Greene Street side of that table, where they gives out the work, I am speaking of, there was a little

girl there by the name of Mary Lowenthal. She was sitting there marking the time down.

Q. Was there anything besides that desk and the tables you have already spoken of? A. No, sir.

Q. Were there any tables beside the machine tables over on the Washington Place side on the ninth floor? A. No, sir.

Q. Will you look at People's Exhibit No. 2 (Diagram placed before witness) and see if you can state what if anything stood where those marks are near the dressing room (Pointing) A. That is Washington Place side (Indicating)?

Q. That is Washington Place side; and here are the passenger elevators (Indicating); and there are the stairs; and there is the dressing room (Indicating). Now what stood there (Pointing)? A. Nothing stood there, no tables.

Q. No article at all? A. No articles at all.

Q. No tin on the floor there? A. No. sir.

Q. No basket? A. Yes, there were near the Washington Place door, we had two girls sewing insleeves on special machines.

Q. You say near the Washington Place door you had girls sewing on special machines? A. They were sitting back to the Washington Place door and elevators and stair case, facing the Greene Street side, the machines were.

Q. I know. A. It is the table I am talking of.

Q. You are talking now about a table that appears over here (Indicating)? A. Yes, sir.

Q. What, if anything, stood on those square places (Indicating)? A. There were two shelves fixed up there where they used to put their work in and sort their work; that was between the Washington Place elevator and the staircase door, just near the wall, just about two and one half feet, about thirty inches.

BY MR. STEUER:

Q. Now, Mr. Bernstein, during all the years that you worked there, were you always the manager and superintendent of the eighth and ninth floors? A. During the twelve years?

Q. How? A. When I came in with the Triangle Waist Company they were only at one floor, the ninth floor; then I was making patterns for them and was foreman in the operators; then when they took the eighth floor I was also working part time and taking charge of all the operators in the cutting room; and when the tenth floor was taken, the office from the eighth floor and the pressing department and shipping room went up on the tenth floor; naturally we put up more machines, so I gave up pattern making, I could not manage it and I only took charge of the entire place.

THE COURT: If you would only talk a little louder
you would make it so much easier for the jurors to hear you.

Q. You took charge of what? A. I took charge of the eighth and ninth floor.

Q. Now, Mr. Bernstein, was the door on the eighth or ninth floor ever looked just before the employees on the eighth and ninth floors were dismissed? A. No, sir.

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THE COURT: We will suspend now.

Gentlemen you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you.

(Adjournment was then taken until ten-thirty o'clock a.m., December 21st, 1911.)

LAST EXHIBITS:

People's Exhibit 45

Defendants' Exhibit I.

New York, Thursday, December 21, 1911.

TRIAL RESUMED.

THE COURT: The witness under examination may come forward and take the chair.

SAMUEL BERNSTEIN, resumes the stand and further testifies.

THE COURT: I notice on page 1302 a slight error in the record. A part of an answer as given by the witness appears in the record to have been part of the question. That is apparent by looking at the next page.

MR. STEUER: Well, any correction that your Honor thinks ought be made I am perfectly willing to consent to it.

THE COURT: It is just the beginning of the answer is made the end of the question.

MR. STEUER: I have not read any part of the testimony, so I could not follow it.

THE COURT: It appears really on the next page so it is not material.

Have you finished your direct examination Mr. Steuer, of this witness?

MR. STEUER: There is one matter I did want to take up, although I did say yesterday evening that I was finished with him.

THE COURT: You may proceed.

DIRECT EXAMINATION BY MR. STEUER: (Continued)

Q. On the eighth and ninth floors what was the manner in which the lofts were attended to in the way of cleaning? A. They were swept by porters — we had nigger porters.

Q. Speak louder. A. We had colored porters, and it was swept up nights and also in the day-time. At night it was swept under the machines, among the girls, and in the day-time it was swept among the aisles and cutting tables, and so forth.

Q. What was done with the cuttings from the cutting tables? A. The cutters would have a sort of a bin like underneath the table, where the cutters when they took off the clippings fired them right into the bin.

Q. Have you worked for other shirtwaist factories, besides the factory of Harris and Blanck? A. I did.

Q. You know the machine tables in the premises of Harris and Blanck, do you not? A. Yes, sir.

Q. What type of machine were they, Mr. Bernstein? A. All kinds, Singer make, Wilcox & Gibbs, the Union Special.

Q. Were those machines mounted on tables of the same kind and character as are generally in use in the shirtwaist factories throughout the City of New York? A. Yes, sir.

Q. Were the cutting tables that were in use at the premises of Harris and Blanck of the same kind and character that are in use in the shirtwaist factories throughout the City of New

York, the most perfect cutting room we had; I never seen one like it all over New York City in factories I was in.

MR. BOSTWICK: I move to strike out the answer.

THE COURT: I will strike it out.

Q. You have seen cutting tables in other factories, have you? A. Yes, sir, I did.

Q. Describe, please, to the jury how the cutting tables in other factories were constructed? A. Much closer together, very much closer together.

Q. What facilities did the cutting tables have in the other factories in which you have been for the purpose of keeping the cuttings from the floor? A. Keep them in lawn cases, cases of lawn, right under the table, on horses standing, you know — table put on horses and just fire them in their cases of lawn, and when the cutter is about, we will say, ten yards away from that case, he has got to go with a handful and fire it in, and naturally they will fire it on the floor. But we had the bin built all the way across the length of the table, and wherever he was standing he had to fire it in that bin, because it was right there all covered up, just about ten inches from the table, so it couldn't get out.

Q. Which method is the better for keeping the cuttings from the floor?

Objected to. Objection sustained. Exception.

Q. You say that before you became the manager of this firm you were a pattern maker? A. Pattern maker, yes, sir.

Q. And a pattern maker is the man who cuts the patters for the garments? A. Yes.

Q. And designs them? A. And designs them.

Q. And he works on a cutting table? A. Yes, sir.

Q. For how many years have you worked on cutting tables? A. I worked for the past fifteen years.

Q. I ask you in the light of your experience with cutting tables, which is the more practicable table for the purpose of keeping the cuttings and clippings from the floor, the table that was in use at Harris and Blanck, or the ones that did not have bins and where they used cases for the purpose of putting the cuttings in?

MR. BOSTWICK: I object to that.

THE COURT: I do not think it is a matter of special knowledge; I think it is one of those things, Mr. Steuer, the facts being laid before an ordinary jury, they are competent to determine for themselves.

MR. STEUER: All right, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You were a witness before the Coroner's Jury? A. Yes, sir, I was.

Q. The employees never went out the Washington place side, did they? A. The employees?

Q. Yes. A. Sometimes they did ~~ not all the way down, no. It was not necessary, but in the factory they used the

doors just as well as I did.

Q. At night when the girls went out to go home they never went down the Washington place stairs, did they? A. No, sir.

Q. The Washington place doors were kept closed? A. Kept closed? In winter, when it was cold; in summer they were open.

THE COURT: The doors referred to being on the eighth, ninth and tenth lofts.

Q. The Washington place doors, you are talking about? A. Yes.

Q. They were always kept closed in winter? A. Not always, no, sir.

Q. Well, do you remember this question being put to you and this answer being made by you before the Coroner on April 10th, 1911 (page 203): "The Washington place doors were kept closed? A. Yes." Did you hear that question put to you and did you make that answer? A. They were kept closed when it was cold, I said, that's all. When it was cold the girls would close it themselves ~ they wouldn't stand for a draft.

Q. Was this question put to you? A. Yes, sir, it was put to me.

Q. And did you make that answer? A. And I made the answer the same way as I as answering you to-day, just now.

Q. Did you make that answer? A. The same as I am answering you now.

Q. As I have stated? A. No, sir.

MR. STEUER: I don't think you read that answer. You

didn't read that answer correctly. And he did answer it as he says on the stand now.

Q. I will put the question again. Was this question put to you and did you make this answer: "The Washington place doors were kept closed? A. Yes" -- will you look at me? A. I am looking at you.

Q. Will you state in answer to my question whether that question was put to you and whether you made that answer? A. I answer the same way as I answered you. It was kept closed only at certain times, when it was cold the girls closed it.

Q. That is not an answer to my question.

THE COURT: Your attention is called now to a certain question which it is said was put to you while you were a witness in the Coroner's Court, and your attention is called to an answer which you are said to have made to that question, and you are now merely asked whether you recollect whether that question was put to you, and if so whether you recollect having made the answer which was read. Now, you will answer that question either yes or no or you don't remember.

A. I didn't say "yes".

Q. You didn't say "yes"? A. No, sir.

MR. STEUER: May I ask you to read the next question and answer?

THE COURT: No, you will have your opportunity on

redirect examination, Mr. Steuer.

MR. STEUER: So that if one forgets to ask the next question it is permitted to get an impression improperly before the jury in the course of the cross examination?

MR. BOSTWICK: I object to that statement.

THE COURT: That statement is objectionable. We will try and proceed now in an orderly way.

Q. Didn't you send Brown to the Washington place door? A. Did I send Brown; yes, sir, I did.

Q. What did you say to Brown, exactly, as near as you can remember? A. You mean Mr. Brown, you say?

Q. Yes? A. As soon as I seen it, I couldn't put the fire out —

Q. No, Mr. Bernstein — A. I sent Mr. Brown to the Washington —~

Q. No, that is not the question, the question will be put to you --

Q. (Question repeated by stenographer as follows:) Didn't you send Brown to the Washington place door? A. I said to Mr. Brown, "Go to the front way and try to get the girls out as quick as you can.

Q. Do you remember this question being put to you on April 10th in the examination before the Coroner, and your making this answer: "Didn't you send Brown to the Washington place door? A. I didn't say that exactly, I said, 'Go over on the other side and take care of the doors.'" (page 192), was that ques-

tion put to you and did you make that answer? A. No, sir.

Q. Mr. Bernstein, were you present when the examination was being had by the Grand Jury of this County into this case into this building? A. No, sir.

Q. I want you to be sure you understand me? A. I will remind you of something if you will permit me that happened.

Q. No, I want you to answer my question? A. No, I said no.

Q. You were not in this building? A. I was in the building.

Q. And were you not outside of the Grand Jury room? A. I was.

Q. Did you not talk with the witnesses that were taken in before the Grand Jury? A. I spoke to one.

Q. Did you continue to talk to any after that one? A. No, sir.

Q. Why did you leave the building? A. Because I was trapped in the building.

Q. No, I didn't ask you that? A. I was trapped in the building.

Q. I didn't ask you that.

MR. STEUER: I insist that he be permitted to finish, A. I have something to say, your Honor, about this here.

THE COURT: Do you want the answer to stand?

MR. STEUER: I want the answer to be completed. He asked him why, and when he asked him why, he has the right to give every reason he can think of.

THE COURT: Well, apparently he had stopped.

MR. STEUER: Not he hadn't stopped. Mr. Bostwick thought he had stopped and made sure he would stop, but the witness had not stopped, your Honor. When counsel asks him why he has got a right to state why.

THE COURT: That is not disputed.

MR. STEUER: Then I ask that he be given an opportunity to answer that question.

BY THE COURT:

Q. Have you finished your answer? A. No, sir.

Q. Finish it. A. This young man with the dark hair over there (indicating) subpoenaed me and Mr. Brown and another man by the name of Joe the Cutter to come over to the Grand Jury and we had subpoenaes and we came over there and Mr. Whitman came out and he said, "I will smash your face, get out of here. If you don't get out of this Court we will fire you out." Get a cop quick", and they chased us out of the building, after being subpoenaed there. Did you or did you not hand me over a subpoena (addressing dark haired young man before referred to)? He is smiling; he wouldn't answer that question.

THE COURT: For the purposes of the record it may appear that the witness refers to a young man sitting in the court room, by name Harry Kestenbaum.

BY MR. BOSTWICK:

Q. When was it you called on May Levantini? A. At their home.

Q. And when did you call on May Levantini? A. I don't exactly recollect the date; it must have been about two weeks after the fire, when I found out she was sick in bed.

Q. Will you name some other of the witnesses for the defendant that you called upon after the fire? A. Not any.

Q. You can't remember them? A. I haven't called on any, I said, at all.

Q. Have you had any conversation with Anna or Ida Mittleman? A. No, sir.

Q. Never have spoken to them since the date of the fire? A. Oh, yes, I have spoken to them certainly. I was too glad — when I saw them I was too glad to see them alive, certainly I spoke to the girls.

Q. Did you have orders or instructions that the employees were not to use — the operators were not to use the Washington place elevators at night going home? A. No, sir.

Q. Did you have instructions and orders that they should not be permitted to go down the Washington place stairway? A. No, sir.

Q. Weren't complaints made to you by various employees that they should be permitted to go down at night by the Washington place way on account of the crowd on the Greene street stairs? A. No, sir.

Q. Do you remember any man in the employ of Harris and Blanck asking to you and saying that they ought to be permitted to go out a way other than the Greene street way, and in

addition to the Greene street way? A. No, sir.

Q. There was considerable accumulation of finished stock at the time of the fire, was there not, in the factory? A. I don't know about the stock, that was on the tenth floor kept. I had nothing to do with the tenth floor.

Q. There was no finished stock on the eighth and ninth floors? A. Oh, yes, some, not pressed, you know.

Q. And where was that kept? A. It was kept in the place where they delivered the work.

Q. Now, Mr. Bernstein are you very positive that you had a subpoena to appear before the Grand Jury? A. Very positive.

Q. I presume that you have destroyed that subpoena, or thrown it away? A. I positively did. I came over and I handed it to the door, and I says, "They subpoenaed me to come over"--also Brown, the machinist, and this Joe the cutter, and they said, "Just wait a minute outside here." And one time a girl passed and said, "Hello, Mr. Bernstein", and naturally she spoke to me a few words — just said how I was, that is all.

Q. Are you not confusing the subpoena you had to appear before the Coroner with the subpoena before the Grand Jury? A. No, sir, it was given to me in the Coroner's jury.

Q. All I want to know is that you are positive that you got that subpoena? A. Positive that I had a subpoena, yes.

Q. Have you aided in the preparation of this case for the defendants? A. What did you say?

Q. Have you aided in the preparation of this case for

the defendants? A. I don't understand what it means. It will have to be translated.

Q. All right, never mind. Were you in the employ of Harris and Blanck after the fire? A. Yes, sir.

Q. And you remained in their employ for how long? A. For about three months or fourteen weeks.

Q. Your recollection of what happened on April 10th is good, is it?

THE COURT: Do you mean April 10th?

MR. BOSTWICK: Yes.

A. Oh, I don't know. It is according to what ~~

Q. And are you quite sure that the District Attorney, when he met you on the floor outside of the Grand Jury room told you that he would smash your face? A. Yes, sir.

Q. And that is the exact language used by the District Attorney? A. Exactly. He used worse, he swore at me. He said, "God damn you, get out of here." That is just what he said to me.

BY THE COURT: I will ask you in regard to the stock on the ninth loft, which was finished with the exception of pressing; where abouts was that stock on the ninth loft at the time of the fire? A. When the operators finish their work they bring it into the bookkeeper, a young lady sitting at the desk, a bookkeeper, and she checks off the work and puts it on the desk behind her, on the table — and from that table it goes to the examiners, that is where it is always kept.

When you say the examiners, you mean the examiners' tables? A. The examiners' tables, yes, sir.

Q. Was there some such stock on the examining tables on the ninth loft at the time that the fire began? A. It always was around in the ninth loft — it would be around about two hundred dozen waists at a time, and about one hundred dozen at the eighth floor.

Q. You are talking so low I think it is rather hard for the jury to hear. A. On the ninth floor there was always about two hundred dozen waists kept. Naturally they are getting out so many dozen waists to be examined, they had to be kept.

Q. And when you say waists do I understand you to refer to waists that were finished with the exception of pressing? A. With the exception of pressing, correct.

Q. And those waists which you approximate at about two hundred dozen were there upon the examiner's tables, or else on the tables next to the desk that you have spoken about on the ninth floor? A. And under the machines with the operators.

Q. And when you say under the machines you mean on the tables upon which the machines stood, is that so? A. Yes, sir.

Q. About what was the distance from one machine to the next machine at the tables on the ninth loft? A. Three and a half feet, and some four feet.

Q. The machines were so placed that they were not directly opposite each other, is that so? A. Not directly, no.

Q. That is to say, opposite the intervening space between

machines along a certain line there would be on the line facing, a machine? A. Yes, sir, exactly.

Q. The machines were permanently attached to the tables? That is to say, they were screwed or fastened to the tables? A. They were, yes, sir.

Q. At the time when you first learned of or saw the fire~~ at the time when you first saw the flames, were there any electric lights lighted in the loft on the eighth floor? A. None at all.

Q. Can you tell me how many persons were in the eighth loft at the moment when you saw the fire? A. About two hundred.

Q. And when you say about two hundred, how nearly exactly are you able to fix it? You would say positively, for example, not less than - A. Not less than one hundred and eighty.

Q. And not more than --- A. Two hundred.

Q. Are you able to tell me the average length of time after the sounding of the signal for the stopping of the machinery before the employees left the building? A. Before they left the building? A. About ten minutes.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 25 in evidence, and ask you whether the tables upon which the machines are placed are fairly represented by the photograph which I now show you? A. Yes.

Q. And do you recall that that is a picture of the

corner of the loft on the ninth floor?

THE COURT: That is the Greene street and Washington plane corner? A. Yes, sir.

BY THE COURT:

Q. Was there anything immediately in front of the windows at which the fire-escape was on the ninth floor at the time of the fire? A. No, sir.

Q. How long before you saw flames in the eighth loft was it that you had been on the ninth loft? A. Five to six minutes.

Q. What was the distance between the nearest examiner's table on the ninth loft and the window nearest to it opposite to the fire-escape, or leading onto the fire-escape balcony? A. Five feet -- four to five feet.

Q. With respect to the windows in the ninth loft, leading onto the fire-escape balcony, where was the examiner's table that was nearest to those windows? A. Will you repeat it?

Q. Did the examiner's table that was nearest to the window extend from one of those windows at a distance of five feet to each of the windows? A. Yes, sir.

Q. What, if anything at the time of the fire was there between the side of the examiner's table that was nearest to those windows and those windows? Referring to the window leading onto the fire-escape balcony on the ninth loft? A. The nearest to the windows

~

Q. Was there anything in that five foot space that you say

there was between the side of the examiner's tables, and those windows? A. No, sir.

Q. Do you know how much if any stock there was upon that examiner's table at the time when you left the ninth floor, as you say, six minutes, or about six minutes before you saw the flames? A. About thirty dozen waists.

Q. Were they tied up in bundles? A. Tied up in bundles, yes, sir.

Q. With paper wrappings? A. No, sir, just with a string.

BY MR. BOSTWICK:

Q. In order to get onto the fire-escape didn't you have to step on something?

THE COURT: Referring to the fire escape balcony at the ninth loft.

Q. At either the eighth or ninth floor? A. No, sir.

Q. Do I understand you that neither at the eighth nor the ninth floors did you have to step over or on something to get to the fire-escape? A. No, sir.

Q. Supposing you were standing on the floor in the ninth loft, and you wanted to get from that floor to one of the windows that was by the fire-escape balcony, on to the fire-escape balcony, what, if anything, would you have to step on before you reached the balcony? A. There was a passage about five feet betimes those two tables, just opposite that fire-escape window and then there was another one between the desk of the girl that received the work, to that also a fire-escape

window, which was nothing up in the way, unless you went just around to creep up on the table and jump over, otherwise I could just pass by the passage — there was a five foot space there.

BY MR. BOSTWICK:

Q. In other words, if an operator going to the fire-escape window stood on the examining table nearest to the fire-escape they would have to leap five feet in order to land on the window sill nearest the fire-escape? A. They didn't have to get on the table. There was two passages there right facing that fire-escape window.

Q. Follow me, Mr. Bernstein. A. Yes, sir.

Q. Assuming a person was standing on the examining table? A. Yes, sir.

Q. Nearest to the fire-escape? A. Yes, sir.

Q. They would have to leap over five feet in order to get to the sill? A. Yes, sir, surely, they would have to leap over five feet.

Q. And how wide was the examining table? A. Oh, about 36 to 40 inches, 36 inches.

Q. So that would make over eight feet from the northerly wall that the southerly end of the examining table stood, is that correct? A. Yes, sir, that is correct.

Q. (Showing witness People's Exhibit 2) This being on the quarter inch scale, the southerly end of the examining table would come there (indicating), would it? A. That is what

I said, yes, sir.

Q. Will you put your initials there? A. I said between four and five feet, don't forget that, Mr. Bostwick. I never said five feet correct. I said between four and five between the examining table to the fire-escape. I always said between four and five, and if it is between four and five which is correct, it would run about there (indicating) a quarter of an inch less, and I will put my initials there (witness marking his initials on diagram).

Q. Who was the person that gave the elevator men instructions as to their duties? A. Mr. Harris and Mr. Blanck.

Q. You never told the elevator men anything in regard to whom they should take down, and whom they should bring up? A. No, sir.

Q. Who gave the instructions to the watchman who stood at the Greene street end as the employees passed by at night — you or Mr. Harris or Mr. Blanck? A. The instructions about what?

Q. Any instructions that were given to this watchman? A. The instructions to watch the clock, and punch the cards -- that one girl should not punch three cards at a time.

Q. Who gave those instructions? A. I did.

Q. Did you give any other instructions to the watchman on the eighth and ninth floor? A. No, sir.

Q. And if they received any instructions from the firm it was not from you? A. No, sir.

Q. Do you remember the date when you called at my office?

A. I do not, sir.

Q. Do you remember calling at my office a few days after the fire? A. Yes, sir, you called for me, Mr. Bostwick.

Q. Didn't you call because Mr. Blanck asked you to come down? A. No, sir.

Q. Did you not make a statement to me that you said to Mr. Brown, "You go and let them out the front way" (referring to the girls)? A. Yes, sir.

Q. There was no person who was burned on the eighth floor, was them? A. No, sir, there was one boy wanted to jump the window, an Italian boy that I learned him cutting, and I held him back.

Q. But no person was burnt? A. No person was burnt.

Q. I want to be sure that I have made no mistake, and it is possible that I have asked you this question substantially in the same form; if there is no objection I am going to ask you again, so we shall be sure there is no mistake. Did you not state before the Coroner's Jury that you stated to Mr. Brown at the time of the fire these words, "Go over on the other side and take care of the doors"? A. No, sir.

Q. And you didn't make that statement before the Coroner? A. No, sir.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. On the contrary, is it the fact that Mr. Rubin asked you these questions, and that you made to Mr. Rubin these

answers (page 191 of the testimony): "After you tried to put the fire out did you see Brown on the eighth floor? A. I saw him running towards me, and I saw the blaze coming towards me. Q. Did you see Brown go to the Washington place door? A. I told him to get away and there was no chance of putting the fire out. Q. Where did you tell him to go? A. To go to the other side of the building to take care of the girls." Is that what you said before the Coroner's jury? A. Yes, sir.

MR. BOSTWICK: I ask that the answer be stricken out.

THE COURT: I will strike it out.

MR. BOSTWICK: Now, I object to the question. The only possible relevancy of my question was impeachment and he having denied it there was no grounds for the rehabilitation of the witness.

THE COURT: I am inclined to think that that objection is technically right. If the witness said he did make the answer suggested by Mr. Bostwick then you would be doubtless right in showing what qualifying statements if any he made.

MR. STEUER: Am I to understand that the objection is sustained.

THE COURT: Yes.

MR. STEUER: I except.

THE COURT: Because I understand the witness denied having said that was brought to his attention.

MR. STEUER: Now, may it please your Honor, isn't it perfectly apparent that where a witness admits having

made a statement that then he is permitted to state the circumstances under which he made it, to qualify it and tell what led him to make it? Or, in fact, as your Honor used the language yesterday, in order to show in reality was the fact.

THE COURT: Yes, but when he denies having said that —

MR. STEUER: Now, I want to call your Honor's attention to the corollary to that rule, as I understand it. Where the witness is asked whether he did not say a certain thing at a certain time and he says no, that is not conclusive with the trier of the fact. The trier of the fact may nevertheless believe that he did say it. And over and beyond that, your Honor, the purpose of asking it is to lay the foundation for a contradiction so that the examiner might subsequently call a witness to show that it was said.

THE COURT: In the event that the prosecution attempts to produce or does produce any testimony in contradiction of this denial, then you will have the right to recall the witness and bring to his attention any qualifying statement that may appear upon the record.

MR. STEUER: With all due deference to your Honor, I do not understand that to be the rule.

THE COURT: Very well, that is the rule that I apply.

MR. STEUER: I respectfully except.

BY MR. STEUER: Q. Were you asked by Mr. Bostwick as he was

reading from page 203 this question: "The Washington place doors were kept closed? A. Yes"; and the next question: "Always closed? A. In winter; in summer we had that wide open." Was that the testimony which you gave before the Coroner? A. Yes.

BY THE COURT:

Q. What is your best estimate of the length of time from the moment when you first saw flames and the moment when the telephone operator on the eighth floor called out through the instrument the word "Fire" to the ninth floor? A. About two minutes.

MR. STEUER: Judge, haven't you got that wrong? Didn't he testify that you could not —

Q. The tenth floor? A. To the tenth floor, yes, sir.

BY MR. STEUER:

Q. You were asked whether you came to Mr. Bostwick's office to make a statement there. Is it a fact that you did go to Mr. Bostwick's office at his request? A. Yes, sir.

Q. And did you answer every question that Mr. Bostwick put to you? A. Yes, sir.

Q. At the time when you were before the Coroner's Jury who was it that asked you the questions that were put to you? A. I think Mr. Rubin.

Q. Did Harris and Blanck have any lawyer or anybody there to represent them at that hearing? A. No, sir.

Q. You were asked where the finished stock is kept. Is there at any time a waist that is completely finished kept

on either the eighth or the ninth floor? A. No, sir.

Q. After the waist leaves the operating table where does it then go? A. To the examiners.

Q. How were the waists gathered or collected from the operating tables? A. They come in bundles, tied up.

Q. And where did they come from the operating tables? A. From the operating tables they come to the bookkeeper.

Q. Why do they go to the bookkeeper? A. To check each off, and see if the amount is right.

Q. So as to see that that which had been given out came back as a finished article?
A. Yes, sir.

Q. From the bookkeeper where did it go? A. It goes to the sleeve setters, and then to the button makers and to the button sewers.

Q. And from the button makers and button sewers where does it go? A. To the examiners.

Q. And from the examiners — A. Upstairs on the tenth floor, to the pressers.

BY THE COURT:

Q. But the waist, with the exception of the pressing ~~ by which you mean ironing, don't you? A. Yes, sir.

Q. (Continuing) Are otherwise finished when they reach the examiners' tables? A. They are.

BY MR. STEUER:

Q. How often are the waists gathered from the examiners' tables? A. As soon as one bundle was examined it was carried

upstairs.

BY THE TENTH JUROR:

Q. Did the examiners have baskets? A. No, sir.

Q. So they had the goods just on the table? A. On the table.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. You were at the Coroner's inquest, were you not? The proceeding before the Coroner's Jury, you were there, were you not? A. Yes, sir, I was there.

Q. And was Mr. Fletcher there? A. I don't recollect.

Q. Do you recall whether Mr. Brown was there? A. Yes, sir; he was there.

Q. And do you recall conversations that you and Mr. Brown had with the witnesses before they went on the stand? A. No, sir. Mr. Bostwick, I called your attention to something in the Coroner's jury, you forgot about that.

THE COURT: No.

Q. Right next to the Passenger's elevators on the Washington place side there was a doorway about four feet wide, was there not, leading to the stairway? A. There was no door there leading to the stairway. The door, naturally there was a stairway door.

Q. I think you misunderstand me. There was a doorway next to the passenger elevators, which led to the Washington place stairway? A. There was, yes, sir.

Q. And that was about four feet wide, wasn't it? A. It was about six feet wide, about, I don't exactly remember.

Q. Do you remember this question being put to you before the Coroner and your making this answer, "There was a doorway about four feet wide? A. Yes, sir." A. I said about.

Q. I ask you, was that question put to you: "There was a doorway about four feet wide", and you answered "Yes"? A. I think I did.

Q. Is that correct? A. That is correct.

Q. I ask you this — in front of that were there boxes kept? A. No, sir.

Q. I ask you now whether this question was not put to you before the Coroner, and whether you did not make this answer (page 171): "In front of that were there any boxes kept, were there any boxes on the 25th day of March, 1911? A. There was boxes, there was always a space." — A. Not in front of the door; not in front of the door.

Q. No, that is not the question. We don't want to know now what the fact is, what we are asking now is whether that question was put to you on that date, and whether you made that answer? A. Yes, sir.

Q. And was this question put to you, and did you make this answer: "Were there any boxes there on the 25th day of March, 1911? A. Yes."? A. Yes, sir.

BY MR. STEUER:

Q. And was the next question asked you by Mr. Rubin to the

one that Mr. Bostwick just read, "Close to the partition of the dressing room the door could open freely? A. Yes. Q. There was nothing in the way of the door opening? A. No, sir." Do you remember those questions and those answers? A. Yes, sir.

BY MR. BOSTWICK:

Q. Now, I ask you to look at People's Exhibit 2 --

MR. STEUER: I object to this see-sawing in this way.

THE COURT: Yes, close the examination now. That is all with this witness.

EMILY L. PERRETT, called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

(The witness states that she resides at 244 Riverside Drive.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your employment? A. I am a buyer.

Q. For one firm or more than one? A. One firm.

Q. And the name of that firm is what? A. Litt Brothers.

Q. And their place of business is where? A. Philadelphia.

Q. And the character of the business is what? A. Merchants, do you mean?

Q. Yes, what character of merchandise, what kind of a place is it? A. General department store.

Q. What did you buy for Litt Brothers? A. I bought the cloaks and suits and dresses.

Q. And in your capacity as buyer for Litt Brothers did you come in contact with the defendants Harris and Blanck? A. Yes, sir.

Q. Did you visit that premises for the purpose of making purchases from them? A. Yes, sir.

Q. Did you have any other relations of any kind with Harris and Blanck, except that you purchased merchandise for Litt Brothers? A. No, sir.

Q. For what period of time back of the date of the fire had you purchased merchandise for the firm of Litt Brothers from these defendants? A. Two years.

Q. With what frequency during those two years did you visit that place of business? A. Three or four times a week occasionally, during the season, the busy season, - three or four times a week.

Q. What is the season during which you did visit that premises? A. Well, from January until September.

Q. Now, when you went to that premises how did you go up stairs? A. The Washington place elevator.

Q. To what floor did you go? A. Tenth.

Q. Whenever you went there you always sent by that elevator and always got off on the tenth floor? A. Always.

Q. Did you ever go to any other floor in those premises after you had gotten on the tenth floor? A. Yes, sir.

Q. And what other floors did you go to? A. I have been on the ninth and also the eighth.

Q. With what frequency have you been on the ninth and on the eighth floor of those premises? A. Why, perhaps two or three times on the ninth, and only once that I can remember on the eighth.

Q. And when you went down from the tenth to the ninth floor — no, I am asking you not whether you went by stairs or elevator? A. Yes.

Q. I am asking you all told how many times you were on the ninth floor or on the eighth floor? A. Two or three times, perhaps four times; I don't just distinctly remember.

Q. Which way did you go when you went down from the tenth floor to the ninth floor? A. I went downstairs.

Q. And where were the stairs and how did you get to them when you went down? A. I came up the Washington place elevator and walked over to the salesman's sample room, and turned, I think, to the left and went downstairs.

Q. Was the door that you went down on the same side of the building as the elevator on which you came up? A. Yes, sir.

Q. When you got down to the ninth floor how did you go into the loft on the ninth floor? A. Simply opened a door and entered.

Q. And was that equally true when you went to the eighth floor? A. The eighth floor I remember about, and think it must have been when I first commenced to buy goods. Mr. Blanck had taken me to the factories and I went down I think, the same way that I went down to the ninth, as afar as I can remember.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You have been buying other things besides waists? A. Yes, sir, I buy the cloaks, suits and dresses.

Q. And I suppose you number among your houses that you deal with quite a number? A. Hundreds.

Q. And it is your custom to go to the various firms or places where you buy the goods, or do they come to you? A. Well, frequently I go to the factories, many times I go to the sample rooms, and not finding the employers there, I go into the factory, especially houses that I do business with — a large business — I go into the factory frequently.

Q. And do you remember going to any of the other factories of any of the other people from you bought? A. Yes, sir, any number of them.

Q. Quite a number? A. Hundreds of them. Most of them I have been through, most all the factories.

Q. Do you go there as frequently as you went to the place of Harris and Blanck? A. Yes, during the season.

Q. In other words, you go there perhaps two or three or four times a week? A. Sometimes oftener. For instance, if I am buying a thing during the season -- coats, for instance, in the winter season, I might go in every day.

Q. So that in the course of a season you would visit an enormous number of places? A. Yes, sir.

Q. And your recollection of one place as opposite to another place is about the same? A. Just about the same, yes.

Q. And you didn't make any special note of how you went in and how you came out? A.

No.

Q. It is your general impression of your best recollection about going there? A.

Yes, sir.

Q. You have no vivid recollection of the ninth floor, have you? A. Well, I have a faint recollection, yes.

Q. You have got a general notion? A. Yes.

Q. You couldn't point out the specific places on the ninth floor where this was or that was? A. No, no, sir.

Q. And your recollection is just the recollection, your best recollection of seeing those places in connection with hundreds of other places? A. I think it is, yes.

Q. Could you tell us, if you stepped off the ninth floor elevator, what was in front of that elevator? A. I have never gone up to the ninth floor in the elevator.

Q. Well, you went from the tenth floor to the ninth floor and went in the door? A. Down the stairs, yes, sir. I never went to the ninth floor, by the elevator.

Q. You came up in the elevator to the tenth floor? A. That's it.

Q. And then for some reason you wanted to visit the ninth floor? A. That's the idea.

Q. And it seemed more convenient to use the Washington place stairs than going away over to the Greene street stairs -- A. I don't know anything about Greene street; I never have seen them.

Q. Then not being able to accomplish what you wanted on the tenth floor, and wanting to go to the ninth floor, you either took the elevator or the stairs? A. I have never gone with the elevator to the ninth floor, I always walked.

Q. Then not being able to accomplish your business on the tenth floor, you went from the tenth floor to the ninth floor by the stairs? A. Yes, sir.

Q. When you went in the door which leads from the ninth floor into the loft -- A. Yes, down the stairs to the ninth floor into the loft.

Q. Do you remember those stairs at all? A. I went down stairs, a few flights -- one flight of stairs, yes, I remember that.

Q. Do you know whether they were dark or light? A. I think as far as I can remember they were dark, that I am positive of. I think they were iron steps.

Q. Do you remember that they were very difficult to go down? A. No, I don't remember that. I remember it was not very well lighted.

Q. Do you remember that they were winding stairs? A. I don't remember this. As near as I can remember there were stairs -- you went down a sort of a little platform, you went down a few more stairs and a little platform that entered into the door, that is all I remember about the stairs.

Q. And when you went in the door, do you know what was on the right-hand and what was on the left-hand? A. You mean in

the factory?

Q. Yes. A. I know there were machines and men and that's all I noticed. I don't notice the other things.

Q. Have you any idea whether this was early morning or late at night, or the middle of the day? A. Yes, sir.

Q. What time? A. It was between three and four o'clock in the afternoon.

Q. And upon the occasion when Mr. Blanck took you through the factory, what time was that? A. I don't remember that. That must have been when I first commenced to buy goods, two years ago.

Q. Kindly tell me, just as well as you can recollect, about the last time that you went to the tenth floor of the factory, and had occasion to go down to the ninth floor before the fire?

A. Yes, it was two days before the fire, it was the 23rd.

Q. Whom did you see when you got to the ninth floor? A. To the tenth floor?

Q. To the tenth floor? A. Mr. Teschner, the salesman.

Q. Whom did you see when you got on the ninth floor? A. I asked for Mr. Blanck, and he said he was on the ninth floor, and I said, "We will walk down."

Q. And you have never been there later than four o'clock, have you? A. Yes, I have been in the building, but I don't know that I have been on the ninth or eighth floor later than that. It may have been later; I don't distinctly remember

that, but I know it was about three o'clock.

Q. The operators were all working at their tables? A. Yes, as far as I can remember they were.

Q. And of course you were not there on the day of the fire? A. No, I was in Philadelphia the day of the fire.

BY THE COURT:

Q. On the 23rd, when you went down those stairs, did you go down alone, or did you go down accompanied by any one? A. I went down with Mr. Teschner.

Q. When you got to the door to the ninth loft, who was it that opened that door, you or Mr. Teschner? A. Mr. Teschner.

BY THE TWELFTH JUROR:

Q. When you got down to the ninth floor with Mr. Teschner did he use a key to open that door? A. No, sir.

ISAAC SEGAL, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 12 East 97th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I am salesmen for the Singer Sewing Machine Company.

Q. How long have you been salesman for that concern? A. Since 1884.

Q. Do you know Harris and Blanck? A. I do.

Q. Did you install or did you sell the machines that were

installed at the premises of Harris and Blanck? A. Most of them.

Q. When they were at 23 to 29 Washington place? A. Most of them.

Q. Have you likewise sold similar tables and machines to other shirtwaist manufacturing concerns in the City of New York? A. I did.

Q. Were they of the same kind and character that you put in the place of business of Harris and Blanck? A. Yes, sir.

Q. And were those machines and tables in very large and frequent use in the City of New York and elsewhere in the manufacture of Shirtwaists? A. Yes.

Q. You have seen the place of business, both on the eighth and ninth lofts of Harris and Blanck, when they were at 23 to 29 Washington place? A. I did.

Q. So far as the arrangement of tables and the machines were concerned, was there any difference between their establishment and any other shirtwaist manufacturing establishment of large or equal size? A. No.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You supplied the machines in character and number as ordered by the defendants? A. Yes, sir.

TONY SURAMALLI, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 11 Cleveland

place, New York City.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Removing dirt -- paper man.

Q. Did you have any contract or arrangement with Harris and Blanck while they were at 23 to 29 Washington place?

MR. BOSTWICK: I object. I think he should ask what arrangement, if any, did you have.

Q. Well, what arrangement, if any, did you have with Harris and Blanck while they were at 23 to 29 Washington place? A. Contract to remove his dirt away, every morning.

Q. Did you remove it every morning? A. Yes, sir.

Q. How was it done? A. Well, I go up there, I used to go up there and get it out in bags.

Q. Have you been to the District Attorney's office? A. Once.

Q. You were down here as a witness, weren't you, and they didn't call you? A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. The dirt that you removed was in what kind of things when you took it away? A. It was on Washington floors.

Q. Was it in bundles? A. No, sir, in boxes, big boxes, and a zink case on the ninth floor.

Q. Could you see in those boxes? A. Yes, sir.

Q. And you could see the kind of material that was in there? A. Yes, sir.

Q. Now, what you took away were the strippings, were they not? A. Yes, sir.

Q. Strippings that had been swept away from the floor? A. Paper and rags and dirt.

Q. Do you know the distinction between what are known as the cuttings and the sweepings? A. Yes, I do.

Q. You didn't take away the cuttings? A. No, sir.

Q. What you took were the daily sweepings? A. The gatherings.

Q. They were sweepings? A. Yes, sir.

Q. And you are still working for Harris and Blanck? A. No, sir.

Q. You have ceased to do business with them? A. Yes, sir.

Q. When did you stop doing business with them? A. At the time of the fire. My contract expired in May, and this happened in March.

Q. And you didn't make any new contract? A. No.

BT THE COURT:

Q. When last before the fire were you in the ninth loft of Harris and Blanck? A. The same day, your Honor.

Q. The day of the fire? A. Yes.

Q. And what time that day? A. About nine or ten of clock in the morning. I used to get out of the building about ten o'clock.

Q. And you were in the loft on that day, the ninth loft, were the operatives already at work? A. Yes, sir.

Q. Where did you find the sweepings on that day, what part of the loft? A. Near the elevator.

Q. Which elevator do you mean? A. Greene street side, freight elevators.

Q. Your custom was to take the sweepings down on the freight elevators? A.

Yes, sir.

BY MR. STEUER:

Q. You found them in the same place on the 25th of March that you found them every other day? A. Yes, sir.

Q. What kind of a case did you say that was that they had on each floor for the purpose of these sweepings?

MR. BOSTWICK: I object to that as not proper redirect examination.

THE COURT: I will allow the question.

A. On the eighth floor there was not much sweepings there; it was very small; on the 9th floor there was a big zink case, and so on the tenth floor a box near the windows, and I used to clean that up every morning — I was there personally myself.

GUSSIE RAPP, called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

(The witness states that she resides at 604 East 10th street)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck, don't you? A. I am.

Q. And other than working for them have you any other

relation with them? A. No other relation.

Q. You are not related to either one of them, or anything of that sort? A. No.

Q. What do you do for them? A. I am forelady there for the last two years.

Q. On what floor? A. I was always on the ninth floor.

Q. That was while you were at 23 to 29 Washington place? A. Yes, sir.

Q. As a forelady, did you have any special tables, or did you have any special tables?

A. I had. I had the first tables by the Washington side.

Q. On the Washington place side? A. Yes, the first two tables.

Q. When you say the first two tables you mean the first two machine tables that are nearest to the Washington place side, is that right? A. Yes.

Q. How many girls did you have charge of? A. Well, it is according -- sometimes I have forty and sometimes less.

Q. Were you in the place on the day of the fire? A. I was.

BY THE COURT:

Q. Do you remember how many you had charge of on the day of the fire? A. The day of the fire I was not on the floor at all. I was sitting at a machine working.

BY MR. STEUER:

Q. On the day of the fire you were at a machine working? A. Yes.

Q. Why was that? A. I had to make -- I just come back that day, and I was sitting making some samples for Mr. Bern-stein.

Q. When you say for Mr. Bernstein, you mean the manager, or superintendent? A. The manager of the place.

Q. Previous to that, the day before the fire, we will say, were you working as a forelady, or on a machine? A. No, that week I was more at the machine than on the floor.

Q. Just that week? A. That one week.

A. Tell the judge and the jury how many machines there were at those two tables? A. Well, the short table, probably, had one row up to eight or ten machines, I can't exactly remember, well, the next table was longer with about two machines longer, two or three machines longer -- two machines, I don't believe it was more than two machines longer.

Q. That would make at the short table from sixteen to twenty machines? A. Yes, sir.

Q. And at the large table from twenty to twenty-four? A. Twenty-two, yes, sir.

Q. So you probably had somewhere near forty girls under you all the time? A. Well, not all the machines were always filled.

BY THE COURT;

Q. Were the machines all numbered? I mean to say, did you have what I will call a shop number for the different machines? Were the girls designated by number? A. Not my

machines; there was numbers, every machine is numbered.

BY MR. STEUER:

Q. Every machine has a number? A. Yes.

Q. During the two years you were a forelady there on the ninth floor, will you tell the jury please what are the duties of a forelady? Or, rather, what did you do during those two years? A. I am supposed to give out the work to the people.

Q. Just what does that mean, supposed to give out the work to the people? A. I used to get the work. My charge that I get the finished work from the operators. That means I get the bundle of work — a dozen and a half, some times two or three dozen in a bundle, all finished work. I have to give them to the closers on the special machines ~ give to close and hand, and I used to get that work on the eighth floor and bring it up to the ninth.

Q. When you went to the ninth floor to the eighth floor to get the work, how did you go down stairs? A. Either way, wherever I was nearest, either Washington or Greene street side.

Q. How often a day would you go down those Washington place stairs from the ninth floor to the eighth floor? A. I can never recall that.

Q. Well, I want you to tell the jury the smallest number of times that it would be your necessity of a day to go down those Washington place stairs? A. Twice or three times, any time.

Q. Was there a day when you would go less than twice down

those stairs? A. Probably there was a day I didn't go down that way at all.

Q. But your average was at least twice a day? A. It was twice or three times a day.

Q. Down the Washington place stairs? A. Down the Washington place stairs.

Q. Did you go to the Washington place stairs from the eighth to the ninth floor? A. Just as well. Sometimes we foreladies stand and talk together, and we get caught by the boss, and we run through the other side to get out of their way and not have any questions to answer.

Q. When you went from the Washington place door on the ninth floor to the Washington place door on the eighth floor, did you carry a key with you? A. No, no keys necessary.

Q. Did you carry any key with you? A. What for?

Q. Won't you please answer whether you did or not? A. I did not.

Q. How did you open the door when you went out of the ninth floor door on the Washington place side? A. I turned the knob, and I walked in or walked out.

Q. How did you open the door on the eighth floor when you walked in and walked out?
A. The same way.

Q. Where was the key to the Washington place door on the ninth floor? A. In the keyhole, with a string attached to it.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Have you been talking to Mr. Teschner this morning

outside of the door here? A. I did not.

Q. Mr. Fletcher? A. No.

Q. You have been working for Harris and Blanck? A. Yes.

Q. What salary are you receiving? A. I was working ~~~

Q. No, no. A. Oh, \$18.

Q. What were you receiving at the time of the fire? A. \$15.

Q. And you were not in the building at the time of the fire, were you? A. I went down ten minutes before.

Q. You were not in the building at the time of the fire, were you? A. No.

Q. You went home about four of clock, didn't you? A. About that time.

Q. Did you ever go to the Washington place door on the ninth floor and find it looked? A. Probably I did.

Q. You say probably you did, don't you know you did? A. Nor I can't recall.

Q. You can't recall? A. No, I can't recall.

Q. All right. On the 29th day of March, four days after the fire did you make a statement to my in my office and sign it? A. I did.

Q. I show you that statement and ask you if that is your signature (indicating)? A. Yes, sir.

Q. Did you swear to that before a Commissioner of Deeds? A. I did.

THE COURT: You may read it over before you answer, Madam. You can read every page of it now.

THE WITNESS: Would you mind reading it for me?

BY THE COURT:

Q. Do you mean you find it difficult to read it? A. I do.

Q. Was the paper which you signed read over to you before you signed it? A. Yes.

Q. Do you remember its contents now? A. I will.

Q. What is that? A. I do.

THE COURT: You may proceed.

MR. BOSTWICK: I ask that the paper be marked in evidence.

MR. STEUER: Let me see it. (Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: I call your Honor's attention to the fact — I object to this paper in its present form.

THE COURT: Very well, I will look at it.

MR. STEUER: I call your Honor's attention to the fact that there has been lead pencil

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THE COURT: You may hand the paper to me and I will look at it.

MR. STEUER: May I not state the grounds of my objection so that they might appear upon the record?

THE COURT: Proceed.

MR. STEUER: It appears upon the face of the paper that words have been stricken out with lead pencil writing put in, with no initial or suggestion as to whether it was done before or after ~

THE COURT: I will look at the paper.

MR. STEUER: It appears that a negative answer was stricken out and an affirmative answer written here in ink and that there was a matter written in and indicates that it is added to that which originally appeared as an answer, and that in that one instance the initials of some one do appear – “G.R.”

THE COURT: I will look at the paper.

MR. STEUER: I have no objection to the paper. I consent to its going in evidence.

THE COURT: Will you hand the paper to me, please.

(Paper handed to Court.)

MR. BOSWICK: Before you make your ruling will your Honor hear me, having heard counsel for the defendants?

THE COURT: I will read it through. I will hear you now.

MR. BOSTWICK: I understand that under the ruling in the Hanlon case, if your Honor feels that the entire paper goes to an impeachment of the witness, the whole paper should go in, but if your Honor feels that it contains any matter which does not go to the direct impeachment of the question, the Court in its discretion should then determine whether it should be marked in evidence or for identification and thorn portions admitted in, with the right of the defendant to offer additional parts. That is, as I understand the rule of

law to be in 178 New York.

THE COURT: The first proposition in connection with this paper is this: this witness has not had a sufficient opportunity to pass upon the correctness of the contents of that paper, the witness apparently is unable to read it. I am indisposed to receive the paper in evidence in its present shape.

MR. STEUER: And the defendant excepts to its exclusion.

THE COURT: I have not excluded it, the matter is under advisement. This paper has been shown to a witness who apparently is unable to read it, but who has stated practically that she is able to recollect that which as matter of fact she is said to have said. The paper shown her is upon separate sheets of paper. Upon the last sheet there purports to be a mark made by this witness; apparently the witness is unable to write. I am loth to admit the paper for any purpose at the present time, until there is sufficient evidence to show that it does in point of fact embody that which this witness previously said.

MR. BOSTWICK: For the present I will withdraw the offer of the paper in evidence.

MR. STEUER: The defendants insist upon its being received and offer it as their own exhibit.

THE COURT: The Court will permit it to be marked as an exhibit for identification, but under the state of

the proof at present refuses to receive it as being wholly without probative value.

MR. STEUER: And the defendants respectfully except. (marked for identification People's Exhibit 46.)

BY MR. BOSTWICK:

Q. Did you ever go to the Washington place door on the ninth floor, and find it locked? A. Well, if I did, there was always a key in the door.

Q. No, I ask you to please answer my question? A. I can't remember that.

Q. You are sure that if you did go there there was a key? A. There was always a key with a white string attached to it. I can just picture it in front of my eyes now.

Q. Didn't you state to me that you had gone to the Washington place door and found it locked? A. I said in case I would.

Q. No, answer my question. A. I don't quite understand.

Q. Didn't I ask you this question, and didn't you make this answer to me —

MR. STEUER: I would like to have the stenographer note that it is from the paper that is marked for identification that the counsel is now reading.

MR. BOSTWICK: There is no evidence of that fact.

MR. STEUER: Whether there is evidence of it or not let the District Attorney say whether that is what he going to do or not — if he did not lean over the paper

and pick it up and turn to the spot, what on earth did he de.

MR. BOSTWICK: Now, it may go on the record that the District Attorney reads from a paper.

MR. STEUER: The paper marked for identification — not from a paper, but the paper marked for identification.

MR. BOSTWICK: From a paper.

MR. STEUER: Isn't that the paper that was last marked for identification?

MR. BOSTWICK: There is a question about that, a conclusion.

MR. STEUER: There is a question about it.

MR. BOSTWICK: There is.

THE COURT: I don't know, Mr. Steuer, what paper the District Attorney holds.

MR. STEUER: Well, I do, sir. He holds the paper that was last marked for identification.

(Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: That is the paper, there isn't any question about it.

THE COURT: Allow me to look at it.

(Paper handed up to the Court.)

Q. Wasn't this question put to you, and didn't you make this answer, "Did you ever go to the Washington place door and find that door looked? A. Yes, sir."? A. I didn't

say no. I say if I did find it looked I unlocked it. I don't remember whether I did find it locked or unlocked.

THE COURT: Now, hand me the paper please.

(Paper handed to Mr. Steuer.)

MR. STEUER: In view of the fact that the District Attorney has made this witness appear to have said that I renew the offer of this paper in evidence.

THE COURT: Mr. Steuer, I will not receive the paper in evidence, but I will now apply to that paper the same rule which I applied to a preceding paper under similar circumstances. In other words, you have the right to examine this witness respecting any qualifying statements which he may have made as contained in that paper.

MR. BOSTWICK: Will your Honor hear me just a moment.

THE COURT: Yes.

MR. BOSTWICK: Under what theory of law can the defendant offer a paper of the statement of the witness?

THE COURT: I am not receiving the paper in evidence, but I am applying to this paper the rule that I applied in connection with Exhibit 41, which was marked for identification.

MR. STEUER: Which is the paper that the District Attorney said there was a question about as to whether that was so marked.

BY MR. STEUER:

Q. Now, I ask you if it is not the fact that when you were

in Mr. Bostwick's office that he asked you these questions: "Did you ever try the door leading to the Washington place stairway and find it locked?", and your answer was "No, sir"; isn't that the fact? A. I did.

Q. Now, isn't it the fact that they got you to the District Attorney's office quite some time afterwards, when they had stricken out the words "No, sir".

MR. BOSTWICK: I object at this point to the question on the ground that it is leading.

MR. STEUER: I have a right to lead on matter brought out by him entirely anew. And how else can you find the question to elicit the fact except that way?

THE COURT: You may ask her what she said additional to what she was asked by Mr. Bostwick and under what circumstances she said it.

Q. And is it the fact that later they got you to the District Attorney's office and in ink they wrote in the words after the question, "Did you ever try the door leading to the Washington place stairway and find it locked? A. Yes, sir, but there was a key attached and I used to open it with the key." Did you say that to Mr. Bostwick? A. That is what I say, yes.

Q. Is that what you have said here? A. That is what I meant.

Q. If in the morning when you started your work you did find the door on the Washington place side locked, tell the jury what you did? A. All I had to do —

MR. BOSTWICK: I object to that. The counsel for the defendants has said "If you went there in the morning and found the door locked." There is no testimony from this witness that that was the time or the place.

(Objection sustained. Exception.)

Q. Did you ever find that door locked, the Washington place door on the ninth floor except when you came to work in the morning?

Objected to. Objection overruled.

THE COURT: Yes or no.

A. That is what I said, that I don't remember what I say. Any time I would find the door locked I could always open it with a key attached to the door, whether I could find it in the morning or the afternoon.

BY MR. BOSTWICK:

Q. That was as true of the afternoon as it was of the morning, wasn't it? A. Whatever I say is true.

Q. Well, I say----- A. And whenever I did find that door locked or unlocked, I don't know whether I was there in the morning or afternoon, or toward the evening or whenever that was. I was on the floor all day long.

BY MR. STEUER:

Q. And as long as you worked there that key was always in that door, right in the way that you say?

MR. BOSTWICK: I object to that in the order which the Court ---

Objection sustained. Exception.

Q. Is it the fact that as long as you worked on the ninth floor that the key to the Washington place door was always in the lock, tied to the door knob in the way that you have stated? A. There was always the key in the keyhole. There was a white string always attached to it, and I myself, sometimes, if I seen that the string was not well enough, I went ahead and I tied another string to it.

IDA WILLINSKI, called as a witness on behalf of

the defendant being first duly sworn, testifies as follows:

(The witness states that she resides at 146 East 4th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Did you ever work for Harris and Blanck? A. Yes, sir.

Q. What was your name when you worked for Harris and Blanck? A. Ida Cohen.

Q. You have since been married, and your name now is Willinsky? A. Yes.

Q. When you worked for Harris and Blanck where was it that you worked for them in this Washington place building? A. Washington place building.

Q. On what floor? A. Eighth floor.

Q. And what did you do? A. I was an operator.

Q. And where did you sit on the eighth floor? A. Second

row from the door.

Q. Which door? A. The Washington door.

Q. Where did you sit on the 25th of March, 1911? That is the day of the fire. A. On the second row, on the Washington place door.

Q. When you sat at your machine which way did you look? A. My face was to the door.

Q. On the day of the fire where were you when you first knew that there was any trouble? A. When the power stopped I went to the dressing room for my clothes.

Q. On the eighth floor how many dressing rooms were there on the Washington place side? A. One dressing room.

Q. Is that where you went to get your clothes? A. Yes.

Q. Did you get your clothes? A. Yes, sir.

Q. And what did you do? A. I put them right to the machine, the first machine to the door, I put them on the machine.

Q. On the first row of machines? A. Yes.

Q. You put your clothes there? A. Yes, the fifth machine from the window, right near the door.

Q. The fifth machine from the Washington place window and right in front of the Washington place door? A. Yes.

Q. What was the next thing you knew or heard? A. I started to dress myself, I put the hat, and after I put my coat and I heard an Italian girl was hollering "Fire", I took my pocket-book, and I went to the door.

Q. Which door? A. Washington door.

Q. Did anybody come to that Washington place door before you? A. Nobody else, only I was the first one.

Q. When you got there tell the Jury what happened? A. I wanted to open the door, and I knew because all the girls was falling on me, and they squeezed me to the door, and t said three times to the girls, "Please, Girls, let me open the door, please, Girls, let me open the door," and they didn't listen to me. So I tried to keep my head away from the glass, I should not break the glass. And then Mr. Brown came there and pushed the girls away on the side, and he opened the door and I went down, and when I walked to the stairs, so I met the girls from the sixth floor, that was working cloaks, and she asked me "What are you running so fast?" I said, "There is a fire on the eighth floor", and as soon as I run down I find two bodies on the floor from the eighth floor.

Q. Those bodies had jumped out of the window? A. Yes, on the Washington window. And I went on the other sidewalk, and I looked up at the Greene street side and I seen there Fannie Lonzes; she was dressed in a fur coat and hat and she jumped right through the window.

Q. At the time when you were at the Washington place door, when you say that you kept your head away from the glass, you were afraid of breaking the glass? A. Yes.

Q. Why were you afraid that your head would break the glass? A. I was afraid for my face — I should not scratch my face.

Q. Where was your body when you were near that door?

A. Right to the wood; I tried to keep ay head away.

BY THE COURT:

Q. This is the door of the eighth loft?

MR. STEUER: Eighth floor, your Honor.

BY MR. STEUER:

Q. And were you pressed up to that door by the girls? A. Yes.

Q. At that time where was the key to that door? A. It was in the lock.

Q. When Mr. Brown came there what did he do? A. He pushed the girls away and opened the door and I ran down.

Q. Have you worked for Harris and Blanck since the fire? A. No.

Q. Have you ever spoken to me since the day you were born? A. I don't know you at all.

Q. Has anybody come to you from Harris and Blancks or from any lawyer? A. No, I was working for a different firm.

Q. And you got a subpoena to come here? A. Yes.

Q. And how many days have you been kept waiting here to testify? A. Three days.

Q. Were you a witness before the Coroner's jury after the fire? A. Yes.

Q. And which gentleman examined you at that time? A. Mr. Rubin.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you know Anna Held? A. Yes.

Q. Wae Anna back of you or in front of you? A. I don't know. I was talking that time to you.

Q. Wasn't Anna in front of you? A. Yes, she was the first machine to the window.

Q. Wasn't she standing in front of you? A. No. She wae standing near the window and I was standing near the door.

Q. Are you sure she was not standing in front of you? A. No.

BY THE COURT:

Q. When you say "No", you mean she was not standing in front of you, is that so? A. She was standing in front of the machine, the first machine.

BY MR. BOSTWICK:

Q. Now, do you remember appearing at ay office on March 29th? A. Yes.

Q. How did you come to come to my office? A. I went by myself.

Q. Why did you come? A. Because I seen every girl was went and I went too.

Q. But do you know why you came — who told you to come? A. Nobody told me to come.

Q. You just estate because the other girls case? A. Yes.

Q. Do you know why all those girls came down to see me? A. I don't know why -- to say the truth.

Q. Yes, but do you know what caused them to come down? A. I don't know.

Q. You didn't get any paper to come down? A. No.

Q. I didn't ask you to come down? A. No.

Q. You just came because the other girls came? A. Yes.

Q. Do you remember at that time in my office making this statement to me? A. Yes.

Q. "I was back of Anna Held, Anna was standing in front of me and between the Washington place", ~ do you remember that? A. I don't understand that, what you mean.

Q. All right. You are still working for Harris and Blanck are you? A. No.

Q. When did you cease working for them ? A. At the time of the fire, only the time of the fire.

Q. Did you say you met the girls coming from the sixth floor? A. Yes, sir.

Q. You don't mean the sixth floor, do you? A. Yes, sir, I do mean.

Q. You are sure of that? A. Yes, I didn't say that to you?

Q. Were they girls that had been up in the factory? A. No, on the sixth floor people.

BY THE COURT:

Q. You mean people that worked on the sixth floor, you overtook them on the stairs? A. Yes.

BY MR. BOSTWICK:

Q. You don't mean that, do you? A. Yes.

Q. They worked on the sixth floor? A. Yes, on cloaks.

Q. You are sure of that? A. Yes, I am sure.

Q. Are you as sure of that as you are of the rest of the testimony you have given?

MR. STEUER: I object to that as immaterial. You cannot make comparison between two points of testimony.

THE COURT: Objection sustained.

Q. You are positive? A. Yes, I am.

Q. Wait a minute — that the two girls that you met on the stairway on the Washington place side are girls who worked on the sixth floor in that same building? A. Yes.

Q. At that time? A. Yes.

Q. And you are also positive that you saw a key in the door? A. Yes.

BY THE COURT:

Q. What are the names of those girls that you met on the stairs? A. I don't know them.

Q. Do you know the name of the firm that they worked for? A. No.

BY MR. BOSTWICK:

Q. Did you have a talk with Mr. Bernstein yesterday? A. No, I didn't talk with Mr. Bernstein.

Q. How did you come down here yesterday? A. With a subpoena.

Q. How did you come down, what way did you come? A. By a car.

Q. How did you come down to-day? A. By a car, took the

3rd street car and I transferred to Broadway and I come down here.

LOUIS A. SILK, called as a witness on behalf of the

defendants being first duly sworn, testifies as follows:

(The witness stated that he resides at 843 West End avenue.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I am in the embroidery business.

Q. What firm? A. Krower & Tyneberg.

Q. Where is their place of business? A. 576 Broadway.

Q. Do you know these defendants, Harris & Blanck.

Q. Does your firm, Krowar & Tyneberg deal with them? A. Yes, sir.

Q. And is the account of Harris and Blanck with the firm of Krower & Tyneberg your account? A. Yes, sir.

Q. And has been for how many years? A. Oh, about nine years I guess.

Q. You were in this building at the time of the fire, were you not? A. Yes, sir.

Q. And were you one of the persons that made your escape over the roof of some adjoining building? A. Yes, sir, I was.

Q. How often did you call at the place of business of Harris and Blanck? A. Oh, quite frequently. Sometimes two or three times a day.

Q. And other times? A. Well, I rarely missed a day, but I was on the road quite frequently.

Q. You rarely missed a day? A. While I was in the City.

Q. When you were on the road, of course you didn't call on them.

Q. With whoa was your business in the fins of Harris and Blanck? A. Principally ith Mr. Harris.

Q. When you went to the place of business of Harris and Blanck how did you go? I am assuming now that you are at the building itself, and we want to find out how you got upstairs to their place of business? A. By the elevator.

Q. Which elevator? A. On the Washington place side.

Q. Where did you go when you went into the building? A. Tenth floor.

Q. Always? A. Yes, sir.

Q. When you got on the tenth floor did it ever happen that you went from there to the ninth and to the eighth floors? A. Yes, sir, quite frequently.

Q. And when you went from the tenth floor to the ninth floor or from the tenth floor to the eighth floor did you have any special way of going down? A. Well, sometimes I used the elevators.

Q. Which elevators? A. Well, principally on the Washington place side. I don't think I ever used the elevator on the Greene street side at all.

Q. Did you ever use the stairs on the Greene street side?

A. I did.

Q. Did you ever use the stairs on the Washington place side? A. I did.

Q. Will you tell the jury with what frequency you used the stairs on the Washington place side in going from the tenth floor to the ninth or the eighth floors? A. Well, I used the stairs on the Greene street side more than I did on the Washington place side.

Q. A great deal more? A. Yes, sir.

Q. I want you to give to the jury an idea of how many times, the least, you went down the Washington place stairs to go to the ninth floor or the eighth floor? A. About half a dozen times that I remember in the last two years.

Q. That is, when you say the last two years, do you mean two years back from now, or two years back from the time of the fire? A. Well, about two years back from now, as well as I can remember.

Q. Will you tell the jury how on those occasions you went from the tenth to the ninth floor or from the ninth to the eighth floor? A. Well, I walked from the tenth to the ninth floor, and if Mr. Harris wasn't on the ninth floor I walked down to the eighth floor.

Q. And you went down the Washington place stairs on those occasions? A. Yes, sir. I got on the floor and I inquired for Harris and waited back in the sample room, and if he was not on that floor I would walk downstairs.

Q. When you went from the tenth floor to the ninth floor from the Washington place side how did you go into the loft? A. Through the hall door.

Q. Did you ever carry a key to any of their lofts? A. No.

Q. And what did you do to go into the door? A. Just opened the door.

Q. The same as any other door? A. Yes, sir.

Q. Where were you on the day of the fire? A. I was on the tenth floor.

Q. And who was with you at that time? A. Well, Mr. Harris was there and one of the salesmen was there, Mr. Teschner, and Mr. Blanck had been there just a few minutes before.

Q. He was not with you at the time when you first learned of the fire? A. No, sir.

Q. When you learned — A. Oh, yes, he was, pardon me. He went right out, he was there. I remember Bernstein come up and telling him there was a fire on the eighth floor and he went out.

Q. That was the first you knew of it, Bernstein came up? A. Yes, sir.

Q. Will you tell the jury what happened there to you personally? A. We didn't think it was anything serious, we went over to the elevator door and Harris instructed the elevator men to go downstairs to take the girls down first. I opened that door on the Washington place side and went out and

the smoke was so heavy we didn't dare to go through, so we walked back to the Greene street side; it was the same thing -- in fact there were flames there so I suggested trying the skylight.

Q. What skylight are you now talking about? A. On the tenth floor.

Q. That is the skylight that comes into the loft? A. Yes, sir.

Q. What did you do about trying it? A. Well, I thought to put some tables and chairs together, and Mr. Harris thought it was ridiculous, so we tried the door again on the Greene street side and we opened it and took a chance and walked through the smoke and got up to the roof. And about that time I had Mr. Blanck's little girl and another little girl on the shoulder and we got over on the roof, walked down one flight of stairs, and part of the help came down that we had assisted down; they took the elevator, and I walked down on account of the child screaming so, so I didn't want to take a chance of going down on the elevator.

Q. You don't mean in the building 23 to 29 Washington place? A. No, sir.

Q. You mean in the building in which you were when you escaped? A. Yes, sir.

Q. And you took Blanck's little child with you down the stairway? A. Yes, sir.

## CROSS EXAMINATION BY MR BOSTWICK:

Q. Your firm did quite a large business, or do a large business at this time with Harris and Blanck, do they not? A. We always did, yes, sir.

Q. How many thousands of dollars a year do you suppose that you sell to Harris and Blanck? A. Oh, I guess our firm sell about seventy-five thousand dollars -- some years more and some years less.

Q. You testified that when you went to Harris and Blanck's place you would go up in the passenger elevator to the tenth floor and get off at the tenth floor? A. Yes, sir.

Q. And if I understood you correctly than you would look around for Mr. Harris? A. Yes, sir.

Q. With whom you did most of your business? A. Yes, sir.

Q. You would pass through the sales room and you would go over towards the rear of the building, would you not? A. Yes, sir. Not always.

Q. Well, as a usual thing? A. No, sir, most frequently sat in a little room there that was arranged for various men that solicited business.

Q. Yes, but Mr. Harris was there? A. Yes, sir.

Q. If Mr. Harris wasn't there you would then go to the rear looking for him? A. Yes, sir.

Q. And when you had made a careful survey of the tenth floor and he was not there, having started at the Washington place side you would find yourself at the Greene street side?

A. Well, I would sometimes ask the girl at the telephone where Mr. Harris want after I got off the elevator, and she would say, "Wait, I will find out", and she would telephone down and if he was on the eighth or ninth floor sometimes I ran down the stairs, if I couldn't wait for the elevator, and more often took the elevator down.

Q. But, Mr. Silk, I was trying to carry you to what you did usually, where you didn't find Mr. Harris, but were looking for him on the tenth floor. When you got through looking for Mr. Harris weren't you nearly always on the Greene street side of the building? A. Yes, sir.

Q. That would be the natural way, you know, coming in the Washington place entrance from the elevators, if you looked over the floor, you would find yourself in Greene street? A. Yes, sir.

Q. Then not finding him there as you say, you usually went down the Greene street stairway? A. Well, I say sometimes.

Q. Your language was "usually", was it not? A. Possibly, that's right..

Q. And didn't you say that you more often went down the Greene street stairway than you did the Washington place stairway? A. I did, yes, sir, but I sometimes went to the telephone girl to find out what floor he was on.

Q. Yes, you brought that out. Now, if you went to the telephone girl and found out that Mr. Harris was downstairs, would you invariably go downstairs, or would you sometimes wait

for him to come back? A. Oh, sometimes waited for him to come up.

Q. You said you used the stairways about six times during what period of time? A.

Well, that is as well as I can remember; I say have used it more often, but I want to be on the safe side as long as it is sworn to.

Q. About six times in what period? A. Well, in the last two years.

Q. That includes both stairways? A. No, sir.

Q. You want to confine that to the Washington place stairway? A. I think so.

Q. When you went from the tenth to the eighth floor could you say whether anybody opened the door from the inside or not? A. No, I could not.

Q. Somebody may have opened it for you from the inside? A. Well, I never had any occasion to knock on the door; I opened the door and went in.

Q. What is your best recollection as to whether when you went from the tenth floor to the eighth floor somebody might have opened it from the inside or not? A. Well, that I doubt very much.

Q. Might not somebody have opened it from the inside? A. Yes, if somebody had expected me down possibly.

Q. Well, wouldn't you say that you couldn't say whether anybody opened that door from the inside? A. Not to my recollection -- no one ever greeted me.

Q. Do you remember seeing me, Mr. Silk or seeing Mr. Rubin, rather, on April 29th, 1911? A. I remember seeing either you or — I remember seeing that gentleman (indicating Mr. Rubin), but I don't remember you.

Q. Do you remember saying to Mr. Rubin, "I am certain that I used that Washington place stairway from the tenth to the eighth floor, but I could not say whether anybody opened the door for me from the inside"? A. No, I don't remember saying that. He may have said to me, "Didn't some one open the door for you". He may have put that question, but I know I never made any remark like that.

Q. And this question of mine does not refresh your memory as to making that statement to Mr. Rubin? A. No, sir; he may have said to me, "Didn't someone open the door for you?" Instead of asking me "Did some one open the door."

Q. Are you quite sure that you saw flames coming up from the ninth floor to the tenth floor in the elevator? A. I didn't say the elevator.

Q. I mean in the stairway next to the elevator? A. Well, I can't say, I am sure, but I know it was so bad I know we couldn't go through the stairs. We closed the door quick, you know not to get too much of the smoke. It may have been heavy smoke and it may have been flames. You know I wasn't very cool at the time.

Q. You have been down the stairway? A. Not at the time of the fire.

Q. I mean previous to the fire? A. Yes, sir.

Q. And you know the stairway is made of slate and iron? A. I presume so. I know it was not wood ~~ I guess it was stone or slate.

Q. Did you know that there was nothing combustible in that stairway, excepting a little piece of handrail? Do you not recall that this was the only piece of combustible material that was between the ninth and tenth floors on the Washington place side (showing witness a piece of handrail)? A. No, I don't remember anything about it. Whether that was wood or iron or steel, I don't remember that.

Q. Do you remember that there was a long handrail, something like that (indicating)? A. I presume there was.

Q. But you don't remember it? A. Well, I can't remember that. There is a handrail on every ~~ you rarely see a stairway without a handrail.

Q. Do you remember that that piece of wood was between the eighth and ninth floor on the Washington place side, in the stairway? A. There may have been one like it, I don't remember whether that is the same one. I presume there was a handrail there. I never took any special notice of it.

Q. Did you see anything that was combustible excepting that piece of wood? A. I never took any notice.

Q. Are you doing business with Harris and Blanck at the present time? A. Yes, sir.

Q. When you made that statement to Mr. Rubin do you

recollect that there was nothing said about smoke at that time? A. No, I did not. Mr. Rubin and I got in quite an argument about that, about the smoke and flames.

Q. There was nothing said about that you got in quite an argument. Now let us get that a little straight. A. I thought you said that I said nothing about it.

Q. Isn't it a fact that you said nothing about it? A. No, I did. I told Mr. Rubin the same thing I told you.

Q. Do you remember stating to Mr. Rubin on that day at that time that you saw flames come up from the ninth floor? A. Yes, that is possible, I think I did.

Q. Well, now, is it a fact that you saw flames come up? A. Well, I can't say I was a little excited, naturally.

Q. Excited at the time of the fire? A. Yes, sir.

Q. And excited even when you made this statement? A. No. He may have tried to got me excited, but I don't think I was.

Q. As a matter of fact, you don't think you saw any flames do you? A. Well, I wouldn't swear to it. You know when you are in a fire of that kind possibly you wouldn't remember as well either.

BY THE COURT:

Q. What is your best recollection as to the date of the last time before the fire when, as you say, you passed down the stairs on the Washington place side from the tenth to the ninth floor? A. Possibly a few weeks before.

Q. Have you any recollection as to the hour of the day?

A. Well, always towards evening, your Honor, because the elevators being crowded in the evening, couldn't wait for me, so I took the stairs; ordinarily I would wait for the elevator.

Q. Have you any recollection as to whether or not when you did last go down the stairs on the Washington place side before the fire any operatives were at work on the ninth loft? A. Yes, sir.

Q. Were they working at that time? A. Yes, sir, always, to my recollection.

BY MR. BOSTWICK:

Q. What is your final statement in regard to the matter? Did you mention or did you not mention smoke when you had this conversation with Mr. Rubin? A. I think I mentioned both smoke and fire.

BERNARD C. ENSER, called as a witness on behalf of

defendants, being first duly sworn, testified as follows:

(The witness states that he resides at 519 West 143<sup>rd</sup> street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Manufacturer of embroideries.

Q. Where is your place of business? A. My office in the City of New York is 853 Broadway.

Q. You say "My office in the City of New York." Does that mean you have a place of business somewhere else? A. Yes.

Q. Where? A. in Jersey City.

Q. Did you do business with Harris and Blanck? A. Yes.

Q. What kind of business did you do with them? A. They gave me work and I manufactured on their goods.

Q. You didn't sell them merchandise? A. No merchandise.

Q. You took work from their premises over to your place? A. Yes, sir.

Q. And then when you were through with the work you delivered it to them ? A. That's right.

Q. How often did you go to the place of business of Harris and Blanck? A. Well, sometimes once, twice, three and four times a day.

Q. When you went to that place of business how did you go up from the street to that place of business? A. Washington elevator to the tenth floor.

Q. Then from the tenth floor where did you go? A. I went right in the show rooms.

Q. And from the show rooms where did you go? A. Well, if I saw Mr. Harris I spoke to him there about the business, which he wanted me to do, and if I didn't see him there I went downstairs to the ninth floor, the Washington place side, and if I didn't find him on the ninth floor I went down to the eighth floor.

Q. Mr. Harris spent a good deal of time in the factory, did he not? A. Yes, sir.

Q. How often did you go from the tenth floor to the ninth floor by the Washington plade side? A. Well, during the time

that I went there it might have been twenty times or more.

Q. Did you go from the tenth floor to the ninth and eighth floors by the Greene street side? A. Never.

Q. Now many times do you say you went by the Washington place side? A. About twenty times or over.

Q. And on occasions when you went down from the tenth floor to the ninth floor did you have a key, or anything to their premises? A. Have a key? No, sir.

THE COURT: Just let him state how many times, if at all he went by the elevators, as distinguished from the stairs.

Q. Did you use the elevators to go down from the tenth floor to the eighth or ninth floor? A. Never.

Q. So that the total amount of times that you went down you went down by the Washington place stairs? A. Yes, sir.

Q. And you say that was at least twenty times.

Q. And on those occasions will you tell the jury how you passed in from the Washington place stairway landing to the loft? A. From the Washington place stairway?

Q. Yes. A. Well, from the tenth floor I went in to a small office there where the salesmen were and right there is a door leading down the stairs. I opened that door and I went down.

Q. When you got down to the foot of the stairs on the ninth floor what did you do? A. I turned the knob and went in.

Q. Was that so on the eighth floor? A. The same thing.

## CROSS EXAMINATION BY MR. BOSTWICK:

Q. Are you doing any business with Harris and Blanck now? A. Yes, sir.

Q. When you went in the ninth floor, from the Washington place stairs, did you step right into the loft? A. Right into the loft, yes, sir.

Q. Were there any rooms there -- partitions or anything of that kind? A. No.

Q. It was just open? A. Just open.

Q. And what was on the right-hand side of the door as you went in? A. Well, I didn't pay any particular attention on the floors, how they were laid out, or what there was on them. I only was looking for Mr. Harris.

Q. And what was on the lefthand side? A. As I am telling you, on the lefthand side there was some machines there.

Q. On the lefthand side? A. Yes, sir.

Q. Any machines on the righthand side? A. No.

Q. And anything in front of you as you got out of the elevators? A. No.

Q. Just opened right out into the loft?

THE COURT: You don't mean as he got out of the elevators?

MR. STEUER: He said he never went on the elevators.

Q. Well, I mean as one got out of the elevators? A. What?

Q. In front of the elevators on the ninth floor if a person stepped out of the elevator did they go into a hallway

there formed by a partition? A. I haven't seen any partition.

Q. There was no partition there, so far as you can remember? A. No, so far as I can remember.

Q. And although you were in that loft several times? A. Several times.

Q. You have no distinct recollection of what was in front of the elevators, if anything? A. No.

Q. And you have no recollection of where the forms were kept, have you? A. No.

Q. And you have no recollection where the cutters' tables were, have you? A. No.

Q. And as a matter of fact you never went down the Greene street stairway in your life?  
A. No.

Q. You always used the Washington place stairway? A. Always.

Q. Do you know how many dressing rooms there were there? A. No.

Q. Do you know whether there were any dressing rooms? A. No.

Q. Do you know whether there were any tables there? A. What kind of tables?

Q. Any kind? A. Well, I saw cutting tables.

Q. On the ninth floor? A. On the ninth floor.

Q. How many cutting tables do you think you saw on the ninth floor? A. Well, I can't tell you, I don't know.

Q. In other words, you were in there often enough? A. Well, I was in there probably once a week or something like

that, went downstairs sometimes twice a week. I didn't take any particular attention to look around you know. I was only looking for Mr. Harris.

Q. When you went down to look for Mr. Harris, I take it that you had been informed on the tenth floor that Mr. Harris was downstairs? A. Yes, sir.

Q. Because you didn't look for Mr. Harris on the tenth floor? A. Well, I went into the show room, and when Mr. Harris wasn't in the show room, I presumed he was on the ninth or on the eighth floor.

Q. When you went through the tenth floor looking for Mr. Harris did you ever go over to the rear of the loft? That is, to the Greene street side? A. I never went out of the show room.

Q. So that you either found out that Mr. Harris was downstairs when he was not in the show room? A. Not in the show room.

Q. And therefore Mr. Harris must have been downstairs before you? A. Yes, sir.

Q. And you don't know whether Mr. Harris locked or unlocked those doors at that time? A. I don't know.

Q. You have been doing business ever since the fire with the defendants? A. I was doing business before the fire.

Q. And have you been doing business with the defendants ever since the fire? A. Yes, sir.

BY THE COURT:

Q. What is your best recollection as to how long it was

before the fire when you last went down the Washington place stairs, as you say and in through the Washington place door into the ninth loft? A. It might have been two or three weeks before.

Q. And about what hour of the day was it? A. Eleven o'clock in the morning.

Q. And on that occasion did you go downstairs alone or in company with any one? A. Always alone.

Q. Was it the time when operators were at work in the ninth loft? A. Yes, sir.

THE COURT: We will take a recess now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. Recess till 2 o'clock.

(Recess till 2 p. m.)

After Recess, Trial Resumed.

YETTA KREITZBERG, called as a witness on behalf of the defendants, having been first duly sworn, testifies as follows:

(The witness states that she resides at 215 and 217 Roebling street, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck now, don't you? A. Yes.

Q. And you worked there for Harris and Blanck at the time of the fire? A. Yes, sir.

Q. How long prior to the fire or before the fire did you work for them ? A. About a year and a half.

Q. What floor did you work on? A. On the tenth.

Q. What did you do? A. In the shipping Department.

Q. All the time you worked for Blanck and Harris did you work on the tenth floor?

A. Yes, sir.

Q. What did you have to do as you worked in the shipping department? A. Picking out orders, getting certain goods from the other floors, such as the samples, or finding out whether lots are complete.

Q. What do you mean by finding out whether the lots are complete? A. Finding out whether a certain lot is all out, so we could know whether we can ship it.

Q. Who would you find it out from? A. From the shipping clerk.

Q. Where would you go to get the information whether it complete or not? A. Either on the eighth or on the ninth floor.

Q. When you went from the tenth floor to the eighth floor or to the ninth floor tell the Jury how you would go? A. Well, when I was nearer to the Greene street side, I used to use the Greene street stairs, and if it was much nearer for me to use the Washington place stairs, I used to go down that side, sometimes with the elevator and sometimes with the stairs.

Q. When you went down with the stairs on the Washington

place side, how did you go into the loft? A. By opening the door.

Q. Was that true on the ninth and eighth lofts both? A. Yes.

Q. During all the time that you worked there? A. Yes, sir.

MR. STEUER: You may cross examine.

MR. BOSTWICK: That's all.

BY THE COURT:

Q. Do you remember whether or not on the day of the fire you went from the tenth to the ninth loft by the Washington place stairs? A. No, sir.

Q. About how long was it before the fire that you went last to the ninth loft by way of the Washington place stairs? A. About two months.

Q. And at that time did you go alone or with any one? A. Alone.

Q. And at that time what hour of the day did you go, about? A. I can't remember.

Q. Was it while the operatives were at work on the ninth floor? A. Certainly.

Q. Do you remember when you got to the door it stood open or whether it was closed? Speaking now of the door of the ninth floor leading from the Washington place stairs into the ninth loft? A. I had to turn the knob.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You are still working for Harris and Blanck? A. Yes.

Q. Did you have any talk with Mr. Fletcher here to-day?

A. No, sir.

Q. Not outside, just before the opening of Court? A. No, sir.

Q. What is your salary now? A. \$10.

Q. What was it at the time of the fire? A. \$7.

LENA HANDSCHUH, called as a witness on behalf of the defendants, having been first duly sworn, testifies as follows:

(The witness states that she resides at 278 East 10th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck? A. Yes.

Q. How long have you worked for them? A. I worked over four years.

Q. And what do you do? A. I was on the machines first, and then I become fore lady — I am fore lady for the last three years.

Q. Did you worked for them on a machine one year? A. One year — over a year.

Q. What floor did you work on when you were working at a machine? A. I worked on the eighth and ninth — on the ninth floor first, and then on the eighth floor.

Q. And on what floor have you worked on as a forelady? A. And then I become a forelady on the eighth floor.

Q. Have you always worked on the eighth floor as a fore lady? A. No, I worked on the ninth floor as a forelady too.

Q. What floor were you working on at the time of the fire? A. On the eighth.

Q. How long have you worked as a forelady on the ninth floor? A. I worked there about a couple of months.

Q. How long had you worked on a machine on the ninth floor? A. On the ninth floor also a couple of months. I can't remember exactly.

Q. At the time of the fire it was on the eighth floor that you were working? A. Yes, sir.

Q. During the time that you were a forelady on the eighth floor did you have to go on any of the other floors? A. Yes, sir.

Q. On what floors did you have to go? A. I had to go on the eighth and on the ninth and on the tenth.

Q. What did you go to the ninth floor for? A. When I had to look for the manager, sometimes, to ask him something. Sometimes I had to go up closing something, - that was always on the ninth floor.

Q. Closing up what? A. Closing up the waist, sleeves — when I had to have some specials I went up for them.

Q. What did you go to the tenth floor for? A. Cutting department dresses, and I had to go up — also waists — whenever I had something cut up there I went up.

Q. How often did you have to go from the eighth to the ninth floor while you were a forelady on the eighth floor? A. Well, I

couldn't tell you how often. Whenever I needed I went.

Q. Well, how often were you needed, in the last year, say, that you were a fore lady on the eighth floor, a week? How often did you go to the ninth floor? A. I never counted, I couldn't tell you.

Q. How often a day? A. I could have gone three times a day, four times, ten times, sometimes -- I never counted.

Q. When you went from the eighth to the ninth floor how did you go? A. Wherever I was nearest.

Q. What do you mean by that? A. My three tables where I was working on the eighth floor was near the Washington side, and when I was near that side I went to the Washington door, when I was in the cutting department I went to the Greene street door.

BY THE COURT:

Q. When you say "Washington door" what do you mean? A. What I mean?

Q. Yes, which door do you mean? A. That means the Washington side door.

Q. Leading to what? A. I don't understand.

Q. You know there were elevator doors on the Washington place side? A. Yes.

Q. And then there was another door. Now, which of those doors do you mean? A.

The Washington door.

BY MR. STEUER:

Q. Did you go upstairs when you went from the eighth to

the ninth floor on the Washington place side, by the elevator or by the stairs? A. When the elevator, when I had the elevator in time I went to the elevator, but I never waited for the elevator. I never have any time, so I opened the door and went up.

Q. You opened the door and went up? A. On the ninth or tenth floor or wherever I had to go.

Q. What did you go up? A. What I went up?

Q. Yes, how did you get up from the eighth to the ninth floor? A. How I got up there?

Q. Yes. A. Stairway.

Q. Well, now, when you got up on the stairway to the ninth floor, what did you do? A. I opened the door and went in.

Q. And did you ever have to use a key when you went from the eighth floor to the ninth floor, on either the eighth floor or the ninth floor? A. Well, very seldom. Well, I had to use a key very seldom.

Q. Well, did you ever have to use the key from the outside? A. No, I have never seen a key in the outside.

Q. Where did you see the key? A. Where I do?

Q. Where did you see the key? A. On the inside I have seen the key.

Q. Where was the key on the inside? A. Inside, it was sticking in the lock.

Q. All the time that you worked for them? A. All the time, yes.

## CROSS EXAMINATION BY MR. BOSTWICK:

Q. You didn't have to turn that key very often, did you? A. I didn't have to turn that key very often no.

Q. Only once in a while? A. Never — very seldom ~ sometimes in the morning when I had to go up right after eight o'clock, when I came and had to go up I had to turn the key, but very seldom, because the watchman always used to come before me.

Q. And when you went up and down, it was when the operators were all at work at their machines, was it not? All the operators were at their machines working? A. Well, - all the operators ~ I don't understand you.

Q. What were the operators doing when you were going up and downstairs? A. What do you mean? They were working.

Q. That's it, they were working at their machines? A. Aworking at the machines.

Q. And it was part of your duty to go up and down stairs? A. It was a part of my duty when I had to go.

Q. If you happened to be near the Greene street side you would go by the Greene street stairs? A. Yes.

Q. Most of the time you used the Greene street stairs, did you not? A. Most of the time I used the Washington stairs because I was the other side — my tables were on the other side.

Q. Have you had any talk with Mr. Fletcher? A. No.

Q. You haven't spoken to Mr. Fletcher to-day? A. No.

Q. Didn't you have a talk with Mr. Fletcher outside here?

A. No.

Q. Haven't spoken to Mr. Fletcher? A. No.

Q. You haven't seen Mr. Fletcher, have you? A. I have seen him.

Q. Do you know a girl by the name of Tessie? A. Tessie what?

Q. Yes, Tessie what? A. I don't know; I have to know the second name.

Q. Do you know any gir by the name of Yessie? A. No.

Q. Do you know Dora Himmelstein? A. No.

Q. At the time of the fire what was your salary? A. At the time of the fire was my salary? A. \$18.

Q. What is your salary now? A. My salary \$25.

Q. When was your salary raised? A. My salary was raised two or three weeks ago.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. And what had you done just before your salary was raised? A. I left the place.

Q. You left the place and had gone to another place? A. Yes.

Q. To get you back they gave you the same waged that the other place would give you?

MR. BOSTWICK: I object to that, if your Honor please.

THE COURT: Objection sustained.

MR. STEUER: I except. Now is it possible it should

be pertinent on the part of cross examination and new matter and that I cannot examine with reference to it?

THE COURT: Your question was not framed so as to make it proper.

MR. STEUER: I respectfully except to its exclusion.

THE COURT: It calls for a conclusion by this witness as to what is in the minds of other people, what actuated others.

Q. Did you tell Harris and Blanck what other people had offered you when you left them?

Objected to. Objection overruled.

A. Whether I told Harris and Blanck? I didn't say anything, I left.

Q. Well, how did they get you back? A. When I came up for my pay Harris and Blanck asked me "Why did you leave?" I said "I get more salary there."

Q. At the other place? A. At the other place.

Q. Then what did they say? A. They says they wouldn't give me that, but I says, "If you want to give me that I can come back, otherwise I won't." Well, they left me stay away yet a couple of days, and then I came up for my second pay, because I had to have it for another few days, and then I come up again and they gave me the salary, and I come up.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. Can you tell us its nearly as you can remember the day

upon which your salary was made \$25? A. No, I couldn't tell you the day, I don't remember.

Q. When you left Harris and Blanck where did you go to work? A. I went to the S. K. Waist Company.

BY THE COURT:

Q. Do you remember whether or not at any time on the day of the fire you went up the Washington place stairs from the eighth loft to the ninth loft? A. Whether I remember what?

Q. Do you remember whether at any time on the day of the fire — that was March 25<sup>th</sup>, 1911, ~ you went from the eighth loft to the ninth left by way of the Washington place stairs? A. Well, I don't remember that.

LOUIS SEDERMAN, called as a witness on behalf of

the defendants, being first duly sworn, testifies as follows:

The witness states that he resides at 814 East 9<sup>th</sup> street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck now? A. Yes, sir.

Q. How long have you worked for them? A. Possibly four years.

Q. Did you work for them on the day of the fire? A. Yes.

Q. Were you there at the time of the fire? A. Yes, sir.

Q. What position did you work in? A. Assistant shipping clerk.

Q. And the shipping clerk was whom at that time? A. Edward Markowitz.

Q. What were your duties as assistant shipping clerk? A. To do the packing.

Q. Where did you do the packing? A. On the tenth floor.

Q. Did your duties call you to any of the other floors of that factory? A. Yes, sir.

Q. How often did you go to the other floors of the factory? A. Twenty-five to thirty times a day.

Q. And how did you go from the tenth floor to the other floors of the factory? A. Used both side of the entrance.

Q. When you say the entrance I want you to tell the jury what you mean by that? A. When I was over near Washington place I used the Washington place door; when I was over by the Greene street side I used the Greene street side door.

Q. Did you ever go down by the passenger elevator? A. Yes, sir.

Q. Did you ever go down by the freight elevator? A. Yes.

Q. I want you to tell the Jury on an average how many times a day you would go down the Washington stairs from the tenth floor to the ninth floor and to the eighth floor?  
A. About twelve or thirteen times a day.

Q. On any of those occasions did you use a key to go into the eighth or ninth floor? A. No, sir.

Q. On the day of the fire where were you when you first heard there was a fire? A. In the shipping department, packing.

Q. And where did you go when you heard there was a fire? A. Right downstairs on the eighth floor. Which way did you go down? A. On the Greene street side.

Q. Whom did you see when you got down there? A. I saw many people fighting the fire.

Q. What do you mean, how were they fighting the fire? A. Spilling pails of water.

Q. What did you do? A. Helped them along.

Q. How? A. By grabbing a couple of pails and spilling it on it.

Q. What happened then? A. I reminded myself of the hose, and I went over to the hall and pulled the hose down, and Mr.— a man named Mr. Bernstein — I believe he was the manager of the Triangle Waist Company — and another young man a cutter, Joe Levitts, I believe is his name, helped pulling in the hose, and I turned the wheel left and right and no water came.

Q. Which wheel did you turn left and right? A. The one attached to the hose.

Q. Did any water come at any time while you were turning it? A. No, if there was it wouldn't do any good anyway, because the hose was rotten.

Q. I didn't ask you whether it was good or not. Did you turn the wheel? A. I did.

Q. Did water come? A. No, sir.

Q. What did you do after that? A. Well, the hose, as I told you before, the hose is very rotten, and if the water

would come out it wouldn't do any good, and before I would get a chance ---

Q. Look here, I didn't ask you for a speech, and I don't care how good a one you can make. I want you, if you can, to answer what I asked you. I asked you what did you do after you turned that wheel? And we will suppose now that the hose was rotten for the rest of the day? A. All right, I dropped the hose and ran upstairs.

Q. Where did you run to? A. Up to the roof.

Q. Which way did you run? A. On the Greene street side.

Q. At that time what was the condition of the eighth floor? A. All in flames.

Q. When you got to the ninth floor on the Greene street side ~ that was the only side you were on on the ninth floor? A. Yes, sir.

Q. Did you go into the loft at all? A. No, sir.

Q. And did you see as you went by what the condition of the loft was? A. No, sir.

Q. You ran right on up to the tenth floor? A. The tenth floor.

Q. What did you do when you got to the tenth floor? A. I went up to the roof.

Q. Then what did you do when you got up on the roof? A. I met seventy-five or eighty people on the roof screaming for help.

Q. What was done with those people? A. Well, I was the

first one to pick up a man by the name of Teschner -- he wanted to jump.

Q. Teschner wanted to jump? A. Wanted to jump from the roof. He was shivering like a fish in water, and crying like a baby, so I was the first one to pick him up.

Q. He is about twice your size, isn't he? A. He weighs about two hundred and twenty pounds. While I done that each one of us helped each other in getting up.

Q. And then how did you get away altogether? A. At last I went to the Washington place side, the other side, and I had a narrow escape by the escape of the roof; going ever that way, if I make only just a little break that way (indicating) I would fall off. That was the only way I could go at that time.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Can you tell us whether it was twelve or thirteen times that you went on the Washington place side of the building, through that stairway door? A. Well, I can't tell you it was twelve or thirteen. I used both sides of the door as I told you before.

Q. Would you think it was thirteen or twelve? A. Twelve or thirteen times during the day.

Q. Would you say it ten or fifteen? A. No.

Q. It couldn't have been ten? A. No, sir.

Q. It couldn't have been fifteen. A. No, sir.

Q. But it was twelve or thirteen? A. Something like that.

Q. You have a very distinct recollection of that, haven't you? A. Yes, sir.

Q. How long have you known Mr. Bernstein, the manager? A. Possibly four years, since I was working there.

Q. And you have seen him every day haven't you? A. Yes, sir.

Q. And you know what his duties were? A. Yes, sir.

Q. Now, when you testified in answer to questions by Mr. Steuer, you said you believed he was the manager; why did you say that? A. Well, so he was, wasn't he, the manager?

Q. Well, I think he was. A. That is what I think.

Q. You think he was manager for four years?

MR. STEUER: Now, that you have exchanged thoughts, it would be well to go on.

Q. What I want to know is, conceding that he was manager, why you said you believed he was manager? A. I can't answer you that question.

Q. All the other statements you made that you knew to be a fact -- you stated to be a fact, but when you came to the question of "What did you see there?", you said, "I saw Mr. Bernstein, whom I believed to be the manager." Did anyone tell you how to state that in Court?  
A. No, sir.

Q. Have you had a talk with Mr. Fletcher? A. No, sir.

Q. You haven't seen Mr. Fletcher? A. I did see him.

Q. Whom did you believe Mr. Fletcher to be? A. Cashier of the Triangle Waist Company.

Q. Are you sure now, or do you only believe it? A. I am sure of that.

Q. Are you sure that Mr. Bernstein is manager? A. Yes, sir.

Q. Are you sure the hose was rotten? A. Yes, sir.

Q. You said you saw about seventy-five or eighty people on the roof? A. Yes, sir.

Q. Are you sure of those seventy-five or eighty people? A. Yes, about that much.

Q. And you saw a key in this door, didn't you? A. Always did.

Q. And it was hanging by a string, Wasn't it? A. Yes, sir.

Q. And the string was about twenty-five inches long wasn't it? A. I don't say that.

Q. And it was about three and a half inches wide? A. I don't say that.

Q. And you never knew the door to be locked in your life? A. Never as long as I remember.

Q. It was always open? A. It was always open.

Q. Was it kept wide open? A. Not in the winter time.

Q. But in the summer time? A. Yes.

Q. Anybody could see it? A. Yes.

Q. Anybody could go on there and out? A. Yes, sir.

Q. If the last witness said sometimes she had to turn the key she was mistaken?

Objected to. Question withdrawn.

Q. You never saw that door locked? A. I never did.

Q. In the four years that I was there? A. Four years that I was there.

Q. And you never saw it shut in the summer time? A. Never did.

Q. In the winter time you saw it occasionally closed, or always closed? A. Always closed. You know you can go in and out when you want to.

Q. The salesmen, the foreladies, you and other people going up and down, that door was constantly being opened and shut all the time, wasn't it? A. Yes, sir.

Q. The stairs were light or dark? A. Which side do you mean?

Q. The Washington place side? A. Always dark. I never saw a light there.

Q. What salary were you receiving at the time of the fire? A. Fifteen dollars a week.

Q. What is your salary now? A. Same salary.

Q. Is that a fact? A. Yes, sir.

Q. You have not received anything else? A. No.

Q. What? A. Why should I receive something else?

Q. Have you? A. No, sir.

Q. Not a cent? A. No, sir.

Q. Haven't received anything from Harris and Blanck? A. Never a cent.

Q. Excepting your fifteen dollars? A. My salary only.

Q. And the same salary has been kept up? A. Yes.

Q. And the same duties? A. Same duties.

Q. Was there any time for which you were not paid since the fire? A. No, sir, I was working always working for Mr. Harris and Blanck, I got my same salary always.

Q. Did you see Mr. Fletcher here to-day? A. I did.

Q. You didn't have any conversation with Mr. Fletcher? A. No, sir.

LOUIS BROWN, called as a witness on behalf of the

defendant being first duly sworn, testifies as follows:

(The witness states that he resides at 868 Dawson street, Bronx.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck? A. I do.

Q. How long have you worked for them? A. Over three and a half years.

Q. What did you do for them and what are you doing for then now? A. I am a machinist.

Q. What were you at the time of the fire? A. The same as I am now.

Q. And what have you been since you have been working for them? A. The same as I am now.

Q. Always held the same job? A. Yes, sir.

Q. What floor did you work on? A. The eighth floor.

Q. Will you tell the jury in a general way what the duties of a machinist are? A. Only to take care of the plant

and see that all machines are kept in good order and see if the motors and everything is running in perfect condition.

Q. And that requires your attention all over the floor, during the whole of the day, does it? A. Yes, sir.

Q. Now, have you ever had occasion to go to either of the other floors occupied by these two men (indicating the defendants)? A. I did.

Q. What would call you to the ninth floor? A. Well, in case I might have needed some tool or some part of some sewing machine, and in case I didn't have it on the eighth floor I generally went on the ninth floor to see that I could get it.

Q. Did you have any occasion to go to the tenth floor? A. Yes, I did.

Q. What would call you to the tenth floor? A. They had a few sewing machines working on the tenth floor for sample makers and I generally used to have them repaired in case I was needed.

Q. In going up from the eighth to the ninth floor will you tell the jury please how you would go up? A. Well, that was according to just the way — what part of the loft I was; sometimes I might have been on the Greene street side of the loft and I would generally take the Greene street entrance. Sometimes I might have been on the Washington side of the place and I would certainly take the Washington place stairways.

Q. Was there anything else to determine your choice as to which way you would go up except where you were located at the

time you were called up? A. No.

Q. During the years that you worked on the eighth floor do you know where the key was to the doorway that led to the stairs on the Washington place side?

THE COURT: On the eighth floor?

Q. On the eighth floor? A. I always knew that the key was always in the lock where it belonged.

Q. Now, Mr. Brown, were you working on the day of the fire? A. I did.

Q. Where were you when you first learned that there was any trouble on that loft?

A. I was washing my hands by the basin.

Q. Where were you washing your hands? A. On the Washington place side, on the west side of the loft.

Q. What is located at the point where you were washing your hands? A. There is lavatories, ladies' and gent's lavatories.

Q. And that gent's lavatory consisted of a sink, did it? A. There was a sink inside the gent's lavatory, but it was never used, but there was one on the outside that we always used.

Q. Is that where you were? A. Yes, sir.

Q. How did you first know that there was any trouble? A. At that time I was washing my hands, and I had my back towards the factory, and all of a sudden I heard a cry of fire, as though many people yelled at one time, in one voice.

I turned around suddenly and I happened to notice on the Greene street side, the second cutting table on Greene street side, flames were shooting up in the air.

Q. When you first looked there were already flames shooting up? A. Yes, sir.

Q. Tell the jury what you did at that moment? A. I dropped the piece of soap I had in my hand and I ran over to where the fire was located and I seen Mr. Bernstein — I didn't have a chance to run near the fire, but I seen Mr. Bernstein on top of the table trying to put out the fire with a bucket of water.

Q. Which Mr. Bernstein are you speaking about? A. The superintendent Mr. Bernstein, and he seen me running over, find the first thing he says, "Brown, I think you can't do any thing, try to get all the girls out if possible", and I did.

Q. What did you do? A. I ran back the first thing because I didn't see nobody there at the Greene street side -- I suppose they all went out in that time --- but I happened to notice they are clustered over on the Washington place stairway, and that is the first place I ran, over to the Washington place stairway.

Q. Tell the jury what happened when you got there, and tell the jury what you saw?  
A. When I went over there I heard all the girls screaming all there by the door, yelling "Fire!" and they can't get out, and the first thing I did, I tried to get through the girls, I pushed my way through and scattered

them as much as my strength could allow me, but they were so excited, they wouldn't let me go through, just tried to keep me back. As much as possible I got through some how or other and I ran over to the door but those times when there is a little excitement, there is a thousand and one thoughts comes to your mind, and the first thing that come to my mind, I was wondering why the girls didn't go out through that door.

MR. BOSTWICK: I object to the operations of this witness's mind at that time.

THE COURT: Just tell us what you did.

Q. What I want to know is what you did, and what did you first do with the girls? A. Well, the first thing I did, I went over to the door, and there was a key always sticking in that door, and I naturally thought that they must have locked that door so I turned—

MR. BOSTWICK: I move to strike out the natural thoughts of this witness, and let us have what he did.

THE COURT: Yes, strike it out.

Q. Never mind about your thoughts at all. Tell this Jury what you did? A. Well, that is just what I am telling you.

Q. Tell it without telling us what you thought. That is the point? A. All I done, I run over to the door, pulled the door open and got the girls out.

Q. Before you pulled the door open do you remember whether or not you touched the key? A. Yes, I did.

Q. You did touch the key? A. Yes, sir.

Q. Tell the jury exactly what you did with the key, as you remember it? A. All I tried to do was to turn the key in the lock, but the key wouldn't turn.

Q. Which way did you try to turn it, to lock or unlock the door? A. To unlock the door.

Q. Did the key turn? A. It did not turn.

Q. Then what did you do? A. I pulled the door open.

Q. And did the door open? A. It didn't open right away.

Q. What did you do? A. Well, I had to push the girls away, from that door — I couldn't open it otherwise.

Q. Were the girls packed against the door? A. Packed as packed -- you couldn't get it no tighter.

Q. What did you do when you got them away? A. I pulled the door with all my strength, the door was open while I was pulling.

Q. Even while the door was open the girls were still against the door? A. They were all against the door, and while I was trying to open the door they were trying to get out as fast as they could. Meanwhile they were closing the door and I held all my strength up to get the door open. Then meanwhile some got out, and then maybe a little less, and then I got the door wide open.

Q. Did the girls pass out that way? A. Yes, sir.

Q. Did you go down with the girls? A. Well not at that time. One girls might have fell or fainted on the seventh floor and I —

Q. While you were still on the eighth? A. I was still on the eighth trying to tell the girls to calm themselves as much as possible, but those girls might have fell down or fainted, I don't know, but I got through the crowd of girls around the wall, and I went down to the seventh floor and there was a girl fell, - either fell or fainted, - I can't tell at that time.

Q. Well, she was down, at any rate? A. Yes, sir.

Q. Did you help get her up? A. Yes, sir. I bent down to pick the girl up and no sooner than I just had her up against the wall than a policeman happened at that time and took the girl and I ran back again.

Q. At the time when you ran back tell the jury — from the seventh to the eighth floor — what was the condition of the hall or stairway space with respect to smoke or flamed? A. At that time there was no smoke coming at all.

Q. What happened next? A. Well, I run up, - when I picked that girl up, I run back up the stairway, there was nobody on the stairs at the time, when I run back, they were all down stairs already -- how far down I don't know, I didn't look down while I was on the seventh floor --- and I run back to the eighth floor with the policeman to see if everybody was out, but my eye happened to see two young girls hanging out on the eighth floor window near the Washington place stairway, and the policeman and I yanked those two girls in the window.

Q. What did you then do? A. When I got them in I got

downstairs and I went back to look out the window and people in the street was yelling and raising their hands that I should not jump, and when I seen that I thought it was time for me to turn around and go out and I turned around to go out, I couldn't find my way out no more — it was black with smoke -- the smoke was coming out at that time.

Q. What was the condition as to the hall then? A. The condition was all very dark and smoke was all going up the stairway.

Q. What was the condition as to flame at that time? A. I couldn't see any flame at all at that time.

Q. How did you get out of the building? A. After I turned around to get out, when I see everything was dark with smoke I couldn't, to tell you the truth, I couldn't even see the doorway, I just realised where that door was, and I went on my hands and knees and got through the doorway.

Q. Into the air? A. Yes, sir.

Q. At the time when you couldn't see the door how far were you from the door?  
A. About fifteen feet.

Q. At the most? A. Yes, sir.

Q. At the time when you got to the door on the eighth floor on the occasion of the fire was the bolt of the lock shot into the place where it fastens, or was it unshot at that time?

MR. BOSTWICK: I object to that. That is substantially the same question that I asked at the beginning of

this trial and it was excluded on the ground that no one could tell, but that he could state what conditions he found, from which the determination of the conditions could be drawn.

MR. STEUER: That question was never asked in this trial. He asked whether it was locked or unlocked, and I am not asking that.

THE COURT: I think the witness can testify that he may have observed after he opened the door.

MR. STEUER: Shall I put it that way, your Honor?

THE COURT: Yes.

MR. STEUER: I will withdraw this question and then put it as your Honor suggests.

THE COURT: He might not be able to see while the door was still closed, but after he got the door open and was there he may.

Q. After you got to the door up there can you say to this jury whether or not the lock was protruding out of the door — or you tell the jury how it was? A. Why, the lock was on the door just as any ordinary lock, it was “producing” nothing at all, just the same as you go out of that door now, just the same way that door was at that time.

Q. At any time in your life did you ever bodily pull a lock knob and all out of the door, so as to hold it in your hand? A. Do I look as though I was Ajax or so?

Q. Won't you please answer my question? A. Well, I can't

answer a question like that because I am not strong enough to do a thing like that ~ I am not Sandow.

Q. That shows you can answer it but don't want to, so I shall insist on asking it till you answer it. Did you at any time in your life get hold of the knob on the door at the Washington place side on the eighth floor, and pull the whole thing through the door so as to hold the lock and knob in your hand? A. No, sir, I did not.

Q. Did you ever pull the knob off the door in your life? A. No, sir, I did not.

Q. Did you do that on the day this fire occurred, yes or no? A. No; that is ridiculous.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. You said in your direct examination that after all the girls had gone down you went back and found two still in the loft? A. Yes, that's what I said.

Q. And you were asked when you went back the conditions and you said at that time there was no smoke coming? A. There was no smoke coming, not through the door.

Q. So that at the time you got back to the eighth floor door, Washington place side, and before you had found these two girls and while you were entering that door no smoke had come to the Washington place stairway? A. No, sir.

Q. And when you went in the fire was at that time in what part of the loft? A. I had no time to look where the fire was,

I assure you I didn't have no time to look.

Q. Give us your best recollection? A. I can't tell you anything like that. I wasn't looking at the fire the time, I was looking to get the people out, not looking for the fire.

BY THE COURT:

Q. To what window did you go where you said the girls were? A. Right on the Washington place side, right near the stairway, about fifteen feet from the stairway on a diagonal.

BY MR. BOSTWICK:

Q. As Mr. Steuer suggested a moment ago, I see you can answer this question from your very answer, and I am going to get an answer to it. A. Well, if you can, you are welcome.

Q. The fire was not burning around these girls, was it? A. It was not.

Q. So in certain portions of the loft we can say as yet there was no fire? A. Yes, that's right, too.

Q. I ask you to tell me what portions of the loft had not yet been attacked by fire? A. I can't tell you that, I told you that before, I wasn't looking all over the loft.

Q. Well, we will try to help you. That portion of the window and all west of the window had not yet been attacked by fire; is not that so? A. That is so.

Q. The casing of the door that you came in, and the casing of the door that you went out had not yet been attacked by fire? A. No.

Q. No flame had yet got to the Washington place door? A. No.

Q. And all the girls had gone down? A. Yes, sir.

Q. And there wae no smoke at all? A. Not that time.

Q. And you and the policeman and the two girls were the only living persons who were there at that time? A. Yes, sir.

Q. And the girls were inside and not at the door? A. What do you mean by the girls inside, not at the door?

Q. They were by the windows? A. Yes, sir.

Q. And not by the Washington place door? A. Those two girls, the ones I took out through the window?

Q. Yes. A. That is the girls, yes.

Q. They were by the windows on the Washington place side? A. Yes.

Q. And they were not by the door? A. No, sir.

Q. Was the policeman with you? A. Yes, sir.

Q. And you and the policeman were the only two living persons at that time at that door? A. Yes, sir.

Q. And there was no flame there? A. No, sir.

Q. And there was no smoke there? A. No, sir.

Q. And all the girls had gone out? A. All the girls had gone out.

Q. You say that you were excited at that time? A. I didn't say anything of the kind.

Q. I misunderstood you. I thought you said at a time like that you were excited? A. I didn't say me, I said the people were excited.

Q. But you were not excited? A. No, I don't think I was.

Q. Was the key sticking in that door was a spring? A. I never heard of a key sticking in a door with a spring.

Q. Did this door have a patent Yale lock? A. A patent Yale lock? Well, it had at one time, yes.

Q. On the 25th day of March 1911, at the time of the fire, did it have a patent Yale lock? A. There was only a shell of it on the 25th of March.

Q. On the day of the fire, on the 25th of March, 1911, did it have a patent Yale lock? A. I said it was a shell of a patent Yale lock, yes. I suppose you quite understand what I mean by a shell.

BY THE COURT: Q. What do you mean by “shell”? A. The outside skeleton of a lock. What I mean, it is the outside skeleton of the lock without the inside part of the lock. It was an old rusty lock, never been used — might have been used the first time the door was put up, only the shell was left of it — inside part was taken out, no such thing there.

BY MR. BOSTWICK:

Q. At the time that you went out was the officer in front of you? A. After we got the girls off?

Q. Yes. A. The officer went out ahead of me.

Q. The officer was in front of you? A. Yes, sir.

Q. Was there any smoke in the stairway at that time? A. When I turned around to go out there was smoke already on the stairs.

Q. Do you remember making a statement to me on the 28th

day of March 1911? A. I made a statement, but I never recollected the date.

Q. The Tuesday following the fire three days after the fire? A. It may be possible I did.

Q. Don't you remember coming to my office? A. I do.

Q. How was it you happened to come down to my office, Mr. Brown? A. I was subpoenaed.

Q. You were what? A. I was subpoenaed to appear.

Q. Who subpoenaed you? A. I got it off somebody, I don't know who gave it to me.

Q. You got a subpoena? A. Yes, sir.

Q. On the 28th of March? A. Yes, sir, - I don't say the 28th of March, it was around that time. I wouldn't come up to your office unless I was subpoenaed.

Q. Did Mr. Blanck send you down to my office? A. Mr. Blanck had nothing to do with me at that time.

Q. Didn't you tell me that Mr. Blanck sent you down to my office? A. I never told you anything of the kind.

Q. While you were in my office, didn't you make this statement? "The key was sticking in the door with a spring"? A. I think that is an error.

Q. "The way it always has been"? A. I think it was an error on your stenographer's part.

Q. You think it is string? A. I think it is string.

Q. Probably that is correct. That is probably an error of the typewriting, because now that you speak of it the letter is

rather indistinct. Weren't you asked this question and didn't you make this answer: "Q. Did it have one of those patent Yale locks that you turn from the inside? A. Yes, sir." A. Patent, yes.

Q. You did make that answer? A. Yes, sir.

Q. And was this question put to you and did you make this answer: "Who went out first? A. The officer. I couldn't see the officer at all when I went out and when I got to the stairs I saw the officer in front of me"? A. That is right.

Q. "Q. Was there any smoke in the stairway at that time? A. Not yet." That is correct, isn't it? A. Will you kindly state that again, please.

Q. "Q. Who went out first? A. The officer. I couldn't see the officer at all when I went out, and when I got to the stairs I saw the officer in front of me."? A. Yes.

Q. "Q. Was there any smoke in the stairway at that time? A. Not yet."? A. Did I say that, or was it another error on your stenographer's part?

Q. Now, did you hear that question and was that answer made? A. Well, I don't think I made that answer.

Q. In other words, isn't it a fact that there was smoke in the loft and you couldn't see the officer? A. No, I seen the officer when I got on the stairs.

Q. When you got to the stairs that is where you saw the officer in front of you? A. Yes, sir.

Q. And isn't it a fact that there was no smoke in the

stairway at that time? A. When I get out there was smoke coming out already.

Q. Then you didn't make this statement? A. I did not.

Q. You usually went up and down from the eighth to the ninth floor, I think you said, depending on where you happened to be at the time you happened to go up or downstairs? A. Yes, sir.

Q. Wasn't this question put to you and didn't you make this answer, within three days after the fire: "Q. On the ninth floor? A. I can't tell, I don't think it was, because I will tell you, I only happened once to go that stairway, and one of the elevators was broke and I didn't want to go around the floor and I opened the eighth floor door and walked up the stairs, and I opened the door and walked right in"? A. I never said anything of the kind.

Q. I ask you to look at that paper and state whether that is your signature? A. That is mine, that is my name there and my signature.

Q. And did you sign this document? A. I did.

Q. Did you swear to it? A. I did.

MR. BOSTWICK: I ask that the document be marked for identification.

Marked for identification People's Exhibit 47.

BY THE THIRD JUROR:

I think I remember in your testimony that you said a few moments ago that when you went to the Washington place

door on the eight floor to try to let those girls out that you put your hand on the key? A. Yes, sir.

Q. And I think you told Mr. Steuer that you tried to turn the key and you couldn't, and Mr. Steuer asked you which way you tried to turn it, and you said to unlock the door? Isn't that so? A. Yes, sir.

Q. What was your idea in turning the key at that time to unlock the door? A. Because I was wondering why the girls couldn't get out at that time and from excitement they might have turned the key in the lock at that moment.

Q. Was it customary to keep that door locked generally through the day? A. Not that I know of. Since I worked in that place I don't know of that door being locked.

Q. Your inclination for putting your hand on that key at that time was that you thought somebody might have turned it just previous to your getting there? A. It seemed strange to me that the girls were standing around that door, so that is the first thing I tried, that key, to see if they locked it, yes.

BY MR. BOSTWICK:

Q. Did Mr. Bernstein say this to you? You go and let them out the front way? A. I never heard them words before, not that I know of. He may have said something similar to that but I can't tell exactly what he said at that moment. All I know is he said "Get the girls out".

Q. Well, did he say, you go and get them out the front

door? A. He never mentioned a word about the front door to me.

Q. He did not? A. No, sir.

Q. Did Mr. Bernstein say "Go over on the other side and take care of the doors"? A. Never said anything like that to me.

Q. The girls had all gone downstairs. Did you see anybody come down from the ninth floor? A. I didn't see anybody coming down from the ninth floor.

BY THE COURT:

Q. When you turned around, Mr. Bernstein having said something to you and were doing in the direction of the Washington place door, at a point how far away from that door did you first see it, on the day of the fire? A. Will you kindly ask me that question again?

Q. Mr. Bernstein at the time of the fire said something to you? A. Yes, sir.

Q. And as I understood you you then turned around in the direction of the Washington place door? A. Yes, sir.

Q. At that time were the the girls by that door? A. Yes, sir.

Q. Already there? A. Yes, sir.

Q. Was it any part of your duty as a machinist in the employ of the defendants to examine for the purpose of making repairs to any locks on those premises? A. No, sir.

BY MR. BOSTWICK: Q. How long had you been in their employ?

A. Three and a half years now.

BY THE COURT:

Q. What is your best estimate of the length of time that it took you to get the door on the eighth floor open after you first knew there was a fire? A. Well, it took me about three or four minutes.

Q. What is your best estimate of the length of time after you got the door open when you passed out of it for the last time? A. It must have been five or six minutes.

BY MR. BOSTWICK:

Q. What was your salary before the fire? A. My own wife don't know that. If you want to know that you can kindly send to the firm and they can tell you that. That is my personal affair.

Q. That is all, Mr. Brown.

BT THE SEVENTH JUROR:

Q. When his Honor asked you whether Mr. Bernstein said something to you when you stood there in the middle of the floor, were there any girls at the Greene street door at the time? A. No.

Q. But you did see a whole lot of girls at the Washington place door? A. They all went to the Washington place door.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You realize that your bosses are here being tried on a serious charge, don't you? A. Yes, sir.

Q. Well, now, as their attorney I don't want any mystery in this case of any kind. Won't you please tell the jury what your salary was? I don't see what it has got to do with the case, but as Mr. Bostwick asked it, I ask you as an employee of these two men to tell this jury?

MR. BOSTWICK; I object to the question now.

THE COURT: I will allow him to answer it.

MR. BOSTWICK: I think it is a different matter whether it is brought out by my side or by Mr. Steuer.

THE COURT: Technically yes, morally no. You may answer.

A. I will tell you, Mr. Steuer, my own wife don't know my salary, but if you insist upon me telling I am willing to do it.

Q. Well, I will prove your salary in a dozen different ways, whether your wife knows it or not. It don't make any difference whether you tell it or not. A. Well, I can tell it.

Q. You are certainly doing an injustice to these two men by fencing there —

MR. BOSTWICK: I object to that as a very improper statement.

THE COURT: Objection sustained.

BY THE COURT:

Q. Well, Mr. Brown, we will ask you this: is your salary to-day the same salary that you were receiving on March 25<sup>th</sup> 1911? A. It is the same salary.

BY MR. STEUER: Has it been increased by one cent since the time of the fire? A. No, sir. I never asked for it. I have been there three and a half years and never asked for an increase of salary.

WILLIAM GREENSPAN, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 156 East 112th Street.

Q. Mr. Greenspan, were you working for the defendants, Harris and. Blanck on the day of the fire? A. Yes, sir.

Q. And were you working for them for wages? A. Yes. sir.

Q. And have your wages, they have not been attached by anybody, have they? A. No, sir.

Q. Have you any reason why you don't want to tell your wages? A. No.

Q. What were your wages? A. \$20. a week.

Q. You are still working for them, are you not? A. No, I do not working for them now, I am working for the Reliance Waist Company.

Q. You are not working for these people? When did you quit work for them? A. Four weeks ago.

Q. Was your wages raised between the time of the fire and the time you quit? A. Yes, sir.

Q. How much? A. Five dollars.

Q. Now you are working for the Reliance Waist Company? A. Yes, sir.

Q. And you have been for the last four weeks? A. Yes, sir.

Q. Were you there at the time of the fire, Mr. Greenspan? A. Yes, sir.

Q. On what floor, Mr. Greenspan? A. On the ninth floor.

Q. Where were you Mr. Greenspan when you first heard that there was a fire? A. In the dressing room.

Q. Which dressing room? A. On the Washington side.

Q. On the ninth floor? A. On the ninth floor.

Q. I don't recall whether there was one or two dressing rooms on the ninth floor on the Washington Place side, there were two, weren't there? A. There were two dressing rooms, — one dressing d room.

Q. Was it divided? A. Yes, sir.

Q. There was a partition making two of it, is that it? A. Yes. sir.

Q. Which one of those two were you in, Mr. Greenspan, the one next Washington Place elevators or the one that is the farthest away? A. The one nearest the sink there.

Q. Nearest the sink? A. Yes, sir.

Q. I think we call that No. 2 in this trial (Producing diagram before witness) Now here are those closets marked (Indicating on diagram); and that is the Washington Place elevator (Indicating); over in that corner (Indicating) are the two dressing rooms. Which one of them is it? A. This one here (Indicating).

MR. STEUER: Pointing to No. 2, your Honor.

Q. What did you do, Mr. Greenspan, after your heard that

there was some trouble? A. When I was in dressing room I heard the scream outside; so I ran out from the dressing room and I looked up and I have seen the crowd, some girls by the Washington side elevators and I went over there, and there was a crowd, and I went over to the door; I opened the door, and I wanted to go out through the door.

Q. What side are you talking about Greenspan? A. That Washington door.

Q. On the ninth floor? A. On the ninth floor.

Q. Tell the Jury what happened Greenspan? A. When I opened the door and I wanted to run down the stairs I saw flames, and smoke right in my face so I had to leave that door and made my way back to Greene Street side and went out there.

Q. You came in back through that door into the loft didn't you? A. Yes, sir.

Q. Just tell the Jury what the condition of the loft was Greenspan? A. Why, that was all full of smoke, and burning and everything,

Q. What did you do? Tell the Jury the way you walked around or what you did when you went around there Greenspan. A. When I went out through the Washington -- when I —

Q. When you got back into the loft Greenspan, I want you to tell the Jury what you did. A. Then everything started to burn around there and I started to run and I went out through the roof.

Q. Now during the time when you were going through the loft, Greenspan, what was there, all around. I want the Jury to

get an idea how things were when you were going from the Washington Place side to the Greene Street side after you had opened the Washington Place door. A. The place was all full of smoke.

Q. And when you got over to the Greene Street side, what did you do? A. I ran to the roof.

Q. Did you get right from the ninth floor to the roof? A. I went up from the ninth to the tenth and from the tenth floor to the roof.

Q. Did you go into the loft on the tenth floor when you got there? A. No.

Q. You kept right on going? A. Right up to the roof.

Q. On up to the roof? A. Yes, sir.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Now Greenspan, you say you opened that door, meaning the Washington Place door on the ninth floor? A. Yes, sir.

Q. To the stairway? A. Yes, sir.

Q. And that you wanted to go down? A. Yes, sir, and there was coming ~~

Q. And there was coming up there flame and smoke? A. As soon as I opened the door the smoke --

Q. No, no, I want you to tell me did you see flame and smoke coming up? A. No; when I opened the door I got it right in my face.

Q. So that the flame and the smoke was in the stairway? A. I suppose so.

Q. Where else could it be? A. I don't know, that is

the only place there was.

Q Did you see the girls running down from the eighth floor? A. No, sir.

Q You didn't see any girls? A. No, sir.

Q And you didn't hear any girls? A. No, sir; I didn't hear anything.

Q. Now, was the flame between the eighth floor and the ninth floor very great? A. I didn't look down.

Q. Was there much flame or little flame? A. Well, there was flames, I can see flames and smoke; and I could not go down.

Q. Was the flame so bad between the eighth and the ninth floor that you could not go down there? A. Why, sure.

Q. And the flames were they burning so they would have burned you up if you had gone down there? A. This I don't know.

Q. Were the flames so big that you didn't —

MR. STEUER: What were you going to say?

THE WITNESS: I tried to save myself and I would see there is no way to go down for me or I would certainly would go there.

THE COURT: How long do you estimate that it was, or think that it was Greenspan, from the moment that you heard the scream and knew something was the matter, until the moment that you opened, as you say, the door leading on the ninth floor to the Washington Place stairs? How much time passed between the time that you heard a scream and the time that you got to the door and opened it?

THE WITNESS: I don't know exactly.

Q. Did you go right to the door? A. I went to the elevator as soon as I seen the crowd there, so I went to the door.

Q. You just went right to the elevator and then right to the door? A. Yes. sir.

THE COURT: Run or walk?

THE WITNESS: Why, I am positive I ran, was burning.

Q. So that it took just as long as it took you to run to the elevator and then to the door? A. Not so. Because the dressing room to the doorway was more of a distanee than the elevator to the door.

Q. In other words it took you just as leng as it took to run from the doors back to the elevator and from the elevator to the door? A. No.

Q. It took you so long --

THE COURT: He means it did not take him as long to run from the elevator door to the stairway door as it did to go from the dressing room to the stairway door.

THE WITNESS: Yes, sir.

Q. I will put it another way: You heard a cry of fire when you were in the dressing room? A. Yes, sir.

Q. And you immediately ran to the Washington Place elevators? A. Yes, sir.

Q. And you then immediately ran to the Washington Place door? A. Yes, sir.

Q. And you immediately opened [?] ...

Q. At the cry of fire when you came out of the dressing room where was the fire started? A. I have seen the smoke coming into the Greene Street side windows there.

Q. Did you see any flames at that time? A. Yes, sir.

Q. At the very cry of fire? A. Yes, coming right in from the ~ down where the fire escapes were; that is why I made my way to the Washington Place side.

Q. Do you know Ida Mittleman? A. Yes.

Q. Did you see — you know Annie Mittleman? A. Yes.

Q. Did you see them together after that immediately? A. No, sir.

Q. You know Anna Guilo? A. Anna Guilo — I don't know who she is.

Q. Do you know Mae Leventhal? A. Mae, I know a Mae, but I don't know her second name. Was she a button sewer?

Q. Yes. A. I know her; I didn't see her.

Q. You didn't see her? A. Yes.

Q. The flames were coming up from the eighth floor to the ninth floor? A. Yes, sir.

Q. So much you could not see down the stairway? A. No.

Q. And the door that you opened showed those flames? A. Yes, sir.

Q. And you are sure it was not the Greene Street side? A. Why no.

Q. You are sure it was the Washington Place side? A. Exactly.

Q. Now when you went to the Washington Place door, did unlock it? A. I don't know.

Q. There was a key in the door? A. Well, there usually was a key in the door.

Q. Was the key in the door at that time? A. I don't know.

Q. You don't know? A. No.

Q. Will you say that the door was looked? A. I don't know.

Q. Did you unlock it? A. I don't know whether -- I opened the door.

Q. You don't know whether you unlocked it? A. No, sir.

Q. Do you remember making a call on me on March 31, 1911? A. I know I called on you, I don't remember the exact date.

Q. How was it you happened to come down to see me? A. You sent for me by a subpoena.

Q. You got a subpoena too? A. Exactly.

Q. And you remember making a statement to me? A. Yes, sir

Q. Do you remember my asking you this question and your soaking this answer to me:

"You say that that door was looked" (referring to the Washington Place door) "A. Yes?" A. No I never said it.

Q. And then this question being put to you and this answer being given: "Did you unlock it? A. No; I don't remember that; maybe someone else unlocked it before; I had the doorway open"? A. I said, my statement was made that I went through that door.

Q. I ask you whether you made that statement, and made that answer? A. Oh, I never say anything like that.

Q. All right now. I only want to know whether you said it or not that is all. And was this question put to you: "Did you lock it? A. No." A. No.

Q. And was this question put to you "Was it always kept locked? A. During the days it was looked"? A. No; I never said anything like that.

Q. Never said that? A. No, sir.

Q. And was this question put to you: "It was always kept locked? A. There was a lock in it." You don't remember that? A. I never said it.

Q. Do you remember this question being put and this answer being made "Do you know whether you unlocked it or not? A. No. I don't remember"? A. Yes, correct.

Q. That you remember as correct? A. Yes, sir.

Q. Do you remember this question being put to you: "Did you go down that way? A. No"; and then followed by this question: "Did anybody go down? A. No"? A. I said I didn't know; when I left the loft I don't know what is going on after.

Q. Now when you went over to the Washington Place elevator, did you see a crowd of people in front of the elevator? A. Yes, there was some girls.

Q. Was it a big crowd? A. No; not so very.

Q. Was it a crowd? A. Well, some girls were there; I

could not tell you how many.

Q. Would you call it a crowd? A. I call it there was a few girls.

Q. Did you see anybody in front of the doorway that you opened? A. When I opened the door; no.

Q. Did you have to push any people aside?

THE COURT: What is your answer? In opening that door, the Washington Place door as you say that you didf did you have to puah any t#rls or other people away from it?

THE WITNESS: I don't think so.

Q. Do you remember this question being put to you and this answer being made: "Q. Did you see any people in front of the doorway? A. Yes." A. No.

Q. You didn't make that answer? A. Where, by the door or by the elevator?

Q. I will read the question again. This is the Washington Place door: "Did you see any people in front of the doorway? A. Yes"? A. I don't know whether there was girls —

Q. No, no, I don't want to know anything about whether or not, but I want to know whether you made that statement to me. You didn't make it? A. What did I say then?

Q. I asked you whether you made this answer to this question: "Q. Did you see any people in front of the door way? A. Yes"? A. I don't think so; there was no girls —

Q. No, I don't want to know whether there was one thousand girls or one girl. I am asking you and trying to make you under-

stand that I wanted you to tell me did you make that answer to me on March 31st in my office?

A. I don't know.

Q. You don't know? A. There was a lot of girls there —

Q. I don't want to know about the girls now, I want to know whether you made that statement, whether those words came out of your mouth, did they or didn't they? A. Well, there is a lot of words what I never said at all that you told me before.

Q. Do you remember this question being put to you and this -- no, I will ask this question first: Did you not give the same testimony before the fire marshal? A. Yes, sir, I gave a testimony to the fire marshal.

Q. Did you state to the fire marshal that you didn't know whether you looked or unlocked the door? A. Well I said no.

Q. Was this question not put to you and didn't you make this answer, the question being put by me: "Q. Did anybody ask you if you closed the door? A. Only the fire marshal; and I told him I didn't remember if I unlocked the door or not"? A. I said to the fire marshal —

Q. Did you say that to me? A. I don't remember.

Q. Was not this question put to you and did you make this answer to me — A. No, my question --

Q. Wait a minute until I put the question. Was not this question put to you: "The door was always kept locked though? A. It was locked, but I don't know that day if somebody opened it before that day"? A. I never said anything like that; you didn't ask me such a question because I never said anything

like that.

Q. I ask you to look at this and state whether this is your signature (Handing paper to witness)? A. Yes, sir.

Q. Did you sign that? A. Yes.

Q. And did you swear to it? A. That looks like my signature.

Q. Look again, and be sure it is your signature. (Again examining paper). A. Yes.

Q. Did you swear to that. A. That is my signature.

Q. Yes, but did you swear to it? A. I write I say it is the same, it looks like my signature.

Q. So you write, is that what you say? Did you say you write, is that what you say? A.

I know I never said it.

Q. You signed that, didn't you? A. Yes.

Q. Why did you sign it if it was not true? A. You asked me whether this was my signature.

Q. Yes. A. Well certainly it is my signature.

Q. And you swore to that paper didn't you? A. Yes.

Q. It is an affidavit, isn't it, so far as you know? A. As far as I know I don't know what it is.

Q. Why did you sign it if it is not true? A. Because you told me to sign it and I signed it.

Q. I told you to sign it? A. Yes.

Q. Was I present when you swore to that statement? A. Mr. Rubin I think it was; it was made in your office; you said read it and I was reading that statement.

Q. Was a —

MR. STEUR: I can understand what chance he got in your office when he gets that chance here --

MR. BOSTWICK: I think if Your Honor please there should be a rebuke administered to the Counsel for the defendants --

THE COURT: Go ahead, this thing is very objectionable and must not occur again. Go ahead now Mr. Witness, finish your answer.

A. (Continuing) This paper was given to me and he said "Sign it" and I signed it.

Q. You were told to read every word of it? A. I was reading.

Q. And you did read every word of it, didn't you? A. Well, yes.

Q. And then you signed your name to it? A. I did sign it.

MR. BOSTWICK: That is all.

MR. STEUER: Let me have that paper.

MR. BOSTWICK: No, sir. I ask that the paper be marked for identification.

(Same marked People's Exhibit 48 for identification. )

MR. STEUER: I ask for People'e Exhibit 48 for identification.

THE COURT: You may have it.

MR. BOSTWICK: Under the objection of the District Attorney.

THE COURT: I shall apply the same rule as I did on

Exhibit 41.

MR. STEUER: I want to know who printed on here "Greenspan, liar."

MR. BOSTWICK: That is not part of the paper.

MR. STEUER: Why did you have it marked? I am going to have this thing done, sane way now.

RE DIRECT EXAMINATION BY MR. STEUER:

Q. Did you ever write "Greenspan, liar" on any paper? A. No, sir.

MR. RUBIN: Ask him if that was on there when he signed it.

MR. STEUER: I will ask you something before you get through.

MR. RUBUH: Ask it now.

MR. STEUER: I will ask it now.

MR. BOSTWICK: If Your Honor please I don't think this is proper.

THE COURT: Now proceed with the interrogation.

MR. BOSTWICK: I don't think that it is proper that a paper which is annexed to an exhibit which is marked should be in the hands of Counsel for the defendants, -- the private memorandum of the Counsel; and I ask --

MR. STEUER: If it is private memorandum, why did you give it to the stenographer to be marked?

MR. BOSTWICK: Because it was attached to it at the time the instrument was marked for identification; and it

was handed to you without being handed back to the District Attorney. I don't think His Honor ordered that memorandum that might be attached to the Exhibit also to be handed to Counsel for the Defendant.

THE COURT: When you handed a paper to the stenographer to be marked as an exhibit for identification, the Court assumed that that which you handed to him in its entirety was entitled to be marked as the exhibit for identification; and applying the rule that I applied in the case of exhibit No. 41, I directed the stenographer to hand it to Mr. Steuer as proper for the defendants.

MR. BOSTWICK: May I also inform Your Honor that when the District Attorney handed the paper to the stenographer for marking he held the paper so as to exclude the memorandum that is attached thereto, and had the stenographer mark it on the first page. That would be true in that case, but the memorandum was turned over so that the document itself should be marked on its first page.

THE COURT: It will be understood that the first page forms no part of the exhibit as marked for identification.

MR. STEUER: They can detach it if they like.

THE COURT: It may be detached.

(Paper referred to removed from Exhibit 48 for identification.)

MR. STEUER: I want it marked for identification though.

(Said paper marked Defendants' Exhibit J for identification.)

Q. Mr. Greenspan, I want you to say in answer to my questions yes or no. I ask you whether Mr. Bostwick or Mr. Rubin or anybody in the District Attorney's office ever asked you this question and did you make this answer: "Q. Was it always kept locked? A. During the days it was locked. Q. It was always kept looked? A. There was a lock in it. Q. Do you know whether you unlocked it or not? A. No, I don't remember." Now the question is did Mr. Bostwick ask you those questions and did you make those answers? A. Will you read that again?

Q. I will ask them one at a time so as to get it easier. A. All right.

Q. Did Mr. Bostwick ask you this question first: "Did you lock it? A. No.?"? A. No.

Q. The question is did he ask you that and did you say that? A. Whether I locked the door?

Q. "Did you lock it?"

THE COURT: You are not asked Mr. Witness whether as a matter of fact you locked the door. You are only asked whether at a certain time you were asked that question by Mr. Bostwick and whether at that time you made that answer. You understand me?

THE WITNESS: No.

MR. STEUER: Will I try Your Honor to make it clear?

THE COURT: Yes.

Q. Now Mr. Greenspan you went to Mr. Bostwick's office one day? A. Yes, sir.

Q. And you went inside of his office? A. Yes.

Q. And somebody asked you questions when you were in that office? A. Yes, sir.

Q. And they asked you more than one question didn't they? A. Yes, sir.

Q. Now I ask you whether one of the questions that they asked you that day in Mr. Bostwick's office was this: " Q. Did you look it"? A. No.

Q. You mean that you were asked that question or was not that question asked, were not you asked that question when you were in Mr. Bostwick's room? A. What did I lock?

BY THE COURT:

Q. Well, when you were inside Mr. Bostwick's room, did he ask you that question? A. I don't remember.

Q. Your answer is that you don't remember? A. Yes, sir.

MR. STEUER: Well I offer people's Exhibit 48 for identification in evidence.

THE COURT: Allow me to look at it. (Document handed Court )

MR. STEUER: While you are reading that, Judge, may I make a suggestion: I think perhaps we could get him to understand the situation with relation to whether he was asked these questions or not through an interpreter.

THE COURT: I think possibly we could, yes.

(Interpreter sent for.)

Mr. BOSTWICK: Your Honor, we not only consent that that go in evidence, but offered it for identification under Judge Werner's ruling that if the Counsel for the Defense makes any objection — why we certainly make no objection to its going in evidence.

MR. STEUER: We not only don't object but I offer it in evidence.

THE COURT: Well in this instance, unlike the case of the other exhibit, which under similar circumstances I did not receive, there don't appear to be erasures upon this, — changes. I will receive it.

(Same received in evidence and marked Defendant's Exhibit K.)

MR. STEUER: This paper is headed "Statement of William Greenspan, taken by Assistant District Attorney Bostwick --

THE COURT: I take it Mr. Steuer that all you want is the typewritten matter?

MR. STEUER: That is all I am reading, Judge.

"Statement of William Greenspan taken by Assistant District Attorney Bostwick, in his office, March 31, 1911."

Across the face of it is some lead pencil writing. The typewritten matters are as follows:

"Q. What is your name? A. William Greenspan.

"Q. Where do you live? A. 156 East 112th Street.

"Q. How long had you been working for Harris & Blanck? A.

three years.

“Q. What floor were you working on? A. Ninth floor.

“Q. What were your duties? A. Machinist.

“Q. Whereabouts did you work on the ninth floor? A. I kept charge of the machines on the ninth floor.

“Q. Look here, now (Showing Diagram), there is the Greene Street side and that is the Washington Street side here (Indicating). Now here are two elevators, and there's the two stairways on the Washington side. Now where were you working? A. What do you mean?

“Q. Where did you work on Saturday, what part of that floor? A. I was all over the floor, I had charge of the machines.

“Q. You go all around? You had the same position on the ninth floor that Brown had on the eighth floor? A. Yes.

“Q. Where were you when you first heard anything about the fire? A. I was in the dressing room.

“Q. What dressing room? A. On the Washington Place side.

“Q. Right over here (Indicating on Diagram)? A. Yes.

“Q. In the little comer back of the toilets? A. Yes, near the washtub.

“Q. Near the wash stand? A. Yes.

“Q. Well, the wash stand is — A. Between the two toilet doors there was a wash stand.

“Q. Out here between the two toilet doors (Indicating)? A. Yes, on the Washington Place side. And right where that

wash stand was, went right into the dressing room.

“Q. Where was the radiator? A. Radiator of what?

“Q. Wasn't there a radiator there? This is the dressing room (Indicating) Was there a partition in front of there all the way across? A. There was a partition right where the dressing room is and from that dressing room leads a very narrow space to the motors.

“Q. How far back did that narrow space go? Could you walk all around there? A. To where?

“Q. That is the toilet, isn't it? ( Indicating) A. Yes.

“Q. This is a toilet (Indicating)? A. Yes.

“Q. That is a wash stand (Indicating)? A. Yes.

“Q. There is a door to the toilet? A. Yes.

“Q. And a door to the toilet (Indicating) A. Yes.

“Q. Now, how did you get into this room (Indicating) A. There was a door by the toilets and the other door by the Washington Place side.

“Q. There was a little passageway back of the toilets where they hung their hats and coats? A. No, right on the same wall where the toilet was, there was a dressing room.

“Q. You know where the Washington Street stairway is? A. Yes.

“Q. As you come in from the stairway, right next to it is a cloak room, isn't it? A. Cloak room.

“Q. Yes; now when you come in there is a door. What do

you find just as you come in from the stairway? A. Nothing from the stairway; there is a little partition.

“Q. Doesn't that include the stairway too? A. No.

“Q. You come up from the stairway and come in through that door, and here is a dressing room to the right, and then comes next to the dressing room a toilet, is that right? A. No, that is on the other side.

“Q. Between the toilets and the wall there is a long, narrow space with hooks in it? A. There is a narrow space, yes.

“Q. Now if you started to come in that space, could you go all the way across? A. No, you had to come back.

“Q. You couldn't go out this side behind the toilets where the electric light was? A. You had to go back again.

“Q. If you started into the dressing room the partition stopped you, didn't it? A. No, there was no partition.

“Q. Well we'll say here you come into the dressing room (Indicating) and there is the electric switches back there, see? You went — how far there could you go? Could you go way around there and come out again on this side? A. No, you had to turn back.

“Q. There was a blind alley? A. Yes.

“Q. You were in that dressing room when you heard the cry? A. I just went in to start to dress myself.

“Q. How did you know there was a fire? A. I heard all the girls holler and running out. I ran out and went right

away to the Washington side. When I walked out from the dressing room I saw the flames coming from the yard where the fire escape is. All the flames coming up and I understood there is a fire, but I didn't know where there is a fire so I went over to the Washington side. There was a crowd over there. The first thing I opened the door.

“Q. What door? A. The Washington side.

“Q. The door going down the stairs? A. Down the stairway.

“Q. Did you unlock the door? A. I don't remember.

“Q. There was a key in the door? A. Yes.

“Q. That door was locked? A. I don't remember. I ran and opened the door.

“Q. You say that that door was locked? A. Yes.

“Q. Did you unlock it? A. No, I don't remember that. Maybe somebody else unlocked it before. I had the doorway open.

“Q. Was it closed when you went to it? A. Yes, it was shut.

“Q. Was there a lot of people in front of it? A. I don't know. I seen the elevator going down and there was a big crowd on the elevator and I saw there was so much smoke and soon the place got dark, you couldn't see anything, so I went and opened that door, the flame and smoke come right in front of me, so I had to shut that door again.

“Q. Did you lock it? A. No.

“Q. Was it always kept locked? A. During the days it

was locked.

“Q. It was always kept locked? A. There was a lock in it.

“Q. Do you know whether you unlocked it or not? A. No, I don’t remember.

“Q. Did you go down that way? A. No.

“Q. Did anybody go down? A. No.

“Q. You know it was closed when you went over there? A. No. It was closed when I went there.

“Q. Was there anybody there? A. It was in a very bad condition that we couldn’t do nothing.

“Q. What do you mean? A. Closed up by smoke right away.

“Q. Was there anybody around that door when you came there? A. When I ran there there was people, I seen one elevator man going down from the Washington side with a car of people, and the flames landed all around.

“Q. Yes, now look. When you went over to that Washington Street side, what did you see? Did you see any people in front of the elevators? A. Yes.

“Q. How many, a big crowd? A. A crowd.

“Q. Did you see any people in front of the doorway? A. Yes.

“Q. Were they jammed against the door? A. I don’t know. When I ran out from the dressing room, when I ran I seen the elevator going down. Then I turned and opened the door wide open but smoke and flames come right beside me.

“Q. There were some girls there, weren’t there? A. I don’t

know.

“Q. There were a lot of people around there when you opened the door? A. When I opened it there was a crowd near the elevator.

“Q. Wasn't a crowd near the door? A. I don't know.

“Q. Was there anybody up against the door when you opened it? Was there anybody by the door like that (Indicating by office door)? Or was there anybody by the door and some by the elevator too? A. I can't remember. There was a crowd.

“Q. There was a crowd around there? A. Around the whole place.

“Q. Around the door and elevator? A. All over.

“Q. Did you have to push anybody aside to get to the door? A. I don't know.

“Q. You were way inside? A. The flames came and I went over and I wanted to jump down through the window myself and as soon as I went over to the window that window went on flames.

“Q. Then you went back to the Washington door? A. No, I ran out to the roof from the Greene Street side.

“Q. Wait a second. Now after you got out of the dressing room you went around and saw this big crowd at the elevator and saw the elevator going down. And you went to the door and you don't know whether you opened that lock or not. A. Yes.

“Q. And you saw the smoke and flames and closed it again? A. Yes.

“Q. Then you went to the window? A. No, then I ran back to the toilets.

“Q. Back to the dressing rooms? A. Yes, all flames round, and then I ran out to the Greene Street side.

“Q. And went up to the roof? A. Yes.

“Q. Did you see anybody going down the fire escapes then? A. No, I didn't see anything because it was full of flames and smoke.

“Q. All you did was go to the toilets. Did you do anything in the toilets? A. No, they were full of smoke.

“Q. And then you ran to the Greene Street stairway and went up to the roof? A. Yes.

“Q. Did you see anybody there that you remember on the ninth floor? Did you see any girls that were subsequently burned? A. Yes. one girl, Annie Nicholas.

“Q. Is she dead? A. I think so.

“Q. Where did you see her? A. By the Washington Street side by the elevator. I left her there. I ran; I didn't know where to run.

“Q. And she is now dead? A. I think so.

“Q. Do you know whether her body has been found? A. I don't know. I saw in the paper that she is dead.

“Q. Anybody else that you remember? Do you know Jake Klein? A. I know Jake Klein, but I didn't see him there.

“Q. That’s all you remember is it? A. That’s all.

“Q. Did you talk to anybody about this case? A. No.

“Q. Did you talk to Mr. Bernstein? A. Yes.

“Q. Did he tell you that he was glad you closed the door? A. No.

“Q. Did anybody ask you if you closed the door? A. Only the fire marshal, and I told him I didn’t remember if I unlocked the door or not.

“Q. The door was always kept locked, though? A. It was locked. But I don't know that day if somebody opened it before, that day.

“Q. When they closed work at night, the people all had to go out the Greene Street entrance, didn’t they, through the freight elevators? A. The freight elevators.

“Q. And who was it that stood there and examined their handbags and parcels, who looked at the bags as they went out to see whether they had taken anything or not? A. This was nothing to do with me. I only was the machinist. I shut off the power.

“Q. Did you ever see anybody do that as the girls went out? A. There was a watchman, . don’t know his name, his first name was Nathan.

“Q. Nathan Zeller? A. I don't know.

“Q. He was the one that used to do that? A. Yes.

“Q. Did you ever see him? A. No, I didn't see him. He only stood there as they went out.

“Sworn to before me this 4th day of May, 1911,. — William Greenspan. ~ James Sheridan, Commissioner of Deeds.”

Q. Do you know what it is that I just read to the Jury? A. You read a statement.

Q. Which statement? A. This one here that you not in your hands.

Q. Well now, do you know what that statement is supposed to be.? A. I don't know — supposed to be what I said to the District Attorney's office.

Q. Yes. Now I ask you if you remember on the day when you were there to call -- question withdrawn. Did you sign that paper on the day that you were there? A. The first day.

Q. Yes. A. I think I was twice there.

Q. Do you remember how long it was between the day that you were there and were asked the questions and the day that you signed the paper? A. I don't know; I don't remember.

Q. Now here it says that you were asked questions on the 31st of March 1911 and —

MR. BOSTWICK: If Your Honor please I object. The paper speaks for itself. It is in evidence.

THE COURT: I understand Mr. Steuer is reading from the paper.

MR. STEUER: “Statement of William Greenspan taken by Assistant District Attorney Bostwick in his office, March 31, 1911.”

MR. BOSTWICK: So far as he reads from the paper, that is

perfectly agreeable.

THE COURT: Proceed Mr. Steuer.

Q. Now here it says that these questions were asked of you and that you made these answers to Mr. Bostwick on the 31st of March, 1911. A. Yes.

Q. It says here that on the 4th day of May, 1911 you swore to this paper. Will you tell me please everything that you can that anybody said to you on the day when you signed this

Q. When you signed your name here on this sheet (Indicating). A. Yes.

Q. Tell the Jury what was said to you by anybody? A. They asked me -- I do not know -- they asked me whether I opened the door and I said I had opened the door and it came in, the fire; I wanted to run down to that stairway. Then was asked a question whether the door was usually kept locked and I said "I don't know anything about it." Then was asked the question to me whether I passed through that door. I said "Yes, a lot of times passed through that door in the summer time, and the door was wide open."

MR. BOSTWICK: If Your Honor please I understand the rule of this State of New York to be — as erroneous as I believe it to be — that a document in these cases becomes primary evidence; and I think I pointed out to Your Honor that ever since the Queens case which was repudiated in England, that doctrine has been adhered to in the State of New York. And although as erroneous as I believe it to be it now stands being upheld by the Court of Appeals as

prima facie ~~ the document. That is that the document is the best proof of what was said and cannot be supplemented by the oral statements of the witness.

THE COURT: It has not appeared here that this paper was read to this witness or that he read it.

MR. BOSTWICK: I ask Your Honor to ask the stenographer to read his admission on this stand that he read it before he signed it and swore to it.

MR. STEUER: He said he was reading and reading Your Honor.

THE COURT: That was by recollection of it.

MR. BOSTWICK: May we have the stenographer's record read.

(The stenographer turned back and read as follows: "You were told to read every word of it? A. I was reading. Q. And you did read every word of it, didn't you? A. Well, yes. Q. And then you signed your name to it?")

THE COURT: I remember what followed that.

Q. Can you read these papers? A. I can read some part.

Q. Some parts? A. I can read. This was handed over to me and they say "Can you read English?" I say "Yes, I can read"; and so I looked around and started to read it and after, they told me to sign it.

Q. What did they tell you? A. To sign my name to it.

Q. Had you read every page of it when you signed it? A. No, not exactly; I read it quick because there was a lot of

witnesses at that time.

Q. There was a crowd of you there, down together to sign? A. No, there was a lot of people you know, and they only gave me, I should read this over and sign my name to it.

MR. BOSTWICK: Your Honor if he is allowed to impeach this witness' own statement under the signature, I think that the stenographer should be called and sworn.

THE COURT: I am going to give you every opportunity; but I am going to hear this man now, what he says as to the circumstances under which he put his name there.

Q. Now you tell the Jury exactly what happened when you put your name there? A. I signed my name and I went home.

Q. After you signed your name did anybody then come to you and ask you whether you had read it over? A. No.

Q. Did anybody ask you then whether the questions and answers that you had read over were true or not? A. No.

Q. Did anybody talk to you about it or not? A. No.

Q. Do you know any person by the name of James Sheridan? A. No.

Q. Do you know what is meant by a Commissioner of Deeds? A. No.

Q. Do you know what is meant by an affidavit? A. No.

MR. BOSTWICK: Now, if Your Honor please the Counsel for the defendants offered this document in evidence.

THE COURT: My recollection is that Counsel on both sides vied with each other in offering it.

MR. BOSTWICK: That is true, sir.

THE COURT: And I receive. it.

MR. BOSTWICK: And he has now been permitted to impeach the execution of it.

I know it is improper that I should ask this witness questions to the same effect, but I think that I should be permitted to as he has been permitted to do it.

THE COURT: Of course I will allow it, I will allow you to interrogate this witness respecting the circumstances under which he put his name to it; and I will allow you to call any other witness who can testify as to what transpired upon the occasion, and I would have preferred if that had been done before the paper had been received but it was not.

RE CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you know where you were when you put your signature to this paper? A. Yes.

Q. Where? A. In the office.

Q. What office? A. Down in your office.

Q. In my private office? A. No, it says — I don't know whether it is your private office.

Q. Can you describe the office? What floor is it on? A. I don't remember; I think it is on the 5th floor, or 4th floor.

Q. Did it have names on the door? A. Yes, it says "District Attorney Bostwick."

Q. Did you sign that in that office? A. Yes, sir.

Q. And did somebody go with you to some other place after you had signed that? A. No.

Q. Did you see the man write his name, James Sheridan?

MR. STEUER: Answer.

A. No.

Q. You didn't see him put his name there? A. No, I signed my name and I went out.

Q. And you didn't go before any Commissioner of Deeds and sign your name? A. No.

Q. And do you know where Mr. Koenig's room is? A. No.

Q. Did you go to Mr. Koenig's room? A. No.

Q. You never saw Mr. Koenig? A. No.

Q. Did you see a gentleman that was rather short with glasses? A. I don't remember.

Q. Was there anybody present when you signed this? A. I think Mr. Rubin told me to sign it.

Q. Mr. Rubin. Did Mr. Rubin put his name to it? A. I didn't see it.

Q. Well do you know who was present? A. I think you were there and Mr. Rubin was also there. You both was there; you told me I should sign it and I signed it and then I went out.

MR. BOSTWICK: I ask to withdraw this witness and call Mr. Kestenbaum.

MR. STEUER: I make no objection Your Honor, call anybody they like.

THE COURT: All right, the witness is withdrawn by consent.

HARRY KESTENBAUM, a witness called on behalf of the people, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BOSTWICK:

Q. I show you this Exhibit No. 48 for identification and Defendant's Exhibit K and ask you if you remember seeing that paper on May 4, 1911 (Handing paper to witness)? A. I do.

Q. And do you remember seeing William Greenspan on that date? A. I do.

Q. Where did you see him? A. I saw him on the third floor in the office of Mr. Koenig.

Q. And did you see where Mr. Greenspan signed that paper? A. I did.

Q. State the circumstances under which he signed it and what was done thereafter. A. I asked Mr. Greenspan to read it through very carefully; and he went out in the hall and sat down on a bench and read it through; and after had read it through I asked him whether he read it and he said yes. And then he was sworn to it by one of our commissioners, one of the notaries in our office.

Q. Did you see Sheridan swear him to it or not? A. I did.

Q. And that was May 4th? A. It was.

Q. Was Mr. Rubin or I present at that time? A. No, sir.

CROSS EXAMINATION BY MR. STEUER:

Q. Isn't it a fact that from the beginning of this thing

that Koenig was associated with Rubin and Bostwick in the preparation of this case? A. It is not the fact.

Q. And isn't it a fact that Koenig made his headquarters and office with Mr. Bostwick at that time? A. For a short while.

Q. Will you swear that in the month of May Mr. Koenig did not make his office with Mr. Bostwick in his room, May, 1911? A. Not his office; he came up there to do part of our work.

Q. Will you swear that I did not personally see Bostwick and Rubin and Koenig in the early part of May, 1911 in Bostwick's room? A. I don't know who you saw or what you did.

Q. Did you see me there in the early part of May, 1911? A. I did not, sir.

Q. Don't you know that the only place you could find Mr. Koenig in May 1911 was in Bostwick's room? A. I don't know that to be the fact.

Q. Don't you know that the greater part of his time he spent with Bostwick in Bostwick's room? A. I know he did a part of his time.

Q. With Mr. Koenig? A. Yes, sir.

Q. A greater part of the time? A. Not the greater part, but a part of his time.

Q. In Bostwick's room? A. Yes, sir.

Q. You had a whole lay out in Bostwick's room in connection with this case? A. Yes, sir.

MR. RUBIN: Mr. Bostwick.

MR. STEUER: Mr. Bostwick, yes, Mr. Stenographer put

Mr. before Bostwick's name back there every time.

Q. In Mr. Bostwick's room? A. Yes, sir.

Q. And the witnesses were brought in there? A. They were.

Q. And that is where they were shown the diagrams? A. Yes, sir.

Q. That is where the pictures were? A. I don't know what pictures you refer to.

Q. The pictures in this case, they were taken at that time. A. I don't remember we had any at that time.

Q. Don't you know that the affidavits show that you showed pictures to the different girls? A. We didn't have them until three or four months after that examination took place.

Q. Did you have a diagram? A. We had a rough sketch.

Q. Just a rough sketch? A. Very rough.

Q. Didn't have the diagram? A. No, not the final form.

Q. But all you had was a rough sketch? A. Yes.

Q. In May, 1911? A. I think so.

Q. Don't you know on the tenth of April, 1911 Whiskeman produced it before the Coroner's jury and swore to it and identified it, the diagram exhibit 2 in this case? A. I guess he did.

Q. What is that? A. Well, a rough draft.

Q. I am speaking not of the rough draft, I am speaking of People's Exhibit 2 in this case. A. This has just been worked up lately.

Q. Do you tell this Jury that Whiskeman didn't have that diagram itself with Mr. Moore before the Grand Jury -- before the

Coroner's Jury, on the 10th day of April, 1911? A. Not this identical one, no.

Q. Did he have one exactly like it? A. Not exactly like it.

Q. What was the difference between the two? A. Something like it, he had the outline of it.

Q. Was it drawn on cardboard like that (Indicating)? A. No, sir.

Q. You are sure about that? A. Positive.

Q. Did he point out to the Grand Jury on a cardboard of the same else — I didn't mean Grand, I meant Coroner's Jury, that he had prepared it on a quarter inch scale? A. I don't know what he did about any scale; all I know is he had a rough draft which he worked up with the — with his associate, and that is the rough draft he had.

Q. Don't you know that Mr. Moore testified on this trial that they were busy during the night getting the diagram ready for the Coroner's Jury? A. I don't know what he testified to.

Q. Now you say that Whiskeman did not produce that diagram do you?

THE COURT: Mr. Steuer we are travelling I think far afield.

MR. STEUER: I have got a right to test this man. This

man comes in and picks out an affidavit from all this bunch

and remembers it was May 4<sup>th</sup>, 1911. I submit to Your

Honor I am a little far afield and I may take him far

afield to show what his general recollection is.

THE COURT: Well there is a wide latitude is cross examination, but that is coupled with the additional rule: The extent of it is somewhat in the discretion of the Court and you have almost reached the limit.

Q. Well now, I want to ask you: Is it or is it not the fact that on the 10th day of April, 1911 in the Coroner's Court, James T. Whiskeman was shown by Mr. Rubin a diagram, and did he ask him this question: "I show you diagram marked "Ninth floor" and ask you if that is a correct diagram of the ninth floor of the Asch building?"

MR. BOSTWICK: I object, unless the witness was in the Coroner's Court and knows whether that question was put and answered and if so he may very well answer it.

THE COURT: Sustained. If you know.

A. I was working in Mr. Bostwick's room at the time the Coroner's inquest was going on.

Q. Do you say you were not present at that time? A. I was not.

Q. At no time? A. For once or twice for about five minutes.

Q. You were not present while Whiskeman testified? A. I was not, sir.

Q. Well now, do you remember when each witness swore to the affidavit that the witness swore to in Mr. Bostwick's office? A. Yes, sir; I remember pretty nearly all of them that did.

Q. Do you remember the dates on which they made their respective affidavits? A.

Not the dates; I have seen them more than once.

Q. Well now, I ask you about the dates, not when you had seen them. Do you remember the dates on which these different witnesses swore to their affidavits? A. More than half were sworn to on the same day.

Q. And what date was that? A. The affidavit will show what date it is.

Q. Don't you remember it? A. Not off hand, no.

Q. Why don't you remember it, a moment ago -- don't you remember — didn't you remember it a little while ago? A. Yes, I remember it very distinctly in this case because I know this man.

Q. Don't you know the others, yes or no? A. Yes, I know all of them.

Q. Just the same as you know him? A. Well, I know him better because he has been down at our office I think -- well he was down on one occasion to tell us something and I saw him in private and I remember him very distinctly.

Q. Didn't you see every one of the witnesses? A. Pretty near all of them.

Q. You have seen every one of our witnesses since they have been down here haven't you?

A. Down here?

Q. Yes. Haven't you been bringing tales as to what they were saying outside and to whom they were talking? A. No, sir.

Q. Who did? A. I don't know.

Q. You mean to say that you didn't go to the room every day in which our witnesses were since they have been down here

MR. BOSTWICK: Now, if Your Honor please I think this cross examination has reached long beyond the limit.

THE COURT: No, I don't think that; but I think it has now reached the limit.

MR. STEUER: May we have this one question answered Your Honor?

THE COURT: He may answer this one.

A. What is it.

Q. (Repeated by the stenographer) A. Only to get a glass of water for Mr. Bostwick.

Q. And you always went to the room where our witnesses were?

A. This room where they are, that same room.

Q. That is where you went to get the glass of water? A. Yes, sir, each time I went to get a glass of water I passed through that room.

Q. The first day they were not in the same room were they? A. I don't know where they were the first day.

Q. Didn't you see them all? A. No, sir.

RE DIRECT EXAMINATION BY MR. BOSTWICK:

Q. These diagrams that have been used in this case were not completed until the month of November, so far as you know were they? A. So far as I know, yes, sir.

Q. You never saw them before November? A. These identical

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ones.

Q. These diagrams that are now being used. A. I did not.

Q. And you did see them fire, in November or December? A. I did, yes, sir.

Q. I show you that card and I ask you if that memorandum of the date upon which William Greenspan swore to his statement was made by you? A. It was.

Q. And did you put it there upon the date that William Greenspan swore to that statement? A. I did.

MR. BOSTWICK: Mark it for identification. (Same marked People's Exhibit 49 for identification.)

Q. Were you present when William Greenspan gave this testimony to me in my office on March 31, 1911? A. I was; because the card will show that. While they were examined -- at the same time they were examined I made out a card just who was there and who they were examined by and that is how I know whether or not they were present at that time.

MR. BOSTWICK: That is all.

WILLIAM GREENSPAN, resumes the stand.

THE COURT: Are both sides through with this witness?

MR. STEUER: I am.

MR. BOSTWICK: I would like to have James Sheridan called, and see if he can identify the man.

THE COURT: Very well.

MR. STEUER: If James Sheridan is going to identify him, let us sit Greenspan in the centre of the room.

THE COURT: I want to see whether Greenspan can identify Sheridan as the man who has sworn him in.

MR. STEUER: Your Honor if they are going to have Greenspan identified by him, let him be placed in the centre of the room and have Sheridan come in and identify him.

MR. BOSTWICK: There is no pretense if Your Honor please that Mr. Sheridan can pick out this man.

MR. STEUER: That is what they were going to bring him in for.

MR. BOSTWICK: We have brought Mr. Sheridan for no such purpose. The absurdity of it is on its face.

MR. STEUER: I agree the absurdity is on its face but that is what you were going to do when you sent for Sheridan.

MR. BOSTWICK: Send in Sheridan.

(A man comes into the room and comes to the Bar. )

BY THE COURT:

Q. Do you remember ever having seen that gentleman who stands there by the gate, before? A. What?

Q. Did you ever see him before? A. I don't think so.

Q. Do you remember on any occasion his swearing you to a paper? A. No.

Q. Did you see him at the time you wrote your name to this paper? A. I don't think so Your Honor.

Q. You don't remember him? A. (Witness shakes head.)

THE COURT: Your name sir, is what?

MAN AT GATE: James Sheridan.

MR. BOSTWICK: I call James Sheridan.

THE COURT: That is all Mr. Sheridan.

MR. BOSTWICK: I would like to call Mr. Sheridan.

THE COURT: Not at this stage.

MR. STEUER: I have no objection to his being called.

THE COURT: I have. Are you through with this witness?

MR. STEUER: Yes, sir.

THE COURT: Step down, sir (Addressing witness).

ROSE ROSENFELD, a witness called on behalf of the

defendants, being first, duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you reside? A. 900 Union Avenue, Bronx.

Q. Now talk out over this way Miss Rosenfeld. A. All right.

Q. Where do you work? A. I work at the Triangle Waist Company.

THE COURT: You will have to try to talk a little louder than that Madam, they can't hear you. A. (Continuing) I work for the Triangle Waist Company.

Q. How long have you worked for them? A. I worked two years.

Q. And what do you do? A. As an operator.

Q. Louder, over to that gentleman there please. A. I was an operator, worked two years for the Triangle Waist Company.

Q. And what floor did you work on? A. I worked on the ninth floor.

Q. Where was your machine? A. A long time it was by the Washington Place side, and after, I was sitting on the Greene Street side.

Q. And where were you sitting at the time of the fire? A. At the time of the fire I was sitting on the Greene Street side.

THE COURT: Can you hear her over there (Addressing the twelfth Juror)?

THE TWELFTH JUROR: Slightly, could she not talk a little louder.

Q. On the day of the fire you were sitting on the Greene Street side, is that right? A. Yes, sir.

Q. Don't shake your head, say something. A. I said yes.

Q. What was the first thing that you knew about that there was any fire. A. I heard a scream from a girl that the fire was on our floor.

Q. What did you do? A. I just was on the way to go to the Washington Place side; of course I saw that everybody was running that way; and I dropped my book there, another girl pushed me down and I don't know how, I went to the Greene Street side out.

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

THE COURT: Any cross examination?

MR. STEUER: I am willing to withdraw the witness.

MR. BOSTWICK: I would like to cross examine the witness.

MR. STEUER: Go right ahead.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Did you ever use the Washington Place door on the Greene Street side? A. Yes.

MR. STEUER: You used the Washington Place door on the Greene Street side.

Q. I beg your pardon, did you ever use the Washington Place door leading to the stairway?

A. Yes, I did.

Q. When? A. I don't remember the time.

Q. Where were you going? A. Going to the eighth floor.

Q. What? A. To the eighth floor.

Q. And upon that one occasion in what condition was the elevator. A. What did you say?

Q. Upon that occasion — at that time what was the condition of the elevator. A. I don't know what you mean; I don't know well how to talk well.

Q. What language do you speak? A. German, Polish, Jewish.

MR. BOSTWICK: Ask that question please Mr. Interpreter

A. (Through interpreter) What do you mean, how the elevator was?

Q. Was it in order or was it broken down? A. (Without interpreter) It was sometimes broken but another reason that I went out just as I said before; and sometimes the elevator was all right, I felt like to go down to the stairway.

Q. What I ask you is this: The only time you went through the Washington Place door was the elevator broken down" A. Yes--

MR.. STEUER: I object to it on the ground that that assumes that she said "one time".

THE COURT: Sustained.

Q. Did you ever go through the Washington Place door more than once? A. More ~ sure I did more.

Q. Did you ever see that door open at any other time? A. Yes, I did.

Q. Was that door used? A. That door was used.

Q. I show you this paper and ask you if that is your signature to it? A. Yes, sir, this Judge Koenig -- Mr. Koenig forced me to do it, and I didn't want to do it, but I could not talk English on that time and I ask him to explain site every sentence what it was; he gave me the words, I can't read.

Q. So you signed it because Judge Koenig made you do it, is that it? A. That is it.

MR. BOSTWICK: That is all.

NATHAN SALUB, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

(Through Official Interpreter)

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 116 Second Street.

Q. Do you work for Harris and Blanck? A. Yes.

Q. How long have you worked there? A. Altogether about four years.

Q. What did you do for them at the time of the fire. I mean while you were working, the period prior to and up to the day of

the fire. A. I was a watchman.

Q. What kind of a watchman, day or night? A. Night.

Q. What time did you come to work? A. I used to come to work at a quarter of six.

Q. Tell the Jury just what you do from the time you come to work until you quit? A.

When I come at a quarter of six I take the keys from Mr. Alter.

Q. What keys do you take? A. From the Greene Street door and elevators Washington Place.

Q. What did you do then after you took the keys? A. I used to wait until all the working people had left and then I used to lock up everything.

Q. Now tell the Jury exactly what you used to lock up? Where you used to start and to the places you used to go. A. I used to lock up all the doors with the exception of Washington Place door because there was a key in the door.

MR. STEUER: (Addressing Interpreter) I beg your pardon, will you get his answer and give it to us again.

THE INTERPRETER: There was a key in the door.

MR. STEUER: Will you please get his answer and then interpret it, Mr. Rosenthal.

THE COURT: Read the question to him again.

A. When I came to work I got the keys from Mr. Alter; and I waited until all the people had left. When all had left I locked all the doors.

Q. I want you now to name specially each door that you locked

and the turn in which you locked it or order in which you looked it. A. Some times I used to lock the doors on the Greene Street side first, and sometimes the door in the other side first.

Q. I want you to tell the Jury please each door that you did look on each loft. A. I locked the Washington Place elevator doors too; afterwards I locked the Washington Place door, there was a key and I locked it; the key was inside, tied with a little rope to the door and I locked the door; then I —

MR. STEUER: Did he say “rope” Mr. Rosenthal?

THE INTERPRETER: String the witness says.

MR. STEUER: That is it, let us have what he says, not what it means.

THE INTERPRETER: That is what I am saying Mr. Steuer.

Q. String. All right. A. It was a piece of ribbon, string. I found once that the string was broken, and I picked up from the floor a piece of ribbon like, and I tied it to the key.

Q. What did you do after you locked the Washington Place door? A. Afterwards I went to the Greene Street and I used to shove something on the elevator and then I locked this --

Q. He said down and up. A. Up and down.

Q. What do you mean by up and down? A. There was a bolt below and I pushed it down so that it locked; and there was also a bolt up and I pushed it up so that it locked.

Q. That was the Greene Street elevator doors? A. Elevator.

Q. What did you do after you locked the Greene Street

elevator doors? A. Then I locked the Greene Street door. Then we went to the eighth floor and there we started to clean up the floor. After we had finished cleaning there, then I locked up everything the same as before. Then I went to the ninth floor. And there we finished about three or four o'clock in the morning, and a remained there until the morning; and then half past seven I unlocked all the doors -- unlocked all the doors.

Q. Now I want you to tell the Jury on each of the floors, the ninth and eighth -- first, let me ask you did you have anything to do with the tenth floor? A. No.

Q. Will you tell the Jury please, what doors in the morning you unlocked? A. All the doors; the way I locked them, just the same way I unlocked them.

Q. Were you in this place of business of the defendants at the time when there w~& this fire of the 25th of March, 1911? A. Yes, I was there.

Q. What did you do with the keys to the Greene Street door in the morning after you had unlocked all the doors? A. I left the colored man who was working there, standing there until the foreladies came; and I went to the eighth floor and then I unlocked all the doors there at half past seven and then I myself waited there until the foreman or forelady came. Eight o'clock when they came or perhaps a little later, then I went up to the tenth floor to Mr. Alter and I gave him the keys; and then I went home.

Q. Where were you when you first knew that there was any

trouble in the building on the day of the fire? A. I was on the ninth floor; I heard that there was screaming "There is fire". Then I ran towards the Greene Street side.

Q. Before you knew that there was any fire on the evening of the fire -- question withdrawn. What time did you go to work on Saturdays? A. Quarter of five on Saturdays when they want to stop, the rest of the week quarter of six, but Saturday I came a quarter of five.

Q. Now on this Saturday when the fire took place had you already locked the door on the Washington Place side when you first heard about the fire? A. No.

Q. Where were you standing or sitting, or what were you doing when you first knew there was a fire? A. I was standing near the door on the Greene Street side.

THE COURT: On what floor?

THE WITNESS: On the ninth floor.

Q. Now, what did you do when you first heard that there was a fire? A. I ran to the Greene Street steps; I saw a shipping clerk by the name of Ed. I saw him march down the girls telling them to get down. On the ninth floor there was a fire alarm and I ran towards it and I gave an alarm. Then I left that place and I looked how to go out. Then I saw that the girls were running back from the Greene Street side. I saw it was too late for me. Then I ran towards the windows.

THE COURT: Mr. Steuer, did anybody inquire where the telephone was on the ninth floor? What part of the loft?

MR. STEUER: I think not Your Honor.

THE COURT: He might tell us.

MR. STEUER: You have reference to the telephone and not to the fire alarm,  
Judge ?

THE COURT: The one by which communication came down from the tenth to  
the ninth floor.

MR. STEUER: I daresay that the girl Your Honor that attempted to sent the  
message would be much more intelligent, but I will ask him if you wish me to.

THE COURT: No, it is not necessary. You intend to call that girl?

MR. STEUER: Yes. I thought she would be more intelligent on that subject.

THE COURT: Certainly.

A. (Continuing) Then I ran towards the Washington windows, I wanted to get out by the fire  
escape; and I saw the fire was already at the windows; and I ran towards the Washington Place  
windows; and I got outside, I saw the fire engines standing there.

Q. Just what do you mean when you said you got outside? A. I was holding on to the  
window, and I was standing outside the window and I cried out they should save me. When I saw  
noone was coming and from the second window the flame and the smoke had reached me already,  
had scorched me, I went back to the shop.

Q. Then what did you do? A. Then I ran towards the Washington Place elevators which was  
so much open — one elevator was a little open; and I got hold of the ropes and I slid down.

Q. Now what happened to you when you were sliding down? A. There was dark and I think I got down on top of people on the roof of the elevator.

Q. Where did they take you then? A. To the Hospital.

Q. What Hospital? A. On 11th Street, St. Vincent's Hospital.

Q. How long were you there? A. About two weeks.

Q. During the time that you were in the hospital did body come to see you from the District Attorney's office? A. Yes two people came.

Q. Did they ask you questions there in the Hospital? A. Yes they did ask me; but I don't remember what I said because my head was aching, my head was even stitched up.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You have no recollection now of anything you said to the representatives of the district attorney while you were in the Hospital? A. No.

Q. What key did you carry Mr. -- what is your name? A. Salub.

Q. What keys did you carry as to the eighth, ninth and tenth floors?

MR. STEUER: I object to that, he has testified Your Honor that he carried nothing for the tenth floor, I asked him that question.

MR. BOSTWICK: This is cross examination

THE COURT: I will allow it.

A. From the eighth floor and the ninth floor but not from the tenth

Q. What keys did you carry from the eighth floor? A. From the two doors of the elevators on the Washington Place and the Washington place door there was a key inside tied to the door; and from the Greene Street side I had one key.

Q. Well now did I ask you anything about where the key of the Washington Place door was?

MR. STEUER: I object to it on the ground the question speaks for itself.

MR. BOSTWICK: I withdraw the question. You understand that I was asking you any thing about the Washington Place door? A. Yes.

Q. Didn't I ask you what keys you carried? A. Yes; I had two keys from the Washington Place elevators, and from the Greene Street door one key; and from the eighth floor just the same.

Q. Did I ask you anything, -- did you understand me to ask you anything about the keys you didn't carry? A. You mean from the Washington door?

THE COURT: Proceed Mr. Bostwick to something else.

A. (Continuing) I don't understand the question. I had keys from the front elevators from the eighth and ninth floors, and from the Greene Street side on the eighth and ninth floors; and the Washington Place door, there was a key in the door on the ninth floor tied to the door.

Q. You are sure there was a key in the Washington Place door on the ninth floor tied to the handle? A. (Without Interpreter) Positive sure.

Q. Well now you didn't understand &e to ask anything about the keys that you didn't carry did you?

MR. STEUER: I think Your Honor suggested we would leave that subject.

THE COURT: Yes, we will pass from that subject now.

Q. Will you tell us why you volunteered the information about the key in the Washington Place door? A. (Through interpreter) What shall I say?

Q. Well, did you see Mr. Fletcher outside today? A. Q. Did he tell you what to say? A. He need not tell me anything; I was there. Four years I was there and I saw the keys myself; watchman I was only one year.

Q. You were a presser before that weren't you? A. Yes.

Q. And when you were a presser, didn't you always go out the Greene Street door? A. Yes, all the time.

Q. You never went down the Washington Place door when you were a presser

MR. STEUER: If Your Honor please if he always went by the Greene Street way, now could he go by any other way.

THE COURT: I will allow the question.

A. I had no occasion to go there; it was more convenient for me to go down the other side, the Greene Street side.

Q. When the employees passed out of the tenth floor at night, who watched to see whether they had any bundles, or looked into the pocket books?

MR. STEUER: Do you mean the tenth floor?

MR. BOSTWICK: Yes.

A. I don't know.

Q. You have forgotten, if I understand you correctly, the statement that you made to Assistant District Attorney Koenig at St. Vincent's Hospital on April 6, 1911, have you not? A. I never had said that I was on the tenth floor, I was on the ninth.

MR. STEUER: He also said he looked at the pocket books. (Addressing interpreter)

A. (Continuing) I was looking at the pocket books on the ninth floor, not on the tenth.

Q. (Without interpreter) And you looked into the pocket books on the ninth floor? A. Yes.

Q. (Through interpreter) Was not this question put to you by Mr. Koenig, and didn't you make this answer: "Q. Before you went out they never searched you? A. All the men they did not search, but they examined the women"; and then this question and this answer: "Who examined them? A. A man by the name of Mr. Alter." Did you say that? A. I say the same thing now (After first part of question is interpreted to witness) then they didn't understand me what I said (After second half of question is put to witness).

Q. You had a pain in your head at this time, didn't you? A. Yes, my head was stitched up; I would not say anything that was not so.

Q. Then tell us whether Mr. Alter did not examine the people when they went out on the tenth floor?

THE COURT: You mean the tenth floor?

MR. BOSTWICK: The tenth floor. A. I didn't see; I don't know.

Q. Did you tell Mr. Koenig that he did? A. I didn't tell that to anybody because I didn't see It.

Q. Who did this on the ninth floor? A. I did.

Q. Who did it on the eighth floor? A. Not 1. Borne time before I was on the eighth floor and then I was put on the ninth.

Q. Do you know Joe Wexler? A. Yes.

Q. Did he do it on the eighth floor? A. He was standing on the eighth floor.

Q. Do you know Mr. Alter? A. Yes.

Q. What did he do on the tenth floor when they went home at night? A. I didn't see; I was at my work, not on the tenth floor -- could not be there.

Q. Now there was a lock on the Washington Place side was there not? A. On what floor.

Q. On the ninth floor. A. Yes.

Q. Was it opened or closed? A. I was working in the night time; I didn't see it in the day time.

Q. Now did you have the keys to the Washington Place door on the eighth floor? A. I didn't have it, but they was sticking in the door, tied with a string, and that string was tied to the knob.

Q. How long was the string? A. I didn't measure it; but It was long enough so that it could be opened and closed and

locked.

Q. What kind of a string was it? A. Sometimes it white, from the goods they were using there; and some times it was an ordinary string. Once the door. I saw the string was worn out, and I myself picked up a piece of white goods, a strong string, and I tied it to the door.

Q. Then you had the key in your hand, didn't you? A. Yes but I tied the string to it.

Q. What kind of a key was it? A. An ordinary key; I do not remember whether it was black or yellow.

Q. But you always knew it was in the door? A. Every day when I came, when I saw it in the door; if I hadn't found the key I would have informed the boss of it immediately.

Q. Did you ever try that door? A. Why would I try it in the night time; I looked it and in the morning I opened it. I didn't try it. Whatever I don't remember I would not say here.

Q. Do you remember Mr. Koenig coming to St. Vincent's Hospital to see you? A. I remember two men coning to me but I don't know who they were.

Q. Well do you remember when one of these men asked you this question and you gave this answer: "Q. Isn't it a fact that the door on the Washington Place side was locked and therefore you did not go that way and you had to take the Greene Street side? A. I never tried that way and I don't know whether the door was looked or open." Did you make that answer to that

question.

MR. STEUER: I object to that in that form, because it is evident from the context that this refers to the time when he was working as a presser and at that time he baa testified exactly the same way.

THE COURT: I will allow it, it is testing his recollection.

MR. BOSTWICK: That can be brought out by the redirect.

THE COURT: I will allow the question.

MR. STEUER: I except unless, may it please Your Honor the District Attorney reads two or three questions prior to that time and shows the period to which this question has reference. I object that you cannot pick out of the text of a whole statement one question so as to misrepresent time or place and thereby confound a witness.

MR. BOSTWICK: I agree with the Counsel for the defendants that you cannot pick out a statement and misrepresent; but I believe that either side can offer such portion as they think relevant to their case; and that either side can do what they wish to complete their case under the doctrine of verbal completeness.

THE COURT: I will allow the question.

MR. STEUER: I except to it Your Honor.

A. I don't remember that but I can tell you now why I didn't go to the door.

Q. No, I want to know whether you said that or not.

THE COURT: His answer is he don't remember.

Q. Is that because you had a pain in the head? A. I don't know why I don't remember.

Q. Will you state that you did not make that statement to the men who spoke to you? A.

Do you mean the statement that I am supposed to have made that I went to the door and found it locked; I didn't go to the door.

Q. We will leave that.

MR. STEUER: Wait a minute, lets have the rest of it.

MR. BOSTWICK: All right, we will go on with it then. A. (Continuing) I can't say a thing I don't know; I have never tried the door, at that time I did not go to the door.

Q. Well now, during the time that you were a watchman each and every day you would have to walk from the tenth to the ninth floor during the working hours. Did you ever during that time go by the Washington Place stairway ? A. Never; it didn't come out because the desk was near the door.

MR. BOSTWICK: I ask that that part be stricken out —

THE COURT: I will allow the word "Never" to stand; the balance is out.

Q. You had the keys to the stairway on the Greene Street side of the building, both of the eighth and the ninth floor, did you not? A. Yes, sir; from the eighth and ninth floors.

Q. Why is it you didn't have the keys to the stairways on the Washington place stairway?

A. Because the keys were in the door, tied to the door and they were never taken out.

THE COURT: We will suspend now.

Gentlemen of the Jury you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion on it until the same is submitted to you.

(Adjournment was then taken until ten-thirty o'clock a.m., December 22nd, 1911.)

LAST EXHIBITS:

People's Exhibit 49.

Defendants' Exhibit K.

De

| Witness.                      | Direct • Cross. Re~B. Be-C. |      |           |
|-------------------------------|-----------------------------|------|-----------|
| SAMUEL BERNSTEIN,             | 1551                        | 1554 | 1569 1574 |
| EMILY L. PERRETT,             | 1576                        | 1579 |           |
| ISAAC SEGAL,                  | 1583                        | 1584 |           |
| TONY SURAMALLI,               | 1584                        | 1585 |           |
| GUSSIE RAPP,                  | 1587                        | 1591 |           |
| IDA WILLINSKI,                | 1601                        | 1604 |           |
| LOUIS SILK,                   | 1608                        | 1613 |           |
| <hr/> BERNARD ENSER           | 1619                        | 1622 |           |
| <hr/> YETTA KREITZBERG,       | 1625                        | 1627 |           |
| LENA HANDSCHUH,               | 1628                        | 1632 | 1633 1634 |
| LOUIS SEDERMAN                | 1635                        | 1639 |           |
| LOUIS BROWN,                  | 1645                        | 1652 | 1661      |
| WILLIAM GREENSPAN,            | 1663                        | 1666 | 1676 1693 |
| HARRY KESTENBAUM              | 1695                        | 1695 | 1701      |
| WILLIAM GREENSPAN, (Recalled) | 1702                        |      |           |
| ROSE ROSENFELD,               | 1704                        | 1706 |           |
| NATHAN SALUB,                 | 1707                        |      |           |

New York, Friday, December 22nd, 1911.

TRIAL RESUMED.

NATHAN SALUB, resumes the stand and further testifies,

(Through. Official Interpreter Rosenthal)

BY MR. BOSTWICK:

Q. At the time of the fire did you see some of the employees rush to the fire escape? A.

When I was standing at the box ringing the bell I saw.

Q. Did you see some of them rush to the Washington place side of the building, to the passenger elector, or to the door? A. No.

Q. Do you know whether the door of the Washington place side near the elevator was open or locked at this time? A. I don't know.

THE COURT: (Addressing Interpreter) You said, "Open or shut" — open or locked.

A. (Witness Continuing) I don't know anything about it, I was not at the door at that time.

Q. Who told you to look at the pocket books? A. The bosses.

BY THE COURT:

Q. By the bosses whom do you mean? A. Mr. Blanck and Mr. Harris.

BY MR. BOSTWICK: Q. Did he tell you why he wanted this done?

Objected to as immaterial. Overruled. Exception.

A. I heard once two waists were found that a girl had taken

along and since that time I know that the pocket books were examined.

THE COURT: Strike it out, it is not responsive. Q. (Question repeated)

THE COURT: Yes or no to that.

A. Yes.

Q. What did he tell you?

MR STEUER: I object to that as immaterial and irrelevant.

Objection overruled. Exception.

A. I should look that the girls should not carry out any laces or other goods.

MR STEUER: (Addressing Interpreter) Laces, embroideries or waists.

A. (Witness continuing) Or waists.

Q. What, spools of cotton? A. Spools of cotton.

Q. How long had you been standing at your usual place when you heard the cry of fire, or know that there was a fire? A. About three minutes.

Q. How many people had already passed out when you heard the cry of fire, or knew there was a fire? A. I can't know that.

FRANK PASTERNECK, called as a witness on behalf of defendants, being first duly sworn, testifies as follows (through Official Interpreter Rosenthal).

(The witness states that he resides at 234 east 19<sup>th</sup> Street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. (Without interpreter) how long are you in this country? A. (Through interpreter) Four years.

Q. Well, you ought to be able to tell the jury in English? A. No.

Q. (Without interpreter) Do you work for Harris & Blanck? A. (Without interpreter) Yes.

MR. STEUER.: Well, you really don't understand if you say you work for them.

(The following questions are put and answered through Official Interpreter Rosenthal):

Q. (Question repeated by stenographer as follows) Do you work for Harris and Blanck? A. No, not now.

Q. When did you work for Harris and Blanck? A. Up to the fire, three years and a half.

Q. What did you do for Harris and Blanck while you were working for them? A. A body maker two months before the fire, and before that time I only made the sleeves.

Q. That means that you worked at a machine, doesn't it?. A. Yes, sir,

Q. Where was your machine while you were working for Harris and Blanck -- on what floor? A. On the ninth floor.

Q. And whereabouts on the ninth floor? A. Three years and four months I was working at a table near the Washington Place --

Q. Where did you work the other period? A. At the fourth or fifth table, I don't remember, about in the middle.

Q. Is there where you working at the time of the fire? A. Yes.

Q. While you were working at the sleeve table, is that the first one? A. Sleeves alone.

Q. While you were working at the sleeve table, how far was that from the Washington Place stairway door? A. I can't tell exactly whether five yards or six yards, seven yards. In front of me was staging a table with the buttonhole machines on.

BY THE COURT:

Q. Well, can you show in this room about how far away you were at that time from the Washington Place stairway door, ninth loft? A. The door was from me as far as the chair on which counsel for defendant is sitting -- perhaps a little nearer (indicating about twenty feet).

Q. From where you sat at the machine could you see that door? A. Yes, just about the same as I can see the chair now.

Q. Did you see people during the three and a half years or three years and four months that you were sitting at that machine -- did you see people coming in through that door or going through that door? A. Yes, people used to come in -- customers, the boss, the managers.

Q. Whom do you mean by the manager? A. Mr. Bernstein.

Q. Did you see the forelady go in and out through that door? A. Once in a while, but seldom.

Q. Did you yourself ever use that door? A. No, only once I went down three floors lower and then I turned back again.

Q. What do you meant you went down three floors lower? Did you go to see somebody on the sixth floor or what was that? A. No, it was in the summertime, it was very hot, and the doors were open and I just walked down.

MR. STEUER: (Addressing the Interpreter): Didn't he say that that door had been kept open by a box put alongside of it to keep it open.

A. (Witness continuing) Near the door as the door was going to one side a box was standing, and on the box were lying waists, and on the shelf there there were lying the sleeves, and the sleeves and the waists were then packed together and given to the sleeve setter. The employees used to put in the sleeves into the waists.

Q. Did you ever see Mr. Blanck go to that door? A. All the time when he used to enter the shop from Greene Street he used to cross over the whole loft and walk out through the Washington Place door. When he used to enter through the Washington Place door then he used to cross the left and go out through the Greene street door,

CROSS EXAMINATION BY MR. BOSTWICK:

Q. (Showing witness diagram, People's Exhibit 2) That is Washington Place, where you have your hand? A. No.

THE COURT: Suppose you put it (the diagram) as he

would have the loft before him as he goes up the freight elevator? A. Well, I will turn it so as to suit myself. This is the Greene Street side, here are the two elevators, and these are the stairs and this is the door, and this is the Washington Place elevator, and this is the Washington Place door, and that is the ladies' toilet and that is the men's toilet, there was one dressing room, there was one dressing room to go in and another dressing room to go in, and here was a shelf on which the goods were lying, and as the door opened it turned towards the shelf (indicating on diagram).

Q. Were the boxes that you speak of where I point my pencil? A. It seems that here was standing a small box, a narrow box (indicating).

Q. And the place that I point to is where there is a double circle? A. It is a narrow one.

MR. STEUER: He says it is a narrow place.

A. (Witness continuing) As the windows were here there was a small narrow box, and the first table was the tables of the buttonhole machines, and on the second table I was at, and here was belting, strap-belting that was covered over from the machines, and at this place here I was sitting for three years and four months (indicating).

MR STEUER: Did he face in that direction?

A. (Witness continuing) With my face facing the Washington Place door.

THE COURT: Let the witness make a mark on the dia-

gram at the point where he was sitting and put your initials after where you make the mark/

(The witness marks his initials on the diagram in Yiddish) .

Q. The shelves of which you speak, they were not in the dressing room, were they?

A. No, outside.

Q. And nearer to the Washington Place windows? A. About opposite one of the windows.

THE COURT: Referring in that connection to the windows on the Washington Place side.

Q. You don't know anything about the condition of the doors the day of the fire, do you?

A. No, I can't know that.

THE COURT: It appears from the record when he left, does it?

MR. STEUER: We will ask him, your Honor. I don't think it does.

RE-DIRECT EXAMINATION BY MR STEUER:

Q. Did you work on the day of the fire? A. Yes, sir.

Q. Where were you when the signal was given and the power was shut off? A. I was standing near my machine with my coat on, and the box I put on the table, just about to go away.

Q. You mean a basket, don't you? A. The basket with the work we used to put on top of the table.

Q. When you get through with your work you put the basket on the table? A. Yes, then I take the basket and put it on the table.

Q. What happened then? What was the first thing that you knew that there was any trouble? A. All of a sudden there was a scream of "Fire".

Q. What did you do? A. I didn't believe it.

Q. When you did believe it what did you do? A. I looked around and I saw that there was no fire at all.

Q. What did you do? A. Then I turned around towards Greene Street, perhaps there would be the fire.

BY THE COURT:

Q. When you found out there was fire, what was the first thing you did? A. I started to run.

BY MR STEUER.:

Q. Where did you run to? A. To Washington Place. The whole crowd was running towards that side, and I ran after them.

Q. And what did you do? A. I am an older man than the others and I could not run as fast as the others, I couldn't jump over tables like the others, and I came a little slower than the others. When I reached the Washington Place side I couldn't get nearer than the dressing room.

BY THE COURT:

Q. When you say nearer than the dressing room you mean what place? A. I mean the dressing room nearer to the Washington Place door, not the dressing room nearer to the toilet.

Q. Then what did you do? A. When I saw the people were jumping out of the windows already, and there were no flames and no smoke as yet in the shop, then I looked into the dress-

ing room.

BY MR STEUER:

Q. What then did you do? A. I saw there standing Jacob Felzer and Jacob Bernstein, two more people.

Q. What did you do? A. Then I passed the threshold and I asked them what—

THE COURT: Never mind that, what did you do?

Q. What did you do? A. Nothing, I only tried to get out.

Q. Well, did you stand there and get burned up by the fire? A. No, I was standing there for about a second and I turned around and saw already a dense smoke.

Q. What did you do then? A. Then I took off my coat, my overcoat and my coat, so that it would be easier for me to run; then I ran towards the Greene Street side, there there was no smoke as yet.

Q. What did you do? A. Then I opened the door and I saw neither flame nor smoke.

Q. Then what did you do? A. I was afraid to go downstairs because I was afraid that the flames may be there, fire may be there.

Q. Well, what did you do? A. Then I went to the roof.

BY THE COURT:

Q. Did you at any time on the day of the fire see the door leading from the ninth floor to the Washington Place stairs open? A. No, it couldn't be seen from afar.

Q. Do you remember on the day of the fire you saw any-

body pass through that door? A. I can't remember.

EVA KAPLAN, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that she resides at 161 East 103<sup>rd</sup> Street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck now? A. I do.

Q. How long have you worked for them? A. Two and a half years.

Q. Do you mean two and a half years before, from now? A. From now.

Q. So that at the time of the fire you were only working for them a little less than two years, is that it? About a year and nine months, according to that? A. Yes.

Q. Where were you working at the time of the fire? A. On the eighth floor.

Q. Had you always been working on the eighth floor? A. Always working on the eighth floor.

Q. Were you a girl that worked at a machine? A. Well, I worked on the machine and I was on the floor also.

Q. What do you mean by being on the floor? A. Well, I took charge of the girls on the eighth floor.

Q. What does that mean, taking charge of the girls? A. I looked after the work and I gave them the work out.

Q. After certain machines? A. Yes.

Q. You don't mean all over the floor at all the tables? A. No, sir, just a few girls.

Q. At what tables did you have charge of giving the work and taking the work and things of that sort? A. First and second tables.

Q. Which side? A. Greene Street side.

Q. How long did you do that work? A. About six months.

Q. And the rest of the time you were working at a machine? A. On a machine.

Q. While you were working at a machine where did you sit? A. In the middle of the floor.

Q. Which way did you face? A. Washington Place.

Q. Did you ever have to go, while you were working on the floor, up to the ninth or tenth floors? A. I did.

Q. What for? A. To see Bernstein or to go up and work on the tenth floor .

Q. When you went up from the eighth floor to the ninth floor or from the eighth to the tenth floor, how did you go? A. I went up the Greene Street door.

Q. Always by the Greene Street door? A. Yes.

Q. When you had charge of the table and had to go upstairs you were right near the Greene Street side? A. Right near the Greene Street door.

Q. Did you ever go up to the ninth floor when you were working on the eighth floor, when you did not go up for work or did not go up to see Bernstein? A. I did.

Q. When was that? A. That was during lunch hour.

Q. And how did you go up when you went up during lunch hour? A. Well, when I was nearer to the Washington Place side I used to jump up, run up through that Washington Place door.

Q. And when you were nearer to the Greene street side which way did you go up? A. I went up the Greene street side.

Q. At any time when you went from the eighth floor to the ninth floor and you went by the Washington place side, how did you go? A. The door was open.

Q. And did you walk through? A. And I walked through.

Q. When you got to the ninth floor did you have any key with you? A. No, the door was open.

Q. And you walked through? A. I walked in.

Q. In the summertime how was the door kept at the Washington Place side? A. It was always open.

Q. By open do you mean it was standing open? A. Standing open.

Q. In the wintertime how was the door kept? A. It was closed.

Q. Did you ever walk through that door in the wintertime? A. I did not.

Q. You did or did not? A. I did not.

Q. On the day of the fire where were you working? A. I was working on a machine, on the eighth floor.

Q. Which way did you get out? A. Greene Street door.

Q. What was the first thing that you knew about a fire?

A. Some girl came running over to me and says. "Eva, run, there is a fire".

Q. Speak louder? A. I was standing on the eighth floor, I was going to have my card punched, and some girl ran over to me and hollered, "Eva, come, there is a fire," so I ran back for my set of fur and then I walked down to the Greene street door.

Q. There were two clocks on the eighth floor, weren't there? When I say clocks I mean card punching clocks? A. Only one.

Q. Where was that one? A. That was near the Greene Street entrance.

Q. And that is where you were when a girl ran over and said something? A. Yes.

Q. From that punching clock where did you have to go to get your furs? A. I went back to my machine.

Q. Where was your machine? A. That was right in the middle of the floor.

Q. And after you went to get your furs then you turned around and went to the Greene Street door, is that right? A. I did.

Q. From the Greene Street door did you go, on the occasion of the fire, upstairs or downstairs? A. Downstairs.

Q. And you walked out of the building that way? A. I walked out.

CROSS EXAMINATION BY MR BOSWICK:

Q. At the closing time at night you would go and punch your

card, wouldn't you? A. Yes, sir.

Q. And then after you punched your card what direction would you go? A.

Anywhere I wanted to.

Q. Which way did you go? A. Sometimes I went down Greene Street door and sometimes I went down through the Washington elevator.

Q. You never went down the Washington Place stairway when you went home? A.

Never, no, sir.

Q. You never saw anybody else do that? A. Never saw them going down, no.

Q. At night when they closed now did the operators go out? A. Well, some of them went through the Greene Street door, the majority of them went down through the Greene Street entrance.

Q. Didn't all excepting the foreladies, as a rule go out the Greene Street door? A.

Well, a few of them went down the Washington Place elevator.

Q. Weren't they either foreladies or somebody connected with the office in some way?

A. Well, I saw lots of girls which were not connected with the office—I myself was not connected with the office.

Q. You were not an operator, though, were you? A. I was after I went back to my machine, and then I used to go down the elevator when I wanted to.

Q. Don't you think you were one of the favored ones who were permitted to go down by the elevator way? A. Not that I know of.

Q. You say that the majority went out by the Greene Street door? A. I did.

Q. And when they went out was there anybody there to see their hand bags? A. There was.

Q. And did the girls open their hand bags as they went out? A. They did.

Q. And about how long would it take, if you know, for all employees of the eighth floor to get out? A. Well, I never took notice of that.

Q. Did you ever see anybody go in or out of the Washington Placer door? A. I did.

Q. Whom? A. Well, about three days before the fire, Wednesday, the 22nd, I saw Blanck walk in that door with another man. I don't know if he went up or down, or if he came back again, I didn't notice that, but I saw him walk in.

Q. And you don't know whether he locked that door when he came in from the other side, or not? A. I do not.

MR. STEUER: "The other side", that means from the outside?

MR. BOSTWICK: Meaning the stairway side.

Q. That was about what time of day? A. Well, it was about the afternoon, after lunch.

Q. And everybody was at their machines? A. Everybody.

Q. The factory was going? A. Yes, sir.

Q. And you only saw the Washington Place door open in summertime? A. I did.

Q. But you always saw it closed in the wintertime? A. I don't know if it was locked or not, but the door was shut.

MARY ALTER, called as a witness on behalf of defendants, being first duly sworn, testified as follows:

(The witness states that she lives at 1516 Charlotte Street, Bronx).

DIRECT EXAMINATION BY MR. STEUER:

Q. You are the daughter of the Mr. Alter that has charge of the tenth floor, are you not?

A. Yes, sir.

Q. Well, I mean by that, when you were over at 23 to 29 Washington Place? A. Yes, sir.

Q. And you worked over there yourself, did you? A. Yes, sir.

Q. As what? A. Stenographer.

Q. What floor did you work on? A. On the tenth .

Q. You and your father -- that is, your families are in some way related to one of these defendants, or to both of them? A. Yes, sir, Mr. Steuer, to both of them.

Q. Do you know what the relationship is between your father and them? A. Uncle.

Q. Which is it? They are your father's uncles, or your father is their uncle? A. No, my father is Mrs. Harris' uncle.

Q. That also makes him Mrs. Blanck's uncle? A. Yes.

Q. They are sisters, aren't they? A. No.

Q. Or cousins, or something? A. Yes.

Q. Mrs. Blanck and Mrs. Harris are cousins? A. Yes, sir.

Q. Now, in that way you are related to them? A. Yes, sir.

Q. Where did you sit on the tenth floor? A. Well, my desk was at the entrance of the door to the office, right on the angle, right near the Washington Place window.

THE COURT: Suppose you show her the diagram of the tenth floor.

MR STEUER: Have we got one?

THE COURT: I think so.

Q. (showing witness People's Exhibit 3) The way you are holding that, that is Greene Street down there? A. Yes.

Q. And this is Washington Place here, you see? Now, these are the passenger elevators? A. Yes.

Q. And there is the door that leads to the Washington Place stairs? A. Yes.

THE COURT: And the little circles there are columns, posts.

Q. These circles are posts throughout the loft. This is the northerly side of the fire escape wall, and over here are the toilet rooms? A. Yes.

Q. Can you tell the jury now where you used to sit? A. Where is the office?

Q. Well, the office isn't drawn there.

THE COURT: Suppose you just keep in mind the posts; they may give you an idea.

Q. You see this would be the first post from the passen-

ger elevators? A. Right about here?

Q. No, you could not sit there, that is the hallway, those are the stairs going down to the street? A. Well, I couldn't make this out.

Q. Well, I will try and help you in some way. You see, here are the stairs going down from the tenth to the ninth floor on the Washington Place side. Now, you are always in the hall until you get up to this point, do you see? You are in the hallway outside of the tenth loft, from here to there; now, when you get in through this door that is the first time you are in the loft—that is the Washington Place door? A. These are the Washington Place windows (indicating on diagram)?

Q. Yes. A. I sat just about on an angle with the Washington Place door.

Q. On an angle to the Washington Place door, bringing you nearest which window on the Washington Place side or University Place wall? A. Where the windows were here at the end of the third table.

Q. Which end of the third table? A. From University Place

Q. University Place? A. No, there are two windows in the private office, and then one in our office—at the end of that window.

Q. Was Mr. Blanck's office there also? A. Yes, sir, right here by the windows, Mr. Blanck's.

Q. Mr. Blanck's office was off the passenger elevator? A. Yes.

Q. And it took in two windows on the Washington Place side, is that right? A. Yes, sir.

Q. And next to Mr. Blanck's office on that side and on an angle with the door and taking in the third window, is where you sat? A. Yes, sir.

Q. From where you sat could you see the Washington Place door? A. Yes, sir, open which it was most of the time.

BY THE COURT:

Q. In other words, there was a door to the room in which you sat? A. Yes.

Q. And when that door was open you could look through it? A. Yes, sir.

Q. And looking through it you could see the Washington Place door? A. Yes, sir. And there was a glass on the top of the partitions—you could see the shadows anyhow.

Q. When you said the door to the show room, you meant that if you walked from where you were sitting through that door you were in the show room itself? A. It was a salesman's room.

BY MR STEUER:

Q. How long, by the way, did you work there? A. About three and a half years, I believe.

Q. From the place where you sat as a rule, could you see people coming in or going out of that tenth floor, Washington Place side door? A. Yes, sir.

BY THE COURT:

Q. Was your typewriting machine right up against the win-

dow? A. Yes, sir.

Q. Right up by the window? A. No, sir, it was on the desk.

Q. Was the desk at the window? A. No, it was not close to the window.

BY MR STEUER:

Q. Did you yourself ever go downstairs from the tenth floor? A. Once.

Q. You mean once by the stairs? A. All the way downstairs.

Q. But that was not my question -- it may have amounted to that—but I meant did you ever go to any other floor from the tenth floor. A. No, sir.

Q. Well, now, didn't you? A. I went with the elevators.

Q. You didn't go? A. But by the elevators.

Q. You did go down by the stairs? A. Yes.

Q. You never walked from the tenth to the ninth floor or from the tenth to the eighth floor by the stairs? A. Oh, yes, yes. Listen, Mr. Steuer, I went to the ninth from the eighth, by the elevators.

Q. But not by the stairs? A. No.

Q. So that when you went down to the eighth floor you always went by the passenger elevator? A. Yes, sir.

Q. And when you went to the ninth floor you always went by the passenger elevator? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. When did you go to the ninth floor, or to the eighth floor most often? A. Well, some times it would happen in the

the morning sometimes In the afternoon, but very often I was there during the strike.

Q. Wasn't there a time when you used to go down at lunch time? A. Oh, yes, almost every day.

Q. That is the time you went down every day? A. Yes.

Q. What floor would you go to? A. I was on both. I was on the ninth or on the eighth, whichever way.

Q. Is that the time you had music and dancing there? A. Yes, that is when I used to go down.

Q. At that time you always used to go down by the passenger elevator? A. Yes, sir.

Q. Did you see anybody at that time coming into the ninth loft by the Washington place elevator door? A. Oh, sure.

Q. Whom did you see come in? A. Why, the different girls, the operators, they used to—

THE COURT: Mr. Steuer, you said "elevator door".

Q. I meant by the Washington Place stairway door? A. They used to come in both ways, by the elevators and the stairs.

Q. Did they come up the Greene Street way? A. Yes.

Q. Did they go down by the Greene Street way? A. Yes.

Q. Did they also go down by the Washington Place doorway? A. Yes, sir, they ran back and forth.

Q. You have now described practically all the times that you went down from the tenth floor to the ninth floor, or to the eighth floor, have you not? A. Yes.

Q. At the times when you did not go down during the lunch

period what did you go down for? A. To see Mr. Blanck or Mr. Harris.

Q. And on those occasions you always went by the elevator? A. Yes, sir.

Q. Where were you on the day of the fire? A. In the office.

Q. You mean by that where your place is? A. Yes, sir.

Q. What was the fire, tiling that you know about any fire? A. First of all I heard our telautograph buzzing, but I went over to it, but couldn't get any writing on it. Now, a good many of the girls downstairs —

Q. What do you mean, you couldn't get any writing on it? A. That was a machine that was connected with the eighth and the ninth floors, but the central of them was the tenth floor in the office. Now, it was a new machine, you know, and a good many of the girls didn't know how to operate it, and they often made mistakes and didn't connect things right, you know.

Q. Well, we are not interested in anything prior to the time of the fire? A. I am talking ~~~

Q. Well, at the time of the fire what happened, if anything with respect to this machine that you are talking about? A. When I heard the buzzes, - you know, the right that something is writing on the other side, but on looking at the paper, the pen didn't move. It simply stuck into the inkwell there. So I sat back thinking somebody was fooling with it.

Q. When a person wanted to send a message on that instrument from the eighth floor and the machine worked right,

would it write out the message; was that the idea? A. Yes, sir.

Q. There is paper that runs across the face of the machine where it does the writing? A. Yes, sir.

BY THE COURT:

Q. Did you have in addition to that a telephone on the tenth floor connecting with the ninth and the eighth floors? A. Yes, sir, a switchboard.

BY MR. STEUER:

Q. The switchboard was on the tenth floor? A. Yes, sir.

Q. And the communication was through the tenth floor? A. Yes, sir.

Q. Did you operate the switchboard? A. On that day I did.  
because the switchboard operator was home sick.

Q. But that was not your regular employment, as part of your stenographic duties? A. Oh, yes, once in a while I used to operate it. She would go out to the bank and I would do it.

Q. But you did have a girl for that purpose? A. Yes.

Q. When did you say that you first learned that there was any trouble? A. So right after that I heard a telephone buzz, I was very busy on my typewriter and I waited, I can't tell the exact time, I don't know now long it was, till I got through with that bill, and I went over to the switch board and answered, and there was the eighth floor ringing. I couldn't at first make out any sound, it was just like yelling, you know, the operator, and I asked her, I said, "What is the trouble down there, what are you yelling about?" Then I heard

distinctly, "There is a fire", so I immediately got up and told Mr. Levine, our bookkeeper, to telephone to the Fire Department which he immediately did; while I myself started to go out to tell Mr. Harris or Mr. Blanck that there was a fire on the eighth floor.

Q. Where was Harris at that time, do you remember? A. I believe he must have been in the show room.

BY THE COURT:

Q. Before you left the phone did you ring up the ninth floor? A. No, sir.

BY MR. STEUER:

Q. Where did you go? Did you find Blanck at all, do you remember? A. Yes, sir; they met me.

Q. Both Harris and Blanck? A. Yes, sir, the whole crowd.

Q. Whom do you mean by the whole crowd? A. Well, there was some of the pressers coming out and they got right into the elevator that was there at the time.

Q. Who, the pressers? A. Yes, sir.

Q. What did you do? A. I went out to the back to see about my father, to the Greene street side, to see whether he was all right, and I found him all right.

Q. Where did you find him? A. At his desk. At the same time I noticed the flames coming up the windows in the packing department.

Q. Where is that? A. That is on a level with the Washington place door.

Q. Whereabouts on a level with it? A. I don't know, just—

Q. Can you show us on that diagram again?

THE COURT: She means on a line.

Q. On a line with it. Whereabouts on the line? There is the Washington place door (indicating on diagram); which door do you mean, elevator door or stairway door? A. Stairway door.

Q. There (indicating on diagram) is the stairway door; show us where that packing department was? A. Somewheres over around here.

Q. Was it over towards the fire escape wall? A. Yes, sir.

Q. Then it would be over in this direction (indicating on diagram)? A. Yes, sir.

MR. STEUER: Pointing to the northwest corner of the loft.

A. (Witness continuing) There is a room here and windows here (indicating), and a fire-escape here, and I saw the flames through that.

Q. You saw the flames in the neighborhood of the fire-escape? A. Yes, sir.

Q. And you are speaking of the tenth floor? A. Yes, sir.

Q. Go ahead and tell us what you did? A. So I immediately thought if the flames were on that side —

Q. Don't tell us what you thought, but tell us what you did? A. I went to the Washington place door in order to try and get out that way, but Mr. Blanck was behind me at the time and upon opening that door the smoke struck me --

Q. Who opened it? A. I did. I opened the door and the smoke struck me full in the face. At the same time I heard Mr. Levine yell out, "For God's sake, close the door."

Q. Levine is who? A. Our bookkeeper. He was in the office getting the books away. So I immediately closed it, and I knew that the stairway don't go away to the roof.

Q. You knew that that stairway did not connect with the roof? A. Yes, sir, I knew that, therefore I went right back, and we went back to the Greene street side, where I found my father and Mr. Blanck and Mr. Harris. Then I heard Mr. Harris yell out, "To the roof, through Greene street", which we all did, and we all went to the roof.

BY THE COURT:

Q. How much time do you think passed from the time that you heard the voice on the telautograph until the time when you answered the telephone? A. Oh, perhaps it was a minute and a half, perhaps it was a minute -- I am not a good judge of time.

BY MR. STEUER:

Q. You have been down to the District Attorney's office, haven't you? A. Yes, sir.

BY THE COURT

Q. How far did you have to go to reach your telephone switch board to where you were at the telautograph? A. Well, there was just one desk between us.

Q. After you had been to the telautograph, did you return

to your desk Before you went to the telephone? A. Yes, I sat down again.

Q. And it was after you sat down that you had sat down that you heard the telephone? A. Yes, sir. I sat down and finished the totaling of a bill — you know I do my billing on the typewriter — and I simply put the total down, it was all figured, and then I heard the buzz, and I immediately went to the board just as soon as I finished.

Q. You merely had certain figures to put as a total to a bill? A. Yes, sir.

Q. And having put those, you went at once? A. I went to the board, yes, sir.

Q. And that board was about now far from your desk? A. One desk between — it was a desk about that much larger than this (indicating about a foot longer than stenographer's table in the court room.)

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. What was the telephone operator's name? A. On our floor? Edna Barry.

Q. How old was she? A. I don't know. I never asked her her age.

Q. Do you know how much wages she got? A. I don't know what she was getting at the time.

Q. About now old would you say she was? A. About eighteen.

**BY THE COURT:**

Q. Who was the telephone operator, if you know, on the

ninth floor? A. The girls used to call up, they only had one single telephone there.

Q. There was no special person on the ninth floor for the telephone? A. No. Whoever needed the tenth floor called on that wire.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You mean, whoever on the ninth floor needed the tenth floor would call by that wire?

A. Yes, sir.

Q. Do you know where the telephone was on the ninth floor? A. It was on the bookkeeper's desk.

Q. What was the name of that girl? A. Mary Lowenthal.

Q. The telephone was at the table that was described in the evidence as Mary Lowenthal's desk? A. Yes.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you know whether you saw any flames as well as smoke? A. Well, you know the stairs curved in. I think you walked down about --

Q. Just try to tax your recollection, that is you try and remember just as well as you can. A. Yes.

Q. Well, do you remember now? What is your best recollection whether you saw any flames when you opened that door on the tenth floor?

THE COURT: Referring to the door leading into the Washington place stairs.

MR. BOSTWICK: That is the only door she testified

she opened?

A. I am trying to tell you that. About nine steps down, you know, there is a curve in the stairs. Now, what met me was smoke, and then I seemed to see a red streak ~ bright, you know, in that smoke.

Q. You saw something bright? A. Yes, sir.

Q. But you don't know whether that was a reflection, or flame, or what? A. I don't know. I positively remember seeing that bright streak about eight steps below.

Q. You saw something bright? A. Yes.

LOUIS ALTER, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he lives at 1516 Charlotte street Bronx.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You are a relation of Mrs. Harris and Mrs. Blanck, aren't you? A. Yes, sir.

Q. What relation? A. I am uncle to Mrs. Harris and to Mrs. Blanck.

Q. Did you work for Harris and Blanck when they kept their place at 23 to 29 Washington place? A. Yes, sir.

Q. And you work for them now, don't you? A. Yes, sir.

Q. How long did you work for them when they were at Washington place? A. Eight years.

Q. And what floor did you work on at the time of the fire? A. Tenth floor.

Q. And as long as Harris and Blanck had the tenth floor did you always work on the tenth floor? A. No answer.

BY THE COURT:

Q. From the time that they took the tenth floor was your place of work always up on that floor? A. Yes, sir, I worked on the tenth floor.

Q. Before they got to the tenth floor what floor did you work on? A. On the eighth floor.

Q. Do you remember how long before the fire they had the tenth floor, how many years? A. No.

Q. You don't remember that? A. No.

Q. You can't tell how many years you worked on the tenth floor? A. No, I can't remember sure.

BY MR. STEUER.:

Q. When you worked on the eighth floor then Harris and Blanck only had the eighth and ninth floors? A. Yes.

Q. And when they got the tenth floor and the office moved up to the tenth floor you were made the manager of the tenth floor, is that the idea? A. Yes, sir.

Q. Will you tell the jury please who was the last man, if you know, of the working people to leave the building? A. I, on the tenth floor.

Q. You, from the tenth floor? A. Yes, sir.

Q. Were you the man on the tenth floor that would look at the girl's bags when they went out? A. Yes, sir.

Q. Will you tell the jury what would happen if a girl

brought a package, a closed package into your place ~~ into Harris and Blanck's place, I mean? A. If a girl come in the morning and bring a package then she has to give to me this package, and I keep this package by me, and when she has to go home -- and I sign this package as belonging to this and this people — and then she has to go home, and I put a stamp on the package and I give her this package back. And a girl passing with a pocketbook, she opened and I looked; if she not open I leave her go, I don't stop her.

Q. Well, if you thought the girl had waists, or anything in the bag you would stop her, wouldn't you? A. Yes; if a girl carried a big package I said "Wait" and opened the package and see what is in this package. If not belonging to the place I pack it up and put a stamp on, and give it back.

Q. Who had the keys of the place? A. I.

Q. Will you tell the Jury please what keys you had? A. I got the keys from the front elevators that belonged to Washington place.

THE COURT: I understand he is talking now exclusively of the tenth loft.

MR. STEUER: I know, your Honor. I will ask him.

Q. Are you speaking now of the tenth loft or of all the lofts? A. All the lofts.

Q. Well, now, tell the jury what keys you had? A. I had the keys from the Washington place elevator doors and from the Greene street door from the stairs and the Greene street elevator

doors is locking with a bolt.

Q. Well, it is something that goes up, and there is a little thing up there that catches it?

A. Catches, yes, and the top and the bottom the same.

Q. Well, we call those bolts? A. Yes.

Q. Who gave you the keys every day? A. The night watchman.

Q. What is his name, do you remember? A. Salub.

Q. Where did he give you the keys, and when? A. Every morning.

Q. Where? A. When he have to go from the place he come over to me and give me the keys.

Q. Where did he give the keys? A. Every night when he come there to his work he come to me and I give him the keys, and he is going down on the ninth floor.

Q. Did you ever have the keys for the Washington place stairway doors? A. Never.

Q. Where were the keys for them? A. The key for the Washington place door is every time inside in the lock and tied with a piece of strong string, and all the time on all three floors, on the tenth, ninth and eighth, from the Washington stairs to the Washington place door is the key inside in the door all the time.

Q. You went down to Mr. Bostwick's office to be examined, did you not? A. Yes, sir.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. And at that time do you remember being asked this

question: “You had the keys to the ninth floor? A. The watchman had the keys”? A. No, I tell you I gave him the keys every night.

Q. You don’t remember making that answer., do you? A. I don’t know what you mean.

Q. You don’t remember that question being asked you and that answer being made, do you? (no answer).

Q. Do you remember coming downtown? A. Yes, sir.

Q. Do you remember somebody saying to you, “You had the keys to the ninth floor?”, and do you remember your saying “The watchman had the keys”? A. I gave him the keys, sure; I gave him the keys every night. In the morning he give them back.

EDWARD N. MARKOWITZ, called as a witness on

behalf of the defendants, being first duly sworn, testified as follows:

(The witness states that he resides at 29 West 117th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck? A. Yes, sir.

Q. Did you work for them when they were over at 25 to 29 Washington place? A. I did.

Q. Have your wages been increased since that time? A. No.

Q. What did you do when you were over in the old place? A. I had charge of the shipping department.

Q. What do you do now? A. Charge of the shipping department.

Q. Where was the shipping department in the old place? A. On the tenth floor.

Q. And whereabouts on the tenth floor was the shipping department? A. Why, I would say in about near the Greene street side.

Q. No, I didn't ask you where you were at the time the fire; I said whereabouts in the tenth floor was the shipping department? A. About the middle of the floor, I believe.

BY THE COURT:

Q. Do you remember the two skylights there? A. Yes, sir.

Q. Under which skylight was it? A. It was under one skylight. You said was under one skylight -- I don't know which skylight you refer to. I know there were two skylights.

BY MR. STEUER:

Q. There are two marks there (indicating on diagram), one is here and one is there. So that you should understand these skylights, that is the Greene street wall down there (indicating on diagram)? A. Yes, sir.

Q. There are the freight elevators, you see? A. Yes, sir.

Q. And here are the Greene street stairs? A. Yes.

Q. And now over here are the passenger elevators, the Washington place elevators, and there are the Washington place stairs? A. Yes, sir.

Q. There are the toilets on the tenth floor? A. That I remember.

Q. And I understand Mr. Blanck's office was somewhere over here? A. Yes, sir.

Q. And the stenographer down in there (indicating)? A. Yes, sir, and the shipping department was over here under this sky light (witness indicating on diagram).

Q. That is the skylight nearest to the Greene street side? A. Nearest to the Greene street side, yes, sir.

Q. How many years did you say you worked there? A. I am with Harris and Blanck two and a half years.

Q. Now? A. Now.

Q. Then at the time of the fire you were less than two years there? A. Less than two years.

Q. In the course of your work did you ever have to go down to the ninth floor or the eighth floor? A. Yes, sir.

Q. What for? A. I would go down to see that I got my lots out that I wanted to ship out, and I would go down to see Mr. Blanck if he was on that floor, or Mr. Harris or Mr. Bernstein, to push a lot out.

Q. What do you mean? A. To get a lot out, that was special.

Q. That is, to hurry it up? A. Yes, that is all about the reasons.

Q. How many times a day or a week or a month, whichever is convenient for you to state would you go down to the ninth or the eighth floor? A. Oh, I should about ten or twelve times a day.

Q. During all the times that you worked there? A. Yes, sir.

Q. Now, how did you go down to the ninth or the eighth floor? A. I used the Greene street stairway when I would go down.

Q. Always? A. Yes, sir.

Q. How did you come up from the ninth or the eighth floor? A. Greene street stairway.

Q. At the time of the fire where were you? A. I was in the back of the shipping department.

Q. When you first learned that there was any trouble? A. Yes, sir.

Q. Tell us what you did when you first learned that there was any trouble? A. Immediately upon being informed that there was a fire, I went down to the ninth loft.

Q. Which way did you go down to the ninth loft? A. With the Greene street steps.

Q. The stairs and not the elevator? A. The stairway yes, sir.

Q. That brought you to the ninth floor, at the Greene street entrance to the ninth loft? A. Yes, sir.

Q. I want you to tell the jury what you saw, if you saw anything when you got to the Greene street entrance of that left? And you are now speaking of the ninth loft? A. On the ninth floor, yes, sir. When I got down to the ninth floor the girls were all standing up with looks on their faces, sort

of amazed. I said, “What seems to be the trouble?”, with that kind of a look, and they all started to push towards this door at once.

Q. Towards which door? A. Towards the door I was standing in — the Greene street door.

Q. There are two doors there at Greene street, one that leads to the stairs and one that goes from the loft through the partition; I want you to tell the jury which door you are now speaking of? A. The door that was by the partition.

Q. Into the loft itself? A. Yes, sir.

BY THE COURT: In other words, you had already passed in through the stairway door into the loft? A. Yes, sir. I was in the loft — opened the stairway door and was in the loft.

Q. Did you leave that door open behind you, or did you close it after you passed it?

A. It had an attachment on and closed itself. It is a self-closing —

BY MR. STEUER:

Q. It has something as on top of that door (indicating door in north wall of court room)?

A. Yes, it can't remain open unless you put something under it.

Q. You mean if you want to keep it open you have to put something under it?

A. Yes, sir.

Q. Otherwise that some sort of an attachment works and closes the door? A. Yes, sir, sort of a safety catch.

Q. Inside of the loft? Now, you are looking into the loft? A. Yes, sir.

Q. And you see the girls? A. Yes, sir.

Q. Now, I want you to state what you saw happen and what you did? A. Well, the girls were standing there, the girls were beginning to push towards this door and I shouted to the girls "Go nice, there is a fire, go easy;" and I saw there that watchman who was on the floor. He said, "What is the matter?" I said, "There is a fire, push the girls to the fire-escapes", and I stood at that door I don't know exactly how long, I stood at this door and took the girls one by one and cautioned them to go nice.

BY THE COURT:

Q. What is the door you had passed through and that had, this attachment? A. The second door, yes, sir.

Q. You are talking now about the door that is inside? You stood at the door leading into the partition into the loft? A. Yes, sir, that is the door.

Q. Where did you tell the girls to go if you told them anything?

MR. BOSTWICK: I have not objected to these conversations because they have come out involuntarily —

MR. STEUER: I think they are competent. It doesn't matter much one way or the other. If you exclude it I don't want any exception.

THE COURT: I don't think it signifies very much.

Q. I want you to tell the jury what was the first thing you saw of any flame, if you saw any? A. Why, in the other corner of the loft ~~

Q. Which corner are you speaking of? A. The Washington place corner. I could see the flames and the smoke coming in little sheets of flame shooting through the smoke.

Q; Whereabouts did you see that? A. Around the windows.

Q. Around the windows on the Washington place side? A. Washington place side windows.

Q. At that time were you standing at the Greene street end of the loft? A. Yes, sir.

Q. At that time did you see any flames or feel any flames at the Greene street side of the loft? A. While I was standing there, no, sir.

A. Did you see the flames as they were working their way through the loft? A. You mean if I sat the flames --

MR. BOSTWICK: I think he should ask what he saw about the flames.

Q. Well, what did you see? Tell the jury in your own way.

MR. BOSTWICK: And I ask counsel to be just a little careful just at this point.

MR. STEUER: All right.

Q. You tell the jury without any questions being put to you all that you saw and all that you did, and leave out anything that you said or that anybody else said, but just tell what you saw and did from that moment on until you left the ninth loft? A. When I came down the girls were all standing up in their chairs, all that I could see and beginning to come towards this door, and the watchman was standing there; he said, "What is the matter?" and I said —

Q. We told you to leave out what he said? A. As the girls were coming by me I cautioned them to go nice, putting my hand on their shoulders and said, "One at a time, and go down the steps and get out", and I waived my hand in the direction of the fire-escape, which was on that side of the building. And I stood there, I can't say how long, and an inspiration came to me to go back to the tenth floor and save my order book, because that was very valuable to the firm; and I got back to the tenth floor and I had the order book in my hand, and I turned around and I saw Mr. Blanck standing there with one of his children on his arm, and one by his hand, and Mr. Blanck —

Q. What do you mean by "on his arm"? A. I think he had one, holding one.

Q. Holding her up? A. Holding one and one by the hand, and Mr. Blanck was standing there with a look of terror on his face, so I dropped the order book and I picked up one of his children, and I pulled him by the coat and I said, "Come on along. ~~ I just pulled him, come ahead"; then we went through the loft up the Greene street steps to the roof, and then when I got on the roof we handed Mr. Blanck's children over, and then we handed the other girls that were there on the roof, and finally I got over myself and came down on the other building.

Q. While you were telling us this you didn't say a word about any fire or any flames. Will you tell us all that you know about that, if you know anything? On the ninth loft? A. I was standing on the ninth floor, every second it seemed to be getting darker and great big clouds of smoke were coming up, and the flames just beginning to shoot through that smoke and the place was getting darker every minute while I was standing there, and after I got back to the tenth floor and I had Mr. Blanck's child in my arm, I could feel the flames in back of me, I could feel the heat of them as we went to the roof.

Q. What I want to know is, on the ninth floor where was the first place you saw any flames, and after that how did the flames continue to go? A. I can't tell you how the flame continued to go after I left the ninth floor.

Q. Not after you left. I mean while you were still on that

floor? A. While I was on the ninth floor the first flame that I saw was in the Washington place of the building, and that is where I saw the fire was burning more fiercely than at any other part of the loft while I was there. That is the Washington place corner of the building.

Q. How near to the place where you were standing at the Greene street door had the flames come at the time when you left the ninth loft? A. Well, I couldn't answer that, Mr. Steuer; I couldn't answer that question.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. How far did you go into the loft on the ninth floor? A. You mean the time of the fire?

Q. Yes, when you came down from the tenth floor you went to the ninth floor? A. Yes, sir.

Q. And you went through the door? A. Yes, sir.

Q. That separates the stairway from the enclosure just in front of the freight elevators?

A. There was one door that separated --

Q. When you left the stairway you go through a door, don't you? A. After you leave the stairway you go through a door.

Q. And you said there was some sort of a spring on that door? A. Yes, sir.

Q. You went through that door? A. Yes, sir.

Q. After you got through that door you were through an enclosure that enclosed the freight elevators? A. Well, there

was a little partition there from the stairway to the left.

Q. And that partition was really the north side of the clothes closet, in fact, was it not? A. That I couldn't answer. I don't know.

Q. But you were in this enclosure? A. I was on the loft. In the loft there was nothing ---

Q. When you came through the door from the stairway --the doorway that had this thing on it that you speak of -- you were in the enclosure, were you not? A. Yes.

Q. After you got in that door you had to turn to the right didn't you? A. I had to turn to the right? Yes.

Q. Then you came to another door? A. There is another little wooden door.

Q. And that led into the loft itself? A. Yes, sir.

Q. Did that door face south or did it face west, do you know? A. I can't recall that.

BY THE COURT:

Q. Did it face towards the fire-escape wall, or did it face towards Greene street?

Did the door face towards the Greene street stairway?

MR BOSTWICK: It couldn't possibly face Greene street, your Honor?

THE COURT: Why not?

Q. I am speaking now, when you got out of the stairway you turned to the right, you went to a door? (No answer).

Q. In other words, you were walking in the direction of

University place and that door would be a door facing Greene street? A. (No answer).

MR. STEUER: It would be a door facing both.

THE COURT: Facing both University place and Greene street, running parallel with Greene street wall.

BY MR. BOSTWICK:

Q. Here is the Greene street freight elevator (indicating on diagram)? A. Yes, sir.

Q. There is the Greene street stairway? A. Yes, sir.

Q. And this door that you say you came in — A. Yes, sir.

Q. This is the next door you want through, is it not? A. Yes, that is the door.

Q. That door faces west, doesn't it? Is this is west and that is east -- A. That is the door where I stood.

Q. And you went in here? A. I went in there, yes, sir.

Q. Did you go far in the loft? A. No, I didn't go far.

Q. Just went here? A. Passed the door, say about two or three feet at the most, ~ two feet.

Q. Every quarter of an inch here is a foot, so then it would be about half an inch, it would be about there? A. About two feet.

Q. Will you make a mark there and put your initials there? A. Right here?

Q. Yes. A. (Witness marks on diagram as requested.)

Q. That is where you went in the loft? A. That is where I stood.

Q. Then, you went back this way into the stairway? A. Yes, sir, up to the tenth floor.

Q. And up again to the tenth floor? A. Yes, sir.

Q. How long would you say you wars on the ninth floor at that time? A. Do you mean what length of time?

Q. Yes, what length of time? A. I can't recall that, there was so such happening.

Q. You didn't stay very long did you? A. I didn't stay very long, certainly not.

Q. You went right to the tenth floor? A. To the tenth floor.

Q. And you were there just long enough to do what you have testified to in your direct examination? A. Yes, sir.

Q. And went right up to the roof? A. To the roof.

Q. As you went up to the roof from the ninth to the tenth floor the heat on the Greene street side was terrible? A. You could feel the heat in back of me.

Q. And didn't you describe it as being terribly hot? A. I said when I went from the ninth to the tenth floor I could feel the flames in back of me, the heat in back of me.

Q; I ask you, didn't you say it was terribly hot behind you? A. I don't recall saying that, that it was terribly hot, I could feel it in back of me. I didn't turn around to look.

MR. BOSTWICK: I ask permission now to show the jury where the last witness indicated that he went on the ninth

floor, that it may be clear in their minds in connection with the testimony.

MR. STEUER: I think they know. He said right inside the partition.

MR. BOSTWICK: (Showing the diagram to the jury) The spot indicated by the last witness was right there, right inside the wood partition door.

DORA TIGER, called as a witness on behalf of the

defendants, being first duly sworn, testifies as follows:

(The witness states that she lives at 516 East Houston street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck, don't you? A. Yes, sir.

Q. How long have you worked for them? A. Veil, about a year and a half.

Q. You mean a year and a half now, or it was a year and a half at the time of the fire? A.

At the time of the fire.

Q. Have your wages been raised since the fire? A. No, sir.

Q. What did you do when you were working for them before the fire? A. An operator, the same as now.

Q. On what floor? A. Ninth floor.

Q. And whereabouts did you sit? A. Second table, facing Washington place side of the door.

Q. When you were sitting down and working did your eyes face the door, or did they look at the Greene street? A. No, sir, facing the door of the Washington side.

Q. Did you ever go up to the tenth floor from the ninth? A. Yes, sir.

Q. Did you ever go down from the ninth floor to the eighth floor? A. Yes, sir.

Q. What would take you to the tenth floor? A. For the work.

Q. To get work? A. To get work.

Q. What would take you to the eighth floor? A. To get work.

Q. Did you get work from both floors? A. Both floors.

Q. Did the operators come for the work? A. Well, the forelady often used to send us if she had no time, for it.

Q. When you went from the eighth floor to the ninth floor how did you go? A. To the Washington side stairway.

Q. Did you go down by the elevator or by the stairs? A. No, sir, by the stairs.

Q. When you got to the door what did you do? A. Well, just opened the door, turned the knob and the door opened and we walked down.

Q. When you got to the eighth floor what did you do? A. Same thing.

Q. Did you use any key? A. Well, the key wasn't to be needed there because the door was open.

Q. The key wasn't needed you say. When you went to the tenth floor was it the same way? A. Same way.

Q. How often would you say that you went up those stairs,

and down those stairs? A. I went about ten times during the day -- I couldn't count just now many.

Q. You went as often as —

BY THE COURT:

Q. Can you tell me whether there was on the Washington place stairway door at the ninth left any spring that closed the door after a person passed through, of itself? A. I never took notice of that.

BY MR. STEUER:

Q. Were you working on the day of the fire? A. No, sir.

Q. You were not working on the day of the fire? How long had you been off before the fire? A. Two weeks.

Q. Does that mean that you were not working for them at all, or that you were just laid off? A. No, I was just laid off.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You say you went up to the tenth floor by the Washington place stairs about ten times a day? A. Yes, sir.

Q. When you got up to the Washington place stairway and opened the door going into the loft, where would you go first? A. I can't quite understand what you mean.

Q. Well, I mean to say that having opened the door from the stairway into the tenth loft, what would you see there? A. I see the table, -- first of all see the show room, pass through, the table and the examiners were standing there.

Q. Isn't it a fact that you couldn't see the examiners at all when you opened the stairway door of the tenth floor?

MR. STRUER: She said she passed through the show room.

THE COURT: I will allow the question. A. I first seen the show room.

Q. You would go through the show room? A. Yes, sir.

Q. When you say the show room do you mean the show room or the salesman's room? A. I don't remember that, which is salesroom or showroom.

Q. You don't know what was the sales room and what was the show room? A. I know I passed through all the rooms, and I don't know which was the show room or sales room. Of course it was written out the difference between, but I remember passing through from the door over there.

Q. And you went to that place ten times a day for a year and a half? A. Not at the tenth floor. I went to the ninth, but went to the tenth, on the tenth floor ten times a day. You didn't ask me if I went through the tenth.

Q. How many times in all will you say you went to the tenth floor? A. I don't remember how many times I went through the tenth. I know I used to go to the eighth.

Q. And you say that you went to the tenth floor and you can't tell us when you got out of that door where you were standing, in what room? A. No, sir.

Q. Isn't it a fact that over on the Washington place side, on the tenth floor, were the offices of the concern? A. Yes, sir.

Q. And you couldn't get any work there could you? A. Well, passing through the offices.

Q. Wasn't where you had to get the work way over by the Greene street side? A. At the tenth floor.

Q. Yes. Then why did you go up the Washington place stairway and go through the office of the bosses in order to pass through all their offices to go to the place where you got your work? A. Because it was nearer for me to come through the Washington side door than through the Greene street side.

Q. And for two weeks before the fire you were not at this factory, were you? A. No, sir.

Q. Did you ever see anybody go in or out the Washington street stairway door on the ninth floor at closing time? A. I can't understand that.

Q. Well, imagine that door over there to be the Washington place door on the ninth floor (indicating door in north wall of court room)? A. Yes, sir.

Q. That leads to the stairway? A. Yes, sir.

Q. And it is right next to the passenger elevators? A. Yes, sir.

Q. Do you remember that door? A. Yes, sir.

Q. That is the door that you say you went by to the tenth floor? A. Yes, sir.

Q. When it came time to go home at night did you ever see an operator go out of that door and down those stairs? A. Well, there was no such room —

Q. No, answer my question: did you ever see an operator go out that door? A. Yes, sir.

Q. At night? A. Yes, sir.

Q. And go down the stairs? A. Not the stairs.

Q. Well, where did they go? A. They went down to the eighth floor to get the elevator for the Greene street side door, because it was nearer.

Q. You mean to say they went to the Washington place stairway door on the ninth floor and walked down one flight to get to the elevator because it was nearer? A. Because it was nearer, there weren't as much operators on the eighth floor as there was on the ninth.

Q. How many employees had you seen go through that Washington place door on the ninth floor and go down to the eighth floor to get the passenger elevator because it was nearer? A. I couldn't count them.

Q. There were so many? A. I should say so.

Q. Can you tell us the names of any of these people that went through that Washington place ninth floor door, down to that eighth floor to get to the passenger elevator and go home? A. Yes, sir.

Q. Name them? A. Rose Rosenfeld.

Q. Anybody else? A. Well, most of them I know the faces but I can't know their names. I can point them all out when I see them.

Q. Is it a matter of fact that most of these employees

used to go out the Washington place stairway at night? A. Not most of them; most of them went to the Greene street side.

Q. Most of them went to the Greene street stairway, but the rest went out of the Washington place stairway, didn't they? A. Yes, sir.

Q. And this happened every night that you worked there.

Q. And you would see them all go out to this Washington place door? A. Yes, sir.

Q. And was there any watchman there? A. No watchman at the Washington place door.

Q. And was the door wide open? A. Yes, sir.

Q. And at night the door was wide open and these employees that didn't go out the Greene street way would all go out to this Washington place door? A. Well, nobody told them to go that way.

Q. I didn't ask you that? A. Well, they went very often.

Q. All that didn't go out of the Greene street way would go out of this open door on the Washington place side of the building? A. Not those that were at the Greene street –

Q. No, but all the others? A. Those that were facing the Washington side of the door.

Q. They would all go by this Washington place door? A. All go by this Washington place door.

Q. And there was no watchman there? A. There was no watchman there.

Q. And the door was wide open? A. And the door was wide

Q. And is that the same door you always went to the tenth floor by? A. The Washington side.

Q. It was the same door, this door that stood open every night? A. No, sir, this door we are talking about is the stairway. The way we went home we went by the elevator.

Q. By the elevator? A. Yes, sir.

Q. Just give me your attention a minute. Did you ever go down from the ninth floor to the eighth floor to get the passenger elevator to go home? A. Yes, sir.

Q. Did anybody else ever go with you? A. Yes, sir.

Q. Through the Washington place door? You know the door I mean, this door I have described to you? A. Yes, sir.

Q. Did you ever have anybody else go with you through that door and down to the eighth floor and into the loft to get the passenger elevator to go home? A. No, sir.

Q. Why didn't you walk down stairs when you were on these stairs? A. Do you think I would have been such a fool to walk down eight flights?

Q. So you would go in that eighth floor and you would go around to the elevator and you would wait there until the elevator came? A. Not all the time.

Q. What would you do? A. I would take the Washington side elevator.

Q. That is what I just asked whether that is what you would do, to take the Washington place elevator? A. Well, that is what I do.

Q. While you worked there did you ever go to the Greene street stairway at all? A.

Yes, sir.

Q. How many times? A. I couldn't remember now many times I went through there.

Q. But you did go occasionally through the Greene street side? A. No, not through the Greene street side.

Q. Where did you go through? A. Through the Washington side.

Q. Did you ever go through the Greene street stairways in your life? A. Very seldom.

Q. You most always went by the Washington place door? A. Yes, sir.

Q. I want to be very sure that you have not misunderstood me, and I want to ask you this question, and I want to ask you to be very careful because if you have been mistaken I want you to correct it: can it be possible that you have mistaken all this time the words "Washington place door" for "Greene street door"? A. No, sir.

Q. You are sure of that? A. Sure of that.

Q. You don't want me to attempt to show you where these doors are to make sure about it? You feel sure about it? A. Well, if you show me the door, why not?

Q. I want to make sure whether you have not made a mistake as to these doors (showing witness diagram)? A. I couldn't tell from this diagram.

MR. STEUER: Explain it to her the same as you did

with your witnesses.

MR. BOSTWICK: She says she couldn't tell.

MR. STEUER: Your witnesses said that half a dozen times.

BY THE COURT:

Q. The side nearest you is Washington place (indicating on diagram), this side here is Greene street, that dark thing over there is the fire escape, the Washington place passenger elevators are there, the Washington place stairway door is shown by that line, and these are the Washington place stairs, these are the tables on which were the machines; now do you understand it? A. I quite can't understand this.

Q. Could you point out on that diagram where you used to work on the ninth floor, at what place? A. Well, I would take a chance, but I don't think it would be possible for me to do it.

BY MR. BOSTWICK:

Q. When you used the place Washington place stairs, do you mean the stairs which when you went all the way down to the street would land you out into Washington place? A. Well, I never took a chance to go all the way down to the street with the stairway.

Q. Well, I mean when you say Washington place stairs do you mean those stairs which were right next to the Passenger elevators, which if you had gone down them all the way to the street would have brought you out on Washington place? A. I

couldn't tell you, I never took a change of going to see they would.

BY THE COURT:

Q. Did you ever go up by the Washington place elevators? That is to say, did you ever enter the building on the Washington place side? A. Yes, sir.

Q. And go up on the passenger elevators to the ninth floor? A. Yes, sir.

Q. You have done that? A. Yes, sir.

Q. Entering the building by the Washington place door did you notice that alongside of the elevator there were stairs? A. I did, along side of it.

Q. You have seen them, haven't you? A. I haven't seen the stairs, I couldn't see that from the elevator, the way you ask.

Q. No, but I mean, having stepped into the hallway of the building on the ground floor and having gone, we will say, to the elevator that was furthest away from the door, have you ever before going up in the elevator noticed that near you there were stairs? A. I never noticed anything of the kind; I never took notice of anything.

Q. You know which was the Washington place side of the building, do you? A. Yes, sir.

Q. And you knew where the passenger elevators were? A. Yes, sir.

Q. And you know the elevators that were used as freight elevators, is that so? A. Yes, sir.

Q. On what side of the building were the freight elevators? A. Greene street side.

Q. Was there any stairway near the freight elevators? A. Yes, sir.

Q. Did you ever go down those stairs? A. I never went all the ways down.

Q. Did you ever go down on the freight elevators all the way from the ninth floor to the street? A. Yes; sometimes.

Q. Did you ever go down on the passenger elevators all the way from the ninth floor to the street? A. Yes, sir.

Q. Did you ever go down the stairs that were near the passenger elevators from the ninth floor to the eighth floor and take an elevator, a passenger elevator at the eighth floor? A. Will you please explain me that question again.

Q. Did you ever walk down the stairs which were near the passenger elevators from the ninth floor to the eighth floor? A. No, sir.

Q. What is that? A. No, sir.

Q. You know that there were certain stairs that were near the passenger elevators — do you know what I mean by the passenger elevators? A. Yes, sir, the Washington side door.

Q. What elevators do I mean? A. The Washington side.

Q. You know there were stairs near the passenger elevators? A. Yes, sir. Not quite as near as they were to the Greene street.

Q. You mean to say there were no stairs as near to the

passenger elevators as they were to the Greene street -- A. Yes, sir.

Q. Is that what you mean? A. Yes, sir.

Q. How many flights of stairs, how many different stairways were there in that building in which you worked? A. There was only two stairways.

Q. Was either one of those stairways nearer to the passenger elevators than to the Greene street elevators? A. Your Honor, explain that question again.

Q. You say there were two stairways in the building in which you worked. Now, if you don't understand me, say so? A. Yes, sir, that's right.

Q. Was either one of those stairways nearer to the passenger elevators than to the freight elevators? A. According to the side I would go, that is the side that would be nearer to me; they were just about the same.

Q. You know where the freight elevators were? A. Yes, sir.

Q. Do you remember whether there were any stairs that were near the freight elevators?  
A. Yes, sir.

Q. Were there any? A. Yes, sir.

Q. How many flights of stairs were near the freight elevators? A. One flight of stairs.

Q. How many flights of stairs were there in the building? A. Two stairways.

Q. Where was the other stairway? A. On the Washington side.

Q. And how close was that to the passenger elevators? A. Well, a little distance away.

Q. Did you walk down that flight of stairs? A. Not all the ways down.

Q. Did you ever walk down that flight of stairs from the ninth loft to the eighth loft? A. Yes, sir,

Q. And when you got to the eighth loft having walked down that flight of stairs what would you do? A. Go over to the table by the examiner and take the work away that was laying in the case.

Q. But suppose having gone down that flight of stairs, you wanted to go down to the street, what would you do? A. I can't understand that question.

Q. Did you ever walk down the stairway that was near the passenger elevators, from the ninth loft to the eighth loft, when you were going home at night? A. Yes, sir.

Q. And when you got to the eighth loft and were going home at night, what would you do? A. Take the elevator.

Q. And what elevator would you take then? A. The one which I would see that there was the least of a crowd standing.

Q. And on which side of the building? A. Well, usually at the Washington side.

Q. Could you tell me whether you had at any time on the of the fire passed through the door leading from the ninth loft?

MR. STEUER: She said she stopped working two weeks

before that.

Q. Oh, I beg your pardon, ~ you weren't working there? A. No.

Q. How long before the fire, if you recollect, was the last time that, as you say, you passed either up or down the Washington place stairway? A. Saturday, - do you want to know the day?

Q. You say on a Saturday? A. Yes, sir.

Q. How long before the fire? A. Two weeks before.

Q. You mean on the Saturday two weeks before the fire, what did you do? A. I went through the Washington side door down to the ninth floor -- to the eighth floor, rather.

Q. At what hour of the day? A. It was about pretty near quarter to five that time.

Q. What were you going to do then when you did that? A. Spoke to the manager.

Q. And after you did that on that day, what did you do? A. Well, after I got through, I went home.

Q. Did you go back to the ninth loft? A. No, sir.

BY THE SEVENTH JUROR:

Q. When you went to work in the morning how did you go to work? What streets did you take? A. The Washington side of the building.

Q. Would you come down Broadway? A. Would I come down Broadway?

Q. Yes, where did you live? A. I live on Houston street.

Q. You would come up from Houston street, would you, ~ walk up Broadway?

A. Yes, sir.

Q. As far as Washington place? A. Yes, sir.

Q. Then you would walk down toward Greene street? A. No, sir, to Washington place.

Q. Then you would walk down as far as Greene street? A. Well, then I would have to walk up to the entrance.

Q. You would have to turn when you got to ninth street? A. No, sir, I went straight up.

Q. You would go in Washington place, in the passenger elevator? A. Yes, sir.

BY MR. STEUER: (Re-direct examination)

Q. On the last day that you worked you say that about quarter to five you went from the ninth floor to the eighth floor to speak to the manager? A. Yes, sir.

Q. Who was the manager? A. Mr. Bernstein.

Q. What did you speak to him about? A. About why he discharged me, why he laid me off.

Q. And at that time he was on the eighth floor? A. Yes.

Q. And you went down at that time by the Washington place side? A. Yes, sir.

Q. Was that after the power had been turned off? A. Yes.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. You worked for Harris and Blanck until that Saturday you were discharged? A. Yes, sir.

Q. And you didn't work for them up to the date of the fire? A. No, sir.

Q. But since the fire you have re-entered their employ, have you not? You are now again in their employ? A. Yes, sir.

Q. And you are now working for Harris and Blanck? A. Yes.

Q. And when did you begin to work for Harris and Blanck? A. Well, about six months ago.

Q. About what month was that? A. I couldn't tell you, I guess about July or June, around that time, when the place opened.

Q. About four or five months after the fire? A. I couldn't tell you just what time it was -- I remember during the summer.

Q. Do you know who Mr. Fletcher is? A. Yes, sir.

Q. Did you have any conversation with Mr. Fletcher? A. No sir.

Q. Not today? A. No,

Q. Nor yesterday? A

Q. Nor any other time? A. No, sir.

Q. And no one knew that you were going to testify when you came up? A. No, sir.

Q. And you have seen no one? A. No one.

Q. How did you happen to come? A. Well, Mr. Steuer gave me a subpoena.

Q. And no one has asked you any questions, and you came here without seeing Mr. Fletcher, or talking to Mr. Fletcher?

A. Well, they asked me whether I worked for the place and that is about all.

Q. And who asked you that about all? A. Mr. Steuer. Nobody asked me “about all” — they asked me if I was working at the place.

Q. And didn’t you have any conversation yesterday or today in the hall with Mr. Fletcher? A. No, sir. I had nothing to do with Mr. Fletcher.

Q. Do you know Mr. Goldsmith? A. No, sir.

MR. STEUER: Who is Goldsmith?

BY MR. STEUER:

Q. Is it the fact that you girls stood in a line and that young man (indicating), that he was writing names on the green papers, and as you came into the room, the little room there by the desk, I asked you “Did you work for Harris and Blanck before the fire”? A. Yes, sir.

MR. BOSTWICK: Now, you know I am trying to get an objection in. This is not a proper subject of redirect examination.

MR. STEUER: Isn't it, your Honor, in view of his last examination?

MR. BOSTWICK: And what is more the nature of the question in form is wholly improper and I object to it.

THE COURT: I think the question is objectionable as leading. I think the subject is one for inquiry.

Q. Tell the Jury when it was and where it was that you saw

me and that young man (indicating the same young man, one of Mr. Steuer's assistants)? A. In Mr. Fletcher's room -- the cashier.

Q. And tell the jury what happened — tell them all about it? A. Sent in for me and the young man over there come over and asked me did I work for the firm. I answered him, "Yes, sir", and he went and give me a green slip of paper to come tomorrow morning.

Q. And you have got the paper have you? A. Yes, sir, (producing a paper).

Q. And that young man there wrote it out while you were there? A. Yes, sir.

BY MR. BOSTWICK:

Q. So you did see Mr. Fletcher then?

THE COURT: No, now we have been all over it. Step down, Madam.

THERESA ELBAUM, called as a witness on behalf

of the defendants, being first duly sworn, testified as follows:

(The witness states that she resides at 520 Cleveland street, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck? A. Yes, sir.

Q. Did you work on the day of the fire? A. Yes, sir.

Q. Have your wages been raised since the time of the fire?

A. I didn't work for them after the fire.

Q. Well, you are working for them now, aren't you? A. No, sir.

Q. Oh, I beg your pardon. How long had you worked for them up to the time of the fire? A. Five years.

Q. What did you do while you were working for them? A. The last thing I did, I was a forelady on the tenth loft.

Q. How long were you a forelady? A. About a year's time.

Q. And while you were a forelady were you always on the tenth floor? A. No, I was on all the floors.

Q. I mean, is that the place where you did your work? A. Yes, sir.

Q. Where the girls that were under you worked? A. Yes.

Q. They were on the tenth floor? A. Yes, sir.

Q. Before you were that forelady — A. I was on the ninth floor, taking care of the sleeve makers — they count it factory bookkeeper.

Q. And you always worked while with Harris and Blanck either on the ninth or tenth floors? A. Or on the eighth.

Q. How long did you work on the eighth? A. Two years.

Q. Altogether you worked five years? A. Five years.

Q. Two years on the eighth floor, two years on the ninth floor and one year on the tenth? A. Yes, sir.

Q. During the year that you worked on the tenth floor as a forelady over the girls upstairs, did you have to go to the ninth floor for anything? A. Very often.

Q. What for? A. To find out if the lots are complete. Sometimes I missed some waists and I have to find out if they have them, and to find out from the bookkeeper; sometimes I needed Mr. Harris or Mr. Blanck and they were not on the tenth floor, and I had to go to the ninth or the eighth floor.

Q. How often did you go to the ninth or eighth floor a day? A. So many times, but I really can't tell you.

Q. Near which door of the tenth floor were your tables? A. Well, I think it would be the same time between the Greene street and Washington door.

Q. When you say the same time, you mean the same space or distance? A. Yes, sir.

Q. When you went downstairs to the ninth or eighth floor now did you go? A. Sometimes I used to walk to the Greene street door, but sometimes I used to walk to the Washington place door. Going to the Washington door because I usually thought I would meet Mr. Harris or Mr. Blanck and I wouldn't have to go down.

Q. You walked over to the Washington place door, because that is where their offices were? A. Yes.

Q. And you felt that you might meet them over there? A. Yes.

Q. When you went down by the Washington place door through the tenth floor how did you go? A. Through the stairway. Of course if the elevator was there I used to take that elevator, but we couldn't trouble the elevator fellows so many

times a day, so I used to go down through the Washington stairway.

Q. When you got down to the ninth floor what did you do? A. I opened the door and come straight into the ninth floor.

Q. Did you ever find any trouble opening it and walking right is? A. No, at all.

Q. How about the eighth floor, did you find any trouble opening that and walking in? A. No.

MR. STEUER: You may examine her.

MR. BOSTWICK: No questions.

PETER WORTMAN, called as a witness on behalf of the defendants, having been first duly sworn, testified as follows:

(The witness states that he resides at 50 East 112th street)

DIRECT EXAMINATION BY MR. STEUER:

Q. Wortman, do you work for Harris and Blanck? A. Yes.

Q. What do you do? A. I was in the tenth floor, I keep charge of the stock department.

Q. There is nothing the matter with you, is there? A. No.

Q. How long have you been working for Harris and Blanck? A. Five years.

Q. And did you always work on the tenth floor? A. Yes, sir.

Q. Did they have the tenth floor five years? A. The whole tenth floor — I was working on the tenth floor about

two years and then I used to work on the eighth floor.

Q. Have your wages been raised since the fire? A. No, sir.

Q. What do you do for your wages? A. I was working on the tenth floor, taking charge of the stock department.

Q. When you take charge of the stock what kind of stock do you take charge of? A. embroideries and laces.

Q. That is not finished waists, - you don't have anything to do with finished waists? A. No.

Q. It is materials that Harris and Blanck buy? A. Yes.

Q. And that you give out to the foreladies and other people isn't it? A. I have to give out to the cutting department.

Q. Do you measure it off for them, or do they give you tickets, or what? A. No, I used to give them as much as the superintendent, Mr. Bernstein and I have to get down for him--as much as he needs for any lot.

Q. Did that bring you from the tenth floor to the ninth floor at any time, and the eighth floor? A. Yes, I always used to bring down on the eighth floor.

Q. You never went to the ninth floor? A. Sometimes I used to go down on the ninth floor, yes.

Q. But you went to the eighth floor many more times than you went to the ninth, is that it? A. Yes, I went to the eighth many more times than I went to the ninth.

Q. Where was your place where you had the stock? A. Near Washington place.

Q. Near the Washington place side? A. Near the Washington place side.

Q. Which way did you go from the tenth floor to the ninth floor or the eighth floor? A.

When I go up or down?

Q. Well, when you go down? A. When I go down I go mostly on the Washington place door.

Q. How did you go, with the elevators or the stairs? A. No, always the stairways.

Q. Did you ever have any trouble getting into the ninth floor? A. No, sir. When I go down, then I mostly go down on the eighth floor I used to slip in there in the ninth floor too.

Q. What do you mean, you slipped in? Why did you have to slip in? A. Because my lady friend was working there.

Q. Oh, I see. You went down to the eighth floor on account of work, is that it? A. Yes.

Q. And then you used to slip into the ninth floor when the bosses didn't see you, is that it? A. Yes.

Q. How did you come upstairs? A. When I go upstairs, I go always to ~~~ most of the times I go back in the stairway or I go to the Greene street side.

Q. Near which side did your lady friend work? A. Near Washington place side.

Q. On the eighth floor where did you have to go? Any particular place or all over the floor? A. On the eighth floor?

Q. Yes. A. Only to the cutting department.

Q. The cutting department was nearer to the Greene street side, wasn't it? A. Yes, sir.

Q. When you went down to the eighth floor and you were over at the Greene street side, which way did you go up stairs? A. Greene street side.

MR. STEUER: You may examine.

MR. BOSTWICK: No questions.

IDA OKAN, called as a witness on behalf of the defendant,

being first duly sworn, testifies as follows:

(The witness states that she resides at 69 West 115<sup>th</sup> street.)

DIRECT EXAMINATION BY MR. STEUER.;

Q. Do you work for Harris and Blanck? A. Yes, sir.

Q. What do you do? A. Mark.

Q. You mark? Mark what? A. For the buttons.

Q. You make a mark where they sew buttons on, is that the idea? A. Yes.

Q. Where did you do that in the old building? A. On the side of Greene street.

Q. On the Greene street side? A. Yes.

Q. What floor? A. Ninth floor.

Q. Did you work there at the time of the fire? A. Yes, sir.

Q. And you still work for them now? A. Yes, sir.

Q. Have your wages been made larger since the fire? A. No, sir.

Q. Where were you at the time of the fire? A. I was sitting

near the door, Greene street side.

Q. Did your work take you to any other floor? A. Tenth, floor.

Q. So you would have to go from the eighth to the tenth floor? A. From the ninth on the tenth.

Q. Oh, you worked on the ninth, you would go from the ninth to the tenth floor?

A. Yes.

Q. Did you ever have to go from the ninth to the eighth floor? A. Yes, sir, I did.

Q. What would you go upstairs to the tenth floor for? A. With the Washington place door.

Q. What would you go upstairs for? A. To do some work there.

Q. Where? A. On the eighth floor.

Q. What kind of work? A. To sew some labels on.

Q. Did you do that on the eighth floor? A. On the eighth floor.

Q. What did you go up to the tenth floor for? A. I have to do some work there.

Q. What kind of work? A. Trim some cottons for the waists.

Q. That was done on the tenth floor, was it? A. Yes, sir.

Q. When you went up to the tenth floor, if you wore on the Greene street side of the building, which way did you go up? A. Washington place side.

Q. Why did you cross over to go up the Washington place side if you were on the Greene street side? A. Because it was

nearer for me.

Q. How was that nearer? How was it nearer to go up on the Washington place side if you were on the Greene street side? A. It was near for me to pass by there on the tenth floor.

Q. On the tenth floor? A. Yes.

Q. Did you ever use the Greene street stairs? A. Yes, sir.

Q. And you used both stairs? A. Yes, sir.

Q. Going up and down? A. Yes.

Q. Which stairs did you use more often, the Greene street stairs or the Washington? A. The Greene street.

Q. You went up more times by the Greene street stairs than you did by the Washington stairs? A. Yes.

Q. But you are sure you went up both? A. Yes, I did, I am almost sure of that.

Q. You are what? A. I am sure about it.

Q. When you went by the Washington place stairs did you ever have to lock or unlock a door? A. It was not locked.

Q. The door was not locked? A. No.

Q. And you never used any key to lock or unlock the door? A. Never.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Washington place door? Did you shake your head or did you answer? A. What is the Washington place door?

Q. Did you shake your head? A. Yes, I shook my head.

Q. What did you mean by shaking your head? A. I didn't know what you asked me was the Washington door.

Q. Didn't you shake your head up and down? A. Well, what is about the Washington door?

Q. In answer to the question of the counsel for the defendants when he said you are sure you used both stairways, you first said "Almost sure"? A. I didn't say "almost", I said I am sure about it.

Q. Didn't you first say "almost sure"? A. I didn't say "almost", I said, " I am sure about it".

Q. You didn't say "almost sure"? A. No, I did not.

Q. Well, you are sure that you used the Washington place door? A. Yes, sir.

Q. You know all about that Washington place door, don't you? A. I do.

Q. And you know whether it was looked or unlocked? A. It was not locked.

Q. When you went home at night did you ever have to go out the Washington place door? A. With the elevator.

Q. Are you talking all the time about the Washington place elevator doors? A. Well, when I went upstairs I with the Washington door.

Q. When I say "Washington place door", you say "elevators". I want to know what door are you talking about and what door have you been testifying about? A. I always used to go with the elevator home.

Q. Always? A. Always.

Q. Did you ever see anybody go to the Washington place stairway door? A. Yes, sir, I did.

Q. At night? A. Yes.

Q. Where they were going home, to go down the stairway? A. The stairway.

Q. Stairway? A. When they were going home?

Q. When they were going home? A. Yes, I did.

MR. STEUER: Is this a dramatic performance?

Q. Now, now often do you —~

MR. BOSWICK: I object to the comment by counsel.

MR. STEUER: They are complimentary. I just want to know whether he means it that way.

THE COURT: No, no; that was not orderly. Now, proceed.

Q. I understand you to say that at night when the employees were leaving the factory you have seen them go by the Washington place stairway door on the ninth floor, and go down the stairs towards home? A. The foreladies I used to see go there.

Q. Was that door kept unlocked? A. It was open.

Q. It was wide open? A. Wide open? Of course it was not wide open — it had a key in there.

Q. Well, was it open? Do you know what I mean when a door is open? A. Well, I will tell you, it was open on the summer time, it was closed in winter time, and had a key.

Q. I am talking not about the closed time, but about the

foreladies going home; you just told me you saw them go out the Washington door? A. It was open.

Q. Did it stand open? A. It did.

Q. It stood wide open? A. Yes.

Q. And you saw the foreladies at night? A. I did.

Q. Go out the Washington place door? A. Yes.

Q. You don't mean the elevator door? A. Well, I mean the stairway door.

Q. And you mean to say that you saw the foreladies go out at night by the Washington place stairways? A. At night I had to go down or upstairs.

Q. At night when the fore ladies went home did they go by the Washington place stairway ever? A. I didn't see that, but I see them many times.

Q. Do I understand you that you have many times seen foreladies go to the Washington place stairway door on the ninth floor? A. Yes.

Q. And go down by the stairs? A. Yes. sir, I did.

Q. Will you tell us the name of any forelady that you ever saw go that way? A. The name of them?

Q. Yes. A. I can't exactly remember the names.

Q. Did this happen every night? A. Well, I didn't watch them all the time.

Q. Did it happen vary often? A. it did.

Q. Once a week? A. More than that.

Q. And you would see that Washington place door standing

wide open? A. Yes, sir.

Q. And you would see the foreladies going out and going down the Washington place stairs at night? A. Yes, sir, I did.

Q. And that in the same door you mean you went in and out when you went to the ninth and tenth floors? A. Yes, sir, that is the same door.

Q. Was anybody ever standing as a watchman by that Washington place door? A. Washington? Never.

Q. Do you remember making a statement? A. I didn't make no statement.

Q. You didn't make any statement. You never saw me before, did you? A. I never did.

Q. Do you remember coming down before me on May 9<sup>th</sup>, 1911, at my office? A. No.

Q. Do you remember calling upon Mr. Ellison, Deputy Assistant District Attorney on April 8th, 1911? A. No.

Q. Did you not state to me in ay office — A. (Interrupting) no.

Q. No? A. Yes, sir.

MR. BOTWICK: That's all.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You say you never saw him and never were in his office? A. I was never there, I never saw him.

MICHAEL IACOVELLA, called as a witness on behalf of the defendants, being been first duly sworn, testifies as follows;

(The witness states that he resides at 2515 Amsterdam avenue)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you speak English.? A. Yes.

Q. You work for Harris and Blanck? A. Yes, sir.

Q. What do you do? A. I am a buttonhole maker.

Q. Did you work at the time of the fire? A. Yes, sir, I was away a month before.

Q. Oh, you did work for them before the fire? A. Yes, sir.

Q. But you didn't work for the firm just before the fire, is that it? A. Yes, I just moved away from the other place.

Q. You mean to one of their other lofts? A. No, he has another place and I went there.

Q. You did work in the other place? A. Yes.

Q. But you were working for Harris and Blanck all the time, even at the time of the fire? A. Yes. sir.

Q. But you didn't work in 23 to 29 Washington place, is that it? A. No, sir, I was in the other place on No. 9 University place.

Q. For a month before the fire? A. Yes, sir.

Q. What we want to make sure of is did you ever work for Harris and Blanck at 23 to 29 Washington place? A. Yes, I did for a month — one year and eight months, then I moved on the

other place.

Q. A year and eight months; which floor? A. Ninth floor.

Q. Did you work at a machine when you worked? A. Why sure, by a buttonhole machine,

Q. Where was the buttonhole machine? A. About three yards and a half that was from the door what they say there.

Q. The door, which door? A. The Washington place door.

Q. The door that everybody is talking about? A. That is what I mean.

Q. The door that you talk about and that the other working people talk about, and that everybody is talking about? A. Correctly.

Q. Is that right? A. Correctly.

Q. In your mind have you got a sort of a picture of the ninth loft? Could you tell us about it, if you saw it? A. Well, there wasn't anything else there only the machines table.

Q. Did you ever have to go to the tenth loft or to the tenth loft? A. Sometimes.

Q. For what? A. Sometimes in the day time, - to take fun down there.

Q. To take fun down there? A. Yes, just to walk down and see some friend down there.

Q. On which floor? A. Eighth floor.

Q. When they used to dance on the eighth floor did you go to the eighth floor? A. Yes, sir.

Q. Were you one of the dancers too? A. No, I don't know

how to dance but I think I am going to learn soon.

Q. The only time that you went then was during the dancing and that was when the strike was, wasn't it? A. Yes, sir.

Q. That strike lasted five months, I think, didn't it? A. Well, I think so, - yes, about that long, yes.

Q. When was it, in the summer time or the winter time? A. That was in the winter. I remember then was snow on the ground.

Q. Did you go downstairs then through that Washington place door? A. Yes, sir.

Q. How often did you go down through the door then? A. Well, sometimes four or five times, nearly every day, sometime I miss in the week, but then and the time at dinner time to go that way, because during the day I am mostly sat at work by my machine.

Q. During the day you never went down? A. No, in the dinner time.

Q. When you said four or five times a week you mean four or five times, during dinner time, is that it? A. Yes, sir.

Q. Which way did you come up when you came up? A. Some times I came right up that way, and sometimes I went up through the Greene street door stairs.

Q. What is all you know about this matter, is it? A. Yes, that's all.

Q. During the day time when you were waiting you said you never went downstairs, or you never went upstairs through that

door or any door you used to sit at your machine and work, is that right? A. Yes.

Q. From where you sat could you see whether people went through that door or not, other people now? A. I know what you mean, yes.

Q. You could see other people. Where did you see any people go in or out through that door? A. Why, sure, I see many times a forelady, Mr. Bernstein and a very lot of times and Mr. Blanck used to come around and try the door to see whether it was open or not, and sometimes he would go out that way too.

Q. Did you see him open and shut that door? A. Yes, sir.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Did you say you saw Mr. Blanck come around many times and try that door? A. Yes, sir.

Q. What do you mean by "try that door"? A. Try it to see if the door was shut.

Q. Would he turn the handles above that? A. Turn the door knob.

Q. Would he turn ~— A. No, turn the door knob and went out sometimes.

Q. What do you mean by trying the door, and turning the handle and going through?  
A. Sometimes he just opened the door to see whether it was open or not, and let it down again and go on the floor again, and he went out and would stay in again.

Q. So you did see him many times try the door? A. Yes, sir.

ROSE COHEN, called as a witness on behalf of the defendants, having been first duly sworn, testifies as follows: (Through Official Interpreter Rosenthal)

(The witness states that she resides at 381 Marcy avenue, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck? A. Yes, sir.

Q. Have your wages been raised since the fire? A. No.

Q. What did you do when you worked for Harris and Blanck before the fire? A. I was a sleeve setter.

Q. Is that work at a machine? A. Yes, sir.

Q. Where was your machine? A. In the first row from the Washington place door.

Q. Which way when you were sitting down were your eyes? A. Towards the door.

Q. Did you ever go in and out of that door towards which your eyes were? A. Yes, once in a while the forelady from the eighth floor used to call me to work for a couple of hours there, and then I went with her through that door.

Q. What floor did you work on? A. On the ninth.

Q. And you used to go down to work for a few hours with the eighth floor forelady? A. Yes, with the forelady.

Q. How often did you go from the ninth floor to the eighth floor through the Washington place door? A. Sometimes a couple of times a week, sometimes once a week, just as I saw anybody.

Q. From where you sat were your eyes right on that door?

A. Yes.

Q. Did you see people come in and go out of that door every day?

MR. BOSTWICK: I object.

Objection sustained. Exception.

MR. STEUER: What is the objection to that, may I ask your Honor.

THE COURT: It is leading.

MR. STEUER: I don't know how to put that any different.

BY THE COURT:

Q. What if anything did you see with respect to the Washington place door? A. What do you mean?

Q. When you saw that door at the time when you saw it, was it open or closed? A.

It was closed, but whether it was locked, I don't know.

BY MR. STEUER:

Q. You went through it sometimes, you say, with the forelady? A. Yes.

Q. Did you ever see anybody else go through it? A. Yes, the bosses and the fore ladies and other people, I don't know who they are.

Q. Where was the key to the door, if you know? A. In the door it was.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. At night when you went home how did you go out, and

how did the other employees go out? A. We used to go by the Greene street elevators.

Q. And did any go down the Greene street stairs? A. Not I.

Q. Did you ever see anybody at night when you were going home go down the Washington place stairway to the street? A. No.

Q. You are still in the employ of Harris and Blanck, at what place? A. For Harris and Blanck, 16th street, corner of Fifth avenue.

Q. You are not related to Ray Cohen, are you?

MR. STEUER: Probably that is Rachel.

A. No.

Q. Or Jennie Cohen? A. No.

Q. Or Ida Cohen, or Ida Wallinsky? A. No.

Q. Nor Sallie Cohen? A. I had no relatives there at all.

Q. Were you there the day of the fire? A. Yes.

DINAH LIPSCHITZ, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that she resides at 405 Miller avenue, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What floor did you work on when you worked for Harris and Blanck? A. I worked on the ninth and eighth floor.

Q. What floor did you work on at the time of the fire? A. On the eighth floor.

Q. You work for them now, don't you? A. I do.

Q. And you are related to them, aren't you? A. Yes, sir.

Q. I am a cousin — my mother is a cousin of their wives.

Q. Of both their wives? A. Yes, sir.

Q. When you were working at the time of the fire what did you do? A. I was a time keeper on the eighth floor.

Q. Were you the lady or the person to whom Bernstein was talking? A. Yes, sir.

Q. The manager, at the time when you first heard about a fire? A. Yes, sir.

Q. Will you tell us please where the telephone is on the eighth floor? A. It was right on my desk.

Q. And this other instrument that you had? A. Telautograph? Right on my desk.

Q. Were you the person that used the telautograph at the time of the fire? A. Yes, sir.

Q. When you used to connect it —

BY THE COURT:

Q. At that time which did you use first, the telautograph? A. The telautograph first.

BY MR. STEUER:

Q. With what floor did you have a direct connection? A. With the tenth floor.

Q. And that was the only floor with which you could make a direct connection? A.

Direct connection with the tenth floor only.

Q. If you wanted to send a message by this telautograph to the ninth floor could you do it? A. Yes, sir.

Q. How? A. I had to send my message up on the tenth and wait for an answer until they were connected with the ninth floor.

Q. After they were connected then did you communicate direct from the eighth to the ninth, or would you always have to communicate through the tenth? A. With the telautograph they always answered me through the tenth floor.

Q. Now, we will come to the telephone --

THE COURT: I do not think that is entirely plain.

BY THE COURT:

Q. Do you mean to say that after you had connected with the tenth floor and they had made a connection with the ninth floor that you could talk directly with the ninth floor? A. That is with the telautograph. That is a message, it couldn't talk, I had to write.

Q. But did anybody else? A. No, that wasn't used to the ninth floor. I couldn't use it direct to the ninth floor.

Q. You at the telautograph would communicate with the tenth floor and the tenth floor would make a connection with the ninth floor? A. Yes, sir.

Q. But after that connection was made could you operate the telautograph with the ninth floor just the same as you could with the tenth? A. No.

BY MR. STEUER: Q. If you wanted to 'phone to the ninth floor

you would have to get a connection with the tenth floor? A. Yes, sir.

Q. But after you got the connection through the tenth floor with the ninth floor, then you talked directly to the ninth floor, didn't you? A. Yes, sir.

Q. That is on the telephone? A. On the telephone, direct to the ninth floor-

Q. Did you say that you ever worked on the ninth floor? A. I worked on the ninth and on the eighth.

Q. How long had you worked on the ninth? A. Steady, two years and a half on the ninth.

Q. How long did you work on the eighth floor? A. I worked on both floors about two years.

THE COURT: I would suggest to you, Mr. Steuer, if agreeable, that you ascertain from her first whether she did get a connection with the ninth floor at that time, and how soon she got that connection after she learned of the fire.

Q. How soon after you learned that there was a fire do you do anything for the purpose of connecting with the other floors? A. When Mr. Bernstein left my desk and went over there and I saw smoke, I right away sent a message to the tenth floor or the telautograph.

Q. Have you any way of knowing when you are on the eighth floor working that telautograph whether they get that message on the tenth floor? A. No. They didn't get my message, because

I had no answer. I supposed the wires were wrong.

Q. How do you get an answer on the telautograph? A. By buzzing, I know it, it is right back of me.

Q. There comes a buzz, and then it writes on the paper? A. Yes, sir.

Q. And that is the way you communicate, is it? A. Yes, sir.

Q. Did you get any answer there on the telautograph? A. No, sir.

Q. When you didn't get an answer on the telautograph, what did you then do? A.

I telephoned.

Q. Whom did you telephone to? A. I telephoned to the tenth floor.

Q. Did you recognize the voice after you got a connection on the tenth floor? A. Yes, sir.

Q. Whose voice, do you remember? A. The stenographer's.

Q. That was Miss Alter, wasn't it? A. Miss Mary Alter.

Q. Did you say anything to miss Alter? A. Yes. I said ~~~

MR. STEUER: Do you want what she said?

THE COURT: I think you might as well get it.

Q. Tell us what you said? A. I told her it was a fire on the eighth floor, "Tell Mr.

Blanck about it."

Q. Is that all that you said about it? A. Yes.

Q. At that time did you ask for a connection with the ninth floor? A. No, she answered me right from there, "All right, all right".

Q. And then you did nothing to connect with the ninth floor?

A No, I was still holding the wire for another two minutes and I couldn't talk any more.

Q. You couldn't talk any more? A. No.

THE COURT: We will take a recess now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, till the same is submitted to you. You may now leave. (Recess until 2 p.m.)

After Recess, Trial Resumed.

DINAH LIPSCHITZ, resumes the stand, and further testifies.

DIRECT EXAMINATION BY MR. STEUER: (Continued)

Q. When you were working on the eighth floor, what were you doing there? A. I was the keeper.

Q. Time keeper then? A. Time keeper.

Q. Did that take you up on any of the other floors? A. On the ninth?

Q. Only? A On the tenth sometimes.

Q. But very seldom? A. No — well, a few times during the day.

Q. A few times each day. How often did you go to the ninth floor too the eighth floor? A. I couldn't count.

Q. It was so many? A. So many times.

Q. When you worked on the tenth – well, you did not work

on the tenth? A. No.

Q. When you worked on the ninth floor what were you doing then? A. I was also assistant time keeper.

Q. Did you have to go down to the eighth floor then? A Not that time I didn't go down to the eighth floor.

Q. You didn't go down there then, you just stayed on the eighth floor, is that right? A. Yes.

Q. When you worked on the eighth floor and went to the ninth or the tenth floor how did you go? A. I went to the Washington place door and to the Greene street door and used the elevators on the Washington place side also.

Q. You went three ways? A. Three ways.

Q. The Greene street stairs but not the elevators? A. No.

Q. The Washington place elevators and the Washington place stairs? A. Yes.

Q. Is that right? A. Yes.

Q. How often did you use the stairs on the Washington place side in going upstairs? A. A few times during the day.

Q. Did you ever find it locked? A. Never.

Q. Where was the key on the eighth floor? A. In the keyhole.

Q. During all the time that you worked on that floor? A. During all the time that I worked on there.

#### CROSS EXAMINATION BY MR. BOSTWICK:

Q. Where do you work now? A. Triangle Waist Company.

Q. Still working with the Triangle Waist Company? A Yes.

Q. And I think you said your mother was a cousin of Mrs. Harris? A. Mrs. Harris and Mrs. Blanck.

Q. Of Mrs. Blanck also? A. Yes.

Q. And were you present when Mr. Bernstein called out to Mr. Brown, when the fire was first discovered? A. No, I didn't hear Mr. Bernstein talk to Mr. Brown.

Q. You didn't hear that? A. No.

Q. You don't recollect it? A. No.

Q. Do you recall attending at my office on March 29<sup>th</sup>, four days after the fire? A. Yes, sir.

Q. Do you recollect now that I asked you, or that at that time you said Bernstein said, "Brown, help the girls to the doors"? A. I didn't say that, "Help the girls to the door", I didn't hear that.

Q. You didn't make that statement to me as being the statement of Mr. Bernstein to Brown? A. No, I don't remember that.

Q. Did you see the girls run in both directions, -- to Greene street and to the Washington place side? A. I saw them run to the Washington place door, the most of them.

Q. And at that time did the Greene street door look to you to be on fire? A. Yes, it was on fire, I guess.

Q. When you left the eighth floor did you see anybody on the eighth floor? A. No.

Q. Where were you in the habit of keeping your coat? A. In the Brown, the Machinist's room.

Q. Anybody else keep their coat in Brown's room? A. Mr.

Bernstein.

Q. So that you, Mr. Bernstein and Mr. Brown were the only people who kept your coats together? A. I think so, yes.

Q. In the early part, that is, from the time you knew there was a fire, was the door at the Washington place side leading to the stairway open or closed? A. Open.

BY THE COURT:

Q. When you say open do you merely mean unlocked, as you believe, or was it actually open? A. No, it was unlocked; it was shut but not locked.

BY MR. BOSTWICK:

Q. Was it shut until Mr. Brown opened it? A. Yes.

Q. Were all the doors open? A. They were unlocked.

Q. Do you remember these questions being put to you, and your making these answers:

“Q. Were any of the doors locked? A. All the doors were open. Q. Unlocked? A. Yes, sir.”

Now, this is the particular question that I want to ask you, whether you remember making the answer to me on April 29<sup>th</sup>, 1911, in my office: “Q. When you say open you mean unlocked? A. Yes, sir. The Greene street door was always open. I used to go down about five or six times during an hour; we never used the Washington doors”? A. I don't remember of saying that.

Q. You don't remember saying that? A. No.

Q. You won't state now that you didn't state that, will you? A. I don't remember whether I stated that or not?

Q. And was this question put to you and did you make this answer: "Q. You used to use the rear door and not the front door? A. Yes, sir." A. I meant the majority used to use the Greene street door.

Q. No, but did you hear that question put to you and did you make that answer? A. I don't remember that question.

Q. Then do you remember this question being put to you, "When you speak of rear you mean Greene street and when you speak of Washington you mean the front? A. Yes, sir."?

A. Yes, I meant to say ~~

Q. No, was that question put to you and did you make that answer? A. I don't remember whether I made that answer.

Q. You don't remember? A. No.

Q. Did Mr. Harris send you to a lawyer shortly after the fire? A. He didn't send me. I told him —

Q. No; did or did not Mr. Harris send you to a lawyer? A. He didn't send me.

Q. He didn't send you? A. No.

Q. Now, did you make a statement to me at the same time in my office: "Is there anything further that you think of? A. When I got down to the place, yes. You asked if anybody suggested that I answer the Journal. When I got in the place I first saw the paper, and I said I never said anything like that, and Mr. Harris sent me to one of his lawyers." A. I asked him to send me to the lawyer.

Q. No; did you make that statement to me? A. I don't

remember that. I wanted to tell you that I wasn't sent there.

Q. No, did you make that statement to me, is all I want you to answer? A. No.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. What was there about the Journal and a lawyer? Tell us about it?

MR. BOSTWICK: I object to that on the ground that the witness has answered no.

THE COURT: I think I will sustain the objection.

MR. STEUER: I except.

THE COURT: Something else.

Q. What did you say to Mr. Bostwick about a lawyer and the Journal? A. I was talking about a picture in the Journal and underneath was the line, "Dinah Lipschitz, that claims the doors were never locked". I never gave any interview to any reporter of the Evening Journal.

MR. BOSTWICK: Your Honor, she is not stating what she stated to me, but stating other facts.

THE COURT: Yes, strike that out.

Q. Tell us what you said to Mr. Bostwick. What did you say to Mr. Bostwick, if you remember about that lawyer and the Journal? A. I said I come up to the place, and I said there was my picture in the papers and I never said anything to any reporter about locked doors; I says about my going to the doors, I can swear the doors were open. And Mr. Harris says to me, "The only thing you can do is to see a lawyer about it."

I says, "I am willing to see anybody.

BY THE COURT:

Q. Is this what you said to Mr. Bostwick? A. Yes, I am willing to see a lawyer.

BY MR. STEUER:

Q. Did you see a lawyer? A. I went down to a lawyer and next day —

THE COURT: No, we won't go into that.

Q. Did you ever come to my office? A. No, sir.

EMILE W. TESCHNER, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 445 East 140th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You are a salesman in the employ of Harris and Blanck, are you not? A. Yes, sir.

Q. And have been for how many years? A. A little over nine years.

Q. You worked for them nearly all the time they were in this Washington place and Greene street building, did you not? A. Yes, sir.

Q. What kind of a salesman are you? I don't mean whether you are good or bad, but are you a road man, city man, or what? A. I am traveling about four months on the road, four and a half months.

Q. Four and a half months you are away from the City, is that it? A. Yes, sir.

Q. During the years that you worked there, you worked before that at the tenth floor, didn't you? A. Yes, sir, on the eighth floor.

Q. Where was the office then? A. I can't just remember where it was at that time.

Q. What floor was it on? A. On the eighth floor.

Q. During the time that you were on the eighth floor did you ever go to the ninth floor? A. Yes, sir.

Q. What would take you to the ninth floor? A. business that I had to do in the factory, getting samples, and other things of that kind. I was always in the habit before I would go out on the road to get my own samples, so that I would go out equipped in proper fashion.

Q. Do you remember on the eighth floor whether the salesmen room, or rooms, whatever it was, whether they were on the Greene street side or on the Washington place side? A. I can't remember, because when they were on the eighth floor I was with them two weeks about that time, and then we had our office over on Broadway, I believe.

Q. You didn't have you office in that building at all at that time, is that the ides? A. No, I just came with the firs as they had moved an office and salesroom to the Broadway place, 733, I believe, from 729.

Q. At that time you were at 729 Broadway? A. Yes. sir.

Q. And had nothing to do with the firm over at the Washington place business at all? A. No, sir.

Q. Then from 729 Broadway, when they took the eighth loft, the office was moved to the eighth loft, is that the idea? A. Yes, sir.

Q. That is when you got with them? A. Yes, sir.

Q. And after that you moved up to the tenth floor? A. Yes.

Q. When you were on the tenth floor where was your office? A. As you get off the elevator on the Washington place side, you walk into a little doorway, and my desk was right in front, well, about six or eight feet from the Washington place door.

Q. Is your desk in what we would call a room or an enclosure, or was it in an open room, and you just had a desk? A. An ante room it was.

BY THE COURT:

Q. Was your desk in the same room as Miss Alter's typewriting machine? A. No, sir.

BY MR. STEUER:

Q. What room would you walk into from the room that your desk was in, if you wanted to go to the show room? A. Through our ante room and into the show rooms.

Q. That led right into the showroom? A. Right into the show room.

Q. So that altogether how far from the Washington place door was your desk? A.

Well, as near as I can judge the measurement about six to eight feet, sir.

Q. Did you have occasion while you were on the tenth floor to go to the eighth and ninth floor? A. Very often.

Q. You know this man Jacobs, who testified here? A. I do, sir.

Q. Is he a friend of yours? A. Yes, a friend of mine. We have been friends for fifteen or eighth years.

Q. Did he ever call to see you while you were with Harris and Blanck? A. Yes, sir.

Q. Was there any occasion when you took Jacobs through the factory? A. Yes, sir.

Q. Do you know this Miss Perrett -- is that the name? A. Yes, sir.

Q. I mean Litt Brother's buyer? A. Yes, sir.

Q. She says that two days before the fire you [went down] — I don't recall whether from the tenth to the ninth floor or from the tenth to the eighth floor — do you remember anything about that? A. Yes, sir, from the tenth to the ninth floor.

Q. How did you go down? A. Miss Perrett came in that afternoon about two or three days before the fire -- I can't just exactly say, but it must have been either two or three days before the fire, and came in and wanted some extra sized waists, and I just happened to be at my desk as she came in and she asked me whether we had any, and I said I didn't believe so. So she said, "Where is Mr. Blanck or Mr. Harris?" and I said "Downstairs", and I opened the door and we went downstairs to the ninth floor, and there we found Mr. Blanck.

Q. Well, now, how did you go from the tenth floor to the ninth floor? In what way, whether by elevator, stairway or what? A. Stairway.

Q. On the Washington place side, sir.

Q. You said that you had occasion to go to the ninth and the eighth floors frequently. When you went down to the ninth or eighth floor tell the jury the different ways that you would go down? A. (No answer).

BY THE COURT:

Q. On this occasion that you speak of, when you reached the ninth floor what did you do? A. I opened the door.

Q. What door? A. The Washington place door.

BY MR. STEUER:

Q. On each occasion when you went downstairs, I want you to tell the jury all the different ways by which you would go down? A. There wasn't a way I didn't go down.

Q. You mean there wasn't a way you could go down that you could go down? A. There wasn't an entrance or door or elevator I didn't use, in the years I have been with them.

Q. Does that apply also to the Greene street elevators? A. Greene elevator or door, or Washington place elevator and stairway ~~ I went all four ways, whichever way was nearest for me to go.

Q. And I suppose if the elevator was handy you went by the elevator? A. Exactly.

Q. Did you on frequent occasions go by the Washington

place stairway? A. Very often.

Q. Did you at any time have to use a key to get in or out of the Washington place stairway door? A. Never, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Still working for Harris and Blanck? A. Yes, sir.

BY THE COURT:

Q. When last before the fire did you pass through the Washington place door to the ninth loft? A. With Miss Perrett, either two or three days before the fire, your Honor.

EVA HARRIS, called as a witness on behalf of the defendants, being first duly sworn, testifies as follow.:

(The witness states that she resides at 25 West 111th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You are a sister of Mr. Harris, who is a partner in the firm of Harris and Blanck? A. Yes, sir.

Q. How long have you worked for your brother's firm? A. Seven years.

Q. Do you work with him now? A. Yes, I do.

Q. What floors have you worked on in the Washington place building? A. On the eighth.

Q. Only? A. Only.

Q. Only on the eighth? A. Yes, sir.

Q. Where did you sit on the eighth floor? A. At first I was sitting on the Washington side and then they changed me on

the Greene street side.

Q. At the time of the fire you sat near the Greene street side of the building did you not?

A. Exactly.

Q. Can you remember what table it was? A. Well, it was the first table from the cutters.

Q. Will you tell the jury where you were when you first, know there was going to be any trouble in the eighth loft, or that there was any trouble? A. I was sitting the third machine from the window.

Q. There were windows on the Washington place side, and windows in back of you on the Greene street side; now which windows do you mean? A. Well, I was sitting with my back towards the cutters.

Q. With your back towards the cutters? A. Exactly.

Q. And three machines from the window? A. Exactly.

Q. That would mean windows in the Washington place wall, wouldn't it? A. Well, one window was right this way where I was sitting; I faced the entire Washington side.

Q. You were sitting then just the same way as you are sitting now? A. Exactly.

Q. You sat with your back to the Greene street side? A. Yes, sir.

Q. Then the Washington place wall or this wall that is behind the jurymen? A. The Washington place wall ~~~ I can't quite ~~-

THE COURT: Q. As you were sitting at your machine was the

Washington place wall on your right hand side, or your left hand side? A. At my lefthand side.

BY MR. STEUER:

Q. Are you speaking of the window to your lefthand side, when you say that you sat three machines from — A. Yes, I was sitting the third machine from the window.

Q. Which table of machines did you sit at? And we will count from the Greene street side? A. The first table from the cutters.

Q. That would be the last sewing machine table from the Washington street side? A. Yes.

Q. What did you do when you heard that there was trouble? Or how did you first know that there was any trouble? A. I went to dress myself.

Q. Where did you go? A. I went to the dressing room.

Q. Where was that? A. Washington side, and I went to dress myself when I heard the scream of fire, so we ran right through — I couldn't get my clothes, but I ran right started to the door.

Q. To which door? A. To the Washington side door, and when I came to the door, the door was open and girls were crowding running around the stairs, and of course they pushed me down the stairs, and there I fainted, and I don't know what became of me.

Q. At that time did you get near the door, and did you try the door, and then when you tried the door with your hand.

did you shout out, "My God, the door is locked!"? A. No, I wasn't near the door.

MR. BOSTWICK: This witness being examined on direct examination —

THE COURT: That question that was put was proper within the rules. I will allow it. Her attention may be called specifically.

Q. At the time when you got near the door what was the position of the floor at that time? A. I don't understand what you mean.

Q. Well, I want to know —

THE COURT: Suppose she goes to a door here, if you have no objection. and let her show.

Q. Will you go to that door and show us how the door was when you got to it? A. The door was wide open.

Q. Well, open that door and show us. A The door was wide open, and while the girls were crowding around this place, I followed them, I was running with them. (The witness having indicated with the door in north wall of court room by having opened the door wide open).

No cross examination.

SAM ORANSTEIN, called as a witness on behalf of defendants, being first duly sworn, testifies as follows: (Through Official Interpreter Rosenthal)

(The witness states that she resides at 166 School street, Brooklyn.)

## DIRECT EXAMINATION BY MR. STEUER:

Q. Do you work for Harris and Blanck? A. Yes.

Q. What do you do for a living? A. An operator.

Q. Did you work for Harris and Blanck at the time of the fire? A. No.

Q. Did you work for them before the fire? A. Yes.

Q. How long before the fire, if you know, did you stop working for them? A. About a year.

Q. You stopped working for them a year before the fire? A. I worked in the second shop.

Q. Oh, you mean you kept on working for Harris and Blanck, but you didn't work in the Washington place building, is that the idea? A. Yes.

Q. So even at the time of the fire you were working for Harris and Blanck, weren't you? A. Yes.

Q. Did you ever work in the Washington place building? A. Yes.

Q. How many years? A. Five years.

Q. What floor? A. ninth floor.

Q. What did you do? A. Sleeve maker, I was.

Q. Where did the sleeve makers work on the ninth floor? A. At the machines.

Q. Where were the machines? A. At Washington place.

Q. The sleeve makers were on the first row of machines, right by the Washington place side, weren't they? A. I was sitting at the second table.

Q. Well, now, did you ever see people come in or go out of the Washington place door? A. Yes.

Q. Whom did you see go in or come out? A. I saw Mr. Bernstein and I used to the see foreladies.

Q. During all the time that you worked there? A. Yes, during the five years I have worked there before the fire.

BY THE COURT:

Q. How long is it since you worked in that building? A. I worked there for five years and then I left them and I worked in the second place.

Q. I want to know how long it is since you worked in that building? A. About a year up before the fire, three months, I worked before the fire.

Q. In other words, you worked there until three months before the fire, is that what you mean? A. No, about six days before the fire there was work.

Q. You mean you worked there until six days before the fire? A No.

MR. STEUER: I get what he says now. He says three months prior to the fire he worked in that place six days.

THE COURT: Very well. Ask him if that is what he means.

A. Six days I worked but it was three months before the fire.

DAVE PUSER, called as a witness on behalf of the defendants) being first duly sworn, testifies as follows: (Through Official Interpreter Rosenthal)

(The witness states that he lives at 70 East 7th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Carpenter.

Q. Did you do any work in the eighth, ninth and tenth lofts for Harris and Blanck, when they were in Washington place? A. Yes, all the time I worked there.

Q. You don't mean that you worked there every day all the time, do you? A. No, not every day.

Q. Tell the jury what work you did for Harris and Blanck on the eighth loft? A. I know there was a dressing room on the eighth floor, a closet for trimmings in front of the elevator, two different doors, the doors that go on wheels.

BY THE COURT:

Q. Sliding doors? A. Sliding doors.

BY MR. STEUER:

Q. Which door did you see? A. On the eighth and ninth floors.

Q. Which side was that those sliding doors were in front of the elevators? A.

Washington place.

Q. How many feet away from Washington place elevator doors did you put these sliding doors that were a half inch thick? A. About six or seven feet.

Q. Is that all that you put in front of the Washington place elevator doors on the eighth or ninth floor? A. Nothing more.

THE COURT: I don't quite understand that situation.

Q. What did the doors rest on, on the floor? A. They were going on wheels on the top, on the floor they stood on nothing.

BY THE COURT:

Q. You mean there wasn't any iron runner or sill that they ran on? A. No.

Q. Nothing on the floor? A. Nothing on the floor.

BY MR. STEUER:

Q. How did they run on top? A. There was an iron where the wheel just fitted on, and that is the way they rolled.

BY THE COURT:

Q. You mean to say you put up an iron bar a certain distance from the floor? A. From the sides there were two boards about seven or eight feet, and on top there was an iron, and on the iron the wheels ran.

Q. And if you wanted to go through to the elevator doors if you wanted to go through that partition, what did you do? A. There were two knobs and one gets hold of the two knobs and push that door.

MR. BOSTWICK: Did he say knobs?

THE INTERPRETER: Handles; they use the same word for it.

Q. On the sides of this sliding partition, running back from the partition to the Washington street wall, was there

anything? A. There was nothing, it was vacant, the partition didn't run to the wall.

Q. Was there any partition that ran in the same direction as the Washington place wall, but from these sliding doors towards the elevator near the Washington place wall? A. No, it was open there.

THE COURT: I am not sure that he understands. A (Continuing) There was a corner there that was vacant.

BY MR. STEUER:

Q. (Showing witness People's Exhibit 2) Here on the Washington place elevators on the ninth floor? A. Yes.

Q. Well, they were just the same on the eighth floor, weren't they? A. Yes, same thing.

Q. Here is the Washington place door to the stairs? A. Yes.

Q. And you made a partition in front of these two elevators, didn't you? A. Yes.

Q. And you said that you built that partition six or eight feet in the loft? A. From the doors, yes.

Q. Now, were the Washington place stairs where that wall went into the loft further than the Washington place passenger elevators? A. Yes.

Q. Did you build this partition that you built from this wall over here in front of the elevators? A. There was a strip on top, I projected the strip, but at the side it was open.

BY THE COURT:

Q. In other words, you had a cross-piece there to hold

these doors in position, so that they wouldn't fall one way or the other, but the sides were open.

MR. STEUER: That is what he said.

A There was on top a board that the iron could be fastened to thought the doors could be held there.

BY MR. STEUER:

Q. But the sides were open? A. The sides were open.

BY THE COURT:

Q. How wide was each sliding door in that partition? A. About four or four and a half feet.

Q. How far apart could they be slid back? In other words, how much of an opening could there be when they went back as far as they would go? A. About seven or eight feet.

Q. Now, you take the sliding door that was nearest to the stairway door on the Washington place side, when that would be slid back as far as it would go how near did it go to the Washington place door? A. It didn't reach the door, - it couldn't reach the door, there was something to prevent it, it shouldn't go further.

BY MR. STEUER:

Q. Did you build the partition, the sliding door partition, in front of the Washington place elevator doors at the same time of the eighth and ninth floors? A. Yes.

Q. Were the partitions the same kind on the eighth and ninth floors on the Washington place side? A. Yes, the same.

Q. Now, you are sure of that, are you? A. Before that

elevator, yes, the same.

Q. I don't remember your answer, ~ did you build them at the same time? A. Yes ~~ not in one day.

Q. Did you work alone or have workmen with you? A. A couple of people worked with me.

Q. You said you built dressing rooms and other things also on the eighth and ninth floors, didn't you? A. Yes.

Q. You did all the carpenter work on all the three floors, didn't you? A. Yes.

Q. Were the partitions on the Greene street side the same on the eighth, ninth and tenth floors? A. On the eighth it was different, there was a kind of a well.

Q. You are speaking of the Greene street side? A. Yes. It was placed there so if the door was opened the wind should not come in.

Q. It consisted of two separate walls, this partition, wooden walls, didn't it? One coming from the Greene street wall and one coming from the northerly wall, and those two partitions meeting, - where the fire escape is? A. (No answer).

BY THE COURT:

Q. (Interposing) Did you at the same time that you made these partitions put in springs, self-closing springs, on the doors? I mean at the time you did your work? A. I didn't make any springs.

Q. I don't mean to the sliding door, but to any other doors? A. At no doors at all.

Q. You didn't put on the spring then on the Greene street door? A. I did not.

MR. BOSTWICK: Will your Honor ask if any springs were there?

THE COURT: There is testimony that on the Greene street door there was a spring.

MR. BOSTWICK: One witness has sworn to it, and the witness or the jury might infer from that that you have passed on that question.

THE COURT: Oh, no, I have not.

Q. Assuming that there was a spring on that door, did you put it on? A. I didn't put on any spring.

BY MR. STEUER:

Q. In the partitions that you built on the Greene street side — we will first take the eighth floor — there was a door; wasn't there? A. Yes, sure.

Q. And was the partition on the Greene street side on the eighth floor the same as the partition on the Greene street side on the ninth floor? A. It was the same, but not quite; about the same.

BY THE COURT:

Q. I understand that you did all the carpentering work in putting up the various interior partitions on these lofts, to fit them up for the business purposes of the defendants, Harris and Blanck, is that so? A. Yes.

BY MR. STEUER: Q. Now, I ask you, while you were doing carpen-

ter work in that place, did you ever go from the eighth floor to the ninth floor and from the ninth floor to the tenth floor? A. Used to go about six times a day when I worked there. Whenever I needed nails the nails were on the tenth floor, and I went up there. Whenever I needed screws I went to the machinist. There was a machinist on the eighth floor, there was a machinist on the ninth floor.

Q. How did you go from the eighth floor to the ninth floor and from the ninth floor to the tenth floor, and how did you go down from the tenth floor to the ninth floor and from the ninth floor to the eighth floor? A. I used to go by the stairs.

Q. Which stairs? A. When I was at the Greene street side I used to go by the Greene street side; when I was at the Washington place side I used to go by the Washington place stairs.

Q. How many years did you work in that place? During what years did you do carpenter work in that building on the eighth ninth and tenth floors? A. Four or five years.

Q. And in each year did you do work on both sides of the building? A. Sometimes for two weeks on both sides. I didn't work there steadily. Whenever they needed me they called me and I did the work. On they ninth floor they had to fix the box for the belts, the belts attached to the machines. And I used to go over and fix it because this was the most important thing there.

Q. What I wish to know is back for the last four years

that they were in that building did you work every year in these lofts? A. Yes.

Q. If you did work on the Washington place side you say that you went up and down by the Washington place stairs? A. Yes.

Q. If you did work on the Greene street side you went by the Greene street stairs? A. Yes.

Q. Did you ever go up and down with the elevator from the eighth, ninth and tenth floors? A. No, I never could wait for the elevator.

Q. When you went upstairs from the eighth, or ninth floor, to the tenth floor on the Washington place side, what did you do, how did you go? A. I went up to the door, opened the door and walked up.

Q. Now, did you ever have to lock or unlock a door in going from one floor to another? A. I never knew that a door was locked when I went up to the door and opened it.

BY THE COURT:

Q. I would like to tell me which doors you yourself placed at any time on the ninth loft? We will start now with the sliding doors on the Washington place side, you put those in, did you? A. Yes.

Q. Did you put the door in on the ninth loft that leads from the loft to the dressing room nearest to the Washington place stairs? A. Yes.

Q. Did you put the door in that leads from the ninth loft

to the dressing room that was nearest to the men's toilet? A. Sure I did.

Q. Did you put in the door leading from the loft to the women's toilet? A. Where was no door to the toilet, - the toilet was separate.

Q. Was there any door leading from the loft to the men's toilet? A. At the toilet there was a door, yes.

Q. Did you put that door in? A. No, that door is from the building, I didn't make it.

Q. There is a partition is there not, around on the Greene street side in front of the elevators? A. Yes.

Q. Was there a door in that partition? A. Yes.

Q. Did you put it in? A. Yes.

Q. Did you put in any other door on the ninth loft, except those that you have already told me about? A. No.

THE NINTH JUROR: Will you ascertain through the witness what the height of the door was from the floor, the height of the partition is on the elevator partitions ~~~

THE COURT: You want to know the height of the —

THE NINTH JUROR: Of the door from the floor and the height of the partition.

MR. STEUER: May I suggest that you question him as to whether in the partition itself he means that he constructed a door or a door way, - a door opening?

THE COURT: I don't quite understand your Mr. Juror, but suppose you put it yourself.

THE NINTH JUROR: Please ask the witness the height of the door from the floor to the top of the door — the elevator door, either one.

THE COURT: You mean the sliding doors?

THE NINTH JUROR: Yes, if they are the same -- he says they are the same, so I am saying "either one."

THE COURT: He put in two sliding doors.

BY THE COURT:

Q. Now, how high were those sliding doors in front of the Washington place passenger elevators from the floor to the top of the doors? A. Seven and a half feet.

Q. How thick were those doors? A. Half an inch.

BY THE NINTH JUROR:

Q. What was the height from the floor to the top of the partition? A. Perhaps one foot more, eight and a half foot altogether.

BY THE COURT:

Q. What were the thicknesses of the doors that you put in other than the sliding doors?  
A. Three quarters of seven eighths inch, I didn't make them any bigger than seven eighths inch.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. The doors that you speak of in front of the passenger elevators were hanging screens, were they not? A. No, only the doors were sliding doors.

Q. Was there any part of the partition that did not slide on this roller? A. On the side there must have been, it was necessary to put pieces which didn't slide.

Q. How much of the partition was not sliding partition? A. I can't remember, perhaps about three feet.

BY THE COURT:

Q. You mean these doors slid into a partition? A. When coming from the loft one would take hold of the doors with both hands and open them.

BY MR. BOSTWICK:

Q. Were these handles on the side of the door nearest to the elevators? A. On both sides. When one came from the loft and took hold of the handles, and one came from the elevator, could take hold of the handles—

Q. Will you just show us what kind of handle it was on this paper (going to paper on blackboard at easel in court room); just what kind of a handle it was? A. (Witness draws on paper).

Q. And you put your fingers in so (indicating)? A. Yes.

Q. Something like that (indicating)? A. Yes.

Q. And you would take hold of it so, is that the kind of a handle, something like that (indicating)? A. Yes.

MR. BOSTWICK: Meaning a piece of metal shaped so that the hand could grasp it, when the hand was in the shape of a fist.

Q. The only time that you ever went from one of these

floors to another floor was when you were working there, was it not? A Yes.

Q. And you kept your nails on the tenth floor? A. Not my nails, but I saw there a barrel of nails, and I went there to get some.

Q. You mean that the nails that you used were kept on the tenth floor? A. Yes.

BY THE COURT:

Q. What kind of wood were the doors made of that you put in on the ninth floor? A.  
Plain, soft wood.

Q. Pine? A. Pine.

ABRAHAM BERNSTEIN, witness called on behalf of the defendants, being first duly sworn, testified as follows: (Through Official Interpreter.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 134 Avenue C.

Q. Mr. Bernstein, are you a relative of the manager Bernstein, the man who was manager for Harris and Blanck? A. Yes.

Q. You are a relative of all the Bernsteins that worked there? A. Yes, I am the uncle of them.

MR. BOSTWICK: There was one testified that he was not.

MR. STEUER: CHANGE THAT to that he was related to most of the Bernsteins.

Q. Mr. Bernstein, where did you work when they had the tenth and ninth and eighth lofts? A. I worked on the ninth floor.

Q. Where? A. Washington Place; there is a door in here (Indicating); and in the back there was a door at Washington Place.

Q. Was your table the first table that a person would see when he came from the Washington Place elevators? A. Yes.

Q. Did you know where the door was that went to the stairs on Washington Place stairs?  
A. Yes.

Q. Did you ever see any people going in through that door and going out through that door? A. Yes.

Q. Did you work there in that ninth loft up to the day of

the fire and including the day of the fire? A. Yes.

Q. Did you get through that door yourself to go up to the tenth floor? A. Yes.

Q. Can you remember any particular time when you went up to the tenth floor for any particular purpose. Let him say yes or no. A. I had to go up to Mr. Blanck and I went up there.

Q. Now what was that for? A. My boy didn't feel well and I went up to Mr. Blanck to ask him to send me a doctor.

Q. How did you know that your boy was not feeling well that day? A. They telephoned to me in the shop that I should come home, he didn't feel well.

Q. Did you go up through that door any other time or was that the only time? A. When I was eating my dinner, after I had my dinner sometimes I used to go down and smoke a cigar.

Q. Did you go down through the Washington Place door? A. No, with the elevator.

Q. With the elevator? A. Yes.

Q. I want to know whether you ever used the Washington Place door or stairway door going up stairs or down stairs any other time except that once that you told us about? A. Well I say that I did go, when I was sitting right by the door, I used to go down stairs sometimes and smoke a cigar.

Q. Did you see any people — if you saw any people coming in or going out of that door whose names you know, tell us what their names are? A. I saw Mr. Bernstein, he used to go up all the time; and Mr. Alter used to come in to see whether

is clean, looked in whether it is clean.

Q. Anybody else, tell us anybody else. A Mr. Blanck used to come in once in a while.

Q. Have you told us all you could think of? A. All I say what I know.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Now when you went down to smoke a cigar, you went down from what place? A. From the ninth floor.

Q. To where? A. I used to go down two or three steps and sit down, I used to sit down there and smoke my cigar, because we were not permitted to smoke in the shop.

Q. And would you smoke in the stairway or on the stairs? A. Yes.

Q. And are you sure that you smoked on the Washington Place stairway? A. Well I was sitting there near the door -- I was sitting like here on the witness chair (Indicating) and right in back of me was that door.

Q. Well, were you in the Washington Place stairway when you were smoking? A. Yes.

Q. Well now what do you mean when you told Mr. Sterner that when you went down to smoke you went by the Washington Place elevators? A. Why, when I was smoking, what if I should go down by the elevators.

Q. Well, you said that when you went down, you go down to take a smoke of your cigar. Mr. Steuer said "How"? And you said "By the elevator". What did you mean by that? A. I

didn't say that, I didn't say that.

Mr. BOSTWICK: Mr. Stenographer will you please read what he did say so we can see how near he did say to that.

(The stenographer turned back and read as follows:

“Q. Did you go down through the Washington Place door? A No, with the elevator. Q. With the elevator? A. Yes.”)

Q. Well now did you ever go down during the day time by the Washington Place elevators from one floor to another, that is from the tenth to the eighth, or the tenth to the ninth or up to the ninth and tenth from the ninth to the tenth or the eighth to the ninth or the eighth to the tenth? A. No, I used to sit all day at my work and when I used to go home I used to go with the elevator, otherwise I was sitting all day by my machine.

Q. Did you ever go by the Washington Place stairs to the floor above or the floor below through that Washington Place door? A. I said already that I did go when my boy didn't feel well I went up to Mr. Blanck to ask him to send me a doctor.

Q. Is that the only time you ever went through the Washington Place door on the ninth floor?  
A. Twice I did.

Q. What was the other occasion? A. I went to tell Mr. Blanck that he felt better, — the boy.

Q. And did you go there from the ninth floor to the eighth floor or from the ninth to the tenth?  
A. From the ninth to the tenth, to the office.

Q. And did you ever know any of the employees to go out by the Washington Place stairway door at closing time? A. I didn't

see it.

Q. Did they go out by the Greene Street way? A. I used to go with the Washington Place side because I sat right near the door.

Q. Was not that Washington Place door on the ninth floor kept wide open at night when the employees went out, and didn't some of them go that way and some of them go by the Greene Street?

A. In summer the doors were open, used to be open; in winter the door used to be closed. I myself closed that door because from the draught I had caught a cold in the shoulder.

Q. Now at closing time did not some of the employees go out by the Greene Street way, and did not others go out by the Washington Place stairs and down those stairs? A. I didn't see it; I didn't look at it; I didn't observe it.

Q. Was not the Washington Place door wide open at closing time? A. Sometimes I saw it open and sometimes I saw it closed; I did not take exact notice of it.

Q. I am speaking now especially when the people were going out at night just as they had quit their work? A. No; I say I didn't take notice of it.

Q. Do you know whether the door was kept locked or not? A. I saw the door was open; I tried the door myself, many times when I went out to smoke my cigar, it was open and the key was sticking in the door.

Q. Was the key in the door on the day of the fire? A. Yes.

Q. How many months did you work for these defendants before

the fire? A. Eight months.

Q. What day was the fire, do you know? A. Saturday.

Q. Do you remember going down to the office of the District Attorney shortly after the fire and making a statement? A. Yes.

Q. Now at the time of the fire, did you remember that there was a Washington Place door there? A. Well, I was sitting right near the door.

Q. Do you remember making this statement to me: "I did not remember there was a way to go down on Washington Place side by the stairway there"? A. No, I didn't say that.

Q. Do you remember saying to me: "That you didn't see any of the girls trying to go through the Washington Street door; I was awfully excited"? A. I say it now that I didn't see any; I didn't take notice.

Q. Did you state to me that that door was – "I knew there was a Washington Place door, that door was always locked."? A. Oh, no.

Q. Did you state to me "I always saw a key inside, I cannot say if the door was locked, but I always saw the key there?"

MR. STEUER: I thought you stated that he said it was always locked.

MR. BOSTWICK: I am reading exactly what I believe to be what the stenographer wrote down that he said.

A. I said there was a key was in the door, I said that.

Q. And did you not say to me: "I never saw anybody go in or out of that door during the whole five months"? A. How

could I say it, I saw them going in and about the working people I could not say it.

Q. Did you say to me: "I never saw anybody go in or out of that door during the whole five months"?

THE COURT: Yes or no to that.

A. I didn't say it.

Q. At that time did you say to me: "On the day of the fire I didn't see the key, I saw the key many times before"?

THE COURT: No, yes or no to that.

A. I said that I did see a key.

Q. No, I want an answer. Did you say what I have asked of you whether you said? A. I say yes I did see a key.

Q. No, I want you to tell me whether you made that statement to me or whether you didn't make that statement to me? A. I said yes, I did see the key; I always saw the key there.

MR. BOSTWICK: I move that that be stricken out as not responsive.

THE INTERPRETER: I made it as clear as possible to him.

THE COURT: Strike that out.

Q. Now to this I must have an answer, to this question, no or yes. I don't wish to know now whether you think there was a key there or not, I want to know whether you spoke certain words in my office when you came down, when you say you came down to the District Attorney's office?

A. I didn't say that.

Q. Do you know the man who interpreted at the time that you

made that statement to me? A. No, I don't remember.

Q. Do you know Joseph Pell? A. No, I don't know him.

Q. Would you know him if you saw him? A. I don't know him; perhaps I might recognize him.

MR. BOSTWICK: I am through with this witness but I would like the privilege of sending for Mr. Pell and having him step aside and then when he arrives see if he can recognize Mr. Pell.

(Witness temporarily withdrawn.)

ISAAC HARRIS, one of the defendants, being first duly sworn in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you reside? A. 324 West 101st Street.

THE COURT: Now, Mr. Harris, if you will kindly answer questions so all the Jury can hear you.

THE WITNESS: Yes, sir.

Q. You are a partner of Blanck's, aren't you? A. Yes, sir.

Q. And you have been in partnership with Blanck about how many years? A. About twelve.

Q. Now we can't hear you over here. A. Twelve years.

THE COURT: Try to talk so it is easy for the Jury to hear you.

THE WITNESS: All right.

Q. During all that time, you were in the shirtwaist business weren't you? A. Yes, sir.

Q. Do you remember Mr. Harris how long ago it was that you moved into this building at Washington Place? A. [Nine?]

and ten years.

Q. Nine and ten years. And when you moved in you had one loft didn't you? A. Yes, sir.

Q. That was the ninth? A. The ninth.

Q. Do you happen to remember how long you had the ninth loft alone? A. Well about four years.

Q. About four years? A. Yes, sir.

Q. And then after that you took the eighth loft? A. Yes, sir.

Q. Can you tell us how long you had the ninth and the eighth? A. About seven and one half.

Q. About seven and one half years? A. Yes, sir.

Q. You mean from the beginning -- I mean you had the ninth and eighth together about three and one half years, is that right? A. Yes, sir.

Q. And after that you got the tenth loft? A. Yes, sir.

Q. How when you had the ninth left, of course you had everything on the ninth left, didn't you, or did you have an office in some other building? A. On Broadway.

Q. On Broadway? A. Yes.

Q. That was your office and your show room? A. And show room and some machines.

Q. And some machines too? A. Yes, sir.

Q. And when you took the eighth floor, what became of the office then Mr. Harris? A.

Then we transferred the office to the eighth floor.

Q. From over on Broadway? A. From Broadway.

Q. And what did you do in this business of yours, or what have you been doing in this business of yours Mr. Harris? A. Well, looking after everything, taking care of everything.

Q. Are you what is called a manufacturer yourself? A. Manufacturer and designer.

Q. Manufacturer and designer? A. Designer; I am doing the designing practically.

Q. Where did you spend your time? First tell us what time you used to spend and where and between what Mr. Harris? A. Well I always looked after all of it.

Q. What time did you get to work in the morning Mr. Harris? A. Well I always reached my place before eight.

Q. Before eight o'clock? A. Yes, sir.

Q. How long did you stay there Mr. Harris? A. I stayed, seven, eight o'clock.

Q. When you had the ninth floor, did you spend any of your time in Broadway, in the other office? A. Not much.

Q. Not much? A. No.

Q. When you got the ninth and the eighth floor how was your time spent Mr. Harris?

THE COURT: We will suspend with this witness a moment I see that the man that was sent for has arrived.

(Man comes to Bar.)

ABRAHAM BERNSTEIN, resumes the stand.

BY MR. BOSTWICK:

Q. Do you see this man standing there (Referring to the

aforementioned man)? A. Yes.

Q. Do you think that this is the gentleman who interpreted when you were down to the District Attorney's office? A. Yes.

THE COURT: The name can be put on the record.

MR. BOSTWICK: Joseph Pell.

ISAAC HARRIS, resumes the stand.

DIRECT EXAMINATION CONTINUED BY MR. STEUER:

Q. (Repeated by the stenographer as follows: "Q. When you got the ninth and the eighth floor, how was your time spent Mr. Harris?") I mean how was it divided? A. Oh, just going from floor to floor all the day long; being on the eighth and ninth, putting in some time, a couple of hours here or a couple there; going up and going down again; not spending my time on any one floor more than on the other.

Q. When you went from the ninth floor to the eighth floor, that was during the day, how many times would you say you would go from one floor to the other, Mr. Harris? A. Oh, five or six.

Q. Five or six times? A. Yes, sir; sometimes two, sometime more, depends upon the day.

Q. It was not the same every day? A. Not the same; some times ten times; sometimes two times a day, depending upon how things were.

Q. When you went from the eighth to the ninth floor and from the ninth floor to the eighth floor, when you would go up or when you would go down from or to different floors, how did you go? A. I always used the stairway.

Q. You always used the stairway? A. Yes, sir.

Q. Now which stairs would it be that you would use Mr. Harris? A. I used any I wanted to use, the Washington or the Greene Street or the Greene Street or the Washington.

Q. Which stair way did you use most of the time Mr. Harris? A. I could not say; it is impossible to say; I could not say which I used the most; perhaps I used over on the Greene Street side some days and some days perhaps I didn't use the Greene Street only the Washington Place, depending upon some things.

Q. Sometimes you used the Greene Street side and you would not use the Washington Place at all? A. Yes, that happened many times.

Q. Do you say to the jury when you had these two floors, the eighth and the ninth floor, that you never used the elevator going from one floor to the other? A. I never used the elevator at all, not even now.

Q. Not now? A. Not even now; I always used the stairways.

Q. Even when you go to the tenth? A. Even when I go to the tenth.

Q. You always used the stairs? A. I am always going up and down because I think the car of the elevator would not be there and I can take care of the factory part of it so much better without doing it, that seems to me I do better by running up and down.

Q. You think you save time by running up and down? A.

Yes, sir, save time.

Q. After you got the tenth floor Mr. Harris, you moved the office, didn't you? A.

The office, yes, sir.

Q. The office was at which floor when you had the eighth and the ninth? A. On the eighth floor and then we moved on the tenth.

Q. When you got on the tenth floor Mr. Harris, where did you spend most of your time then? A. Just as before, only on the tenth and eighth and ninth; and ninth and tenth and eighth; I was going up and down taking care of everything, keeping everything going wherever I was needed, never on one particular floor, in fact I was from one floor to the other all the time.

Q. And you would always be wherever you were needed most. A Yes, sir.

Q. When you got the three floors how did you -- you said you still always used the stairs?

A. Yes, sir, used the stairs.

Q. Now your office when you were on the tenth floor which was that nearer to, the Greene Street side or the Washington Place side? A. My office?

Q. Yes. A. Nearer to Washington Place.

Q. When you were on the tenth floor, and had the three floors which stairs did you use the most going up and down, have you any idea? A. I can't give you any just idea, I used to go up stairs, up and down the Greene Street side and the Washington side, and the Washington side and the Greene Street

side.

Q. Didn't make any difference in that at all, did you? A. I did not make any difference, I used to use the Washington for a couple of days perhaps and not use the Greene Street or I might use the Greene Street stairs for a couple of days or so and not use the Washington stairs.

Q. Mr. Harris, did you ever carry a key to any of the lofts? A. No, sir.

Q. At no time? A. Never.

Q. No key to any of the lofts? A. No, sir.

Q. In getting from one floor to the other, Mr. Harris, did you ever use a key? A. No, sir.

Q. Did you have anything to do with the locking of the doors Mr. Harris, yourself? A. No, sir.

Q. Or the locking of the doors at any time? A. No, sir.

Q. When you had one loft only, Mr. Harris, when you were on the ninth loft, who used to have charge of locking the doors up then? A. Well, the old man, Mr. Alter, the one that has been here.

Q. The gentleman who was a witness? A. Yes, sir.

Q. Now when you got the ninth and the eighth floor who had charge of it then, do you remember? A. Mr. Alter.

Q. When you got the eighth, ninth and tenth floors, who had charge of it then? A. Mr. Alter.

Q. He had the keys always? A. He had the keys.

Q. Now who would lock up the place, and look after the

locking up of the place, if you know anything about it, Mr. Harris, about the opening up of the lofts in the morning and locking them up at night, do you know anything about that? A. No, this was up to Mr. Alter; he used to have the keys, and he had the two watchmen there, and he used to take care about opening the lofts and locking the lofts, he was the man who took care of all that.

Q. You had absolutely nothing to do with that? A. No, sir.

Q. I think there was one witness testified here, Mr. Harris that you and Mr. Blanck used to stand by the door on the Greene Street side on the ninth floor and watch the girls as they went out, and sometimes that you would look into their books. Did you do that? A. I never done that.

Q. You knew it was done? A. It was done yes, sir, of course that was done.

Q. That was done by your direction and by Mr. Blanck's direction? A. Yes, sir.

Q. But you personally did not do that? A. No, sir; I never done that.

Q. Now on the day of the fire, Mr. Harris, had you been on every floor that day, I mean on the eighth and the ninth and the tenth? A. Yes, sir.

Q. Can you tell us how many times you were on any floor, one mere than any other on that day? A. The same as on any other.

Q. You don't know any more about that day of the fire than you did about any other day? A. No.

Q. On the day of the fire, can you tell the Jury it ma true that you were on any one floor more than on another? A. Well I could not say.

Q. You could not tell that any more about that day than any other? A. No, sir.

Q. It made no difference to you which stairs you used? A. I might use the Greene Street or the Washington; I don't know; I would not make any statement about that one way or the other.

Q. Now where were you Mr. Harris when you first knew that there was any trouble ? A. I was in that time in my office; just had selected some goods from the representative of Krauer and Tynburg.

Q. You had just selected some goods from a salesman? A. Yes, sir.

Q. Who was Krauer and Tynburg's man? A. Mr. Silk.

Q. That is, he is one of the men who testified here? A. Yes, sir, he came in that day and brought in his samples and I had selected goods and placed an order.

Q. At the time you first heard of any trouble you were actually with Mr. Silk? A. With Mr. Silk in the office.

Q. How did you first know that there was any trouble Mr. Harris? A. Well, I really could not remember how I find out this, but is that time when I heard all the noise outside,

I opened the door from my office and seen four girls running to the Washington elevator place.

Q. The Washington elevator doors? A. Running to the Washington elevator doors, yes, sir. I came out, I heard the sound of bells and all the noise of course; and I noticed in the back of the room some flames towards the fire escapes, but I could not see the fire —

Q. You say the back of the room. Do you call the place where the fire escape was the back of the room? A. Yes, sir; I call the front the Washington Place side where was the offices and the back of the room Waverly Place side.

Q. If you can remember, just what you did to tell us, tell us anything that you can remember Mr. Harris. A. When I came out I have seen the girls and everyone hollered fire, and I have seen there is fire through the windows at that time. The elevator just case up and they went into the elevator, I started to rush all the girls into the elevator. I told them go as quick as you can and come back up as quick as you can. He came up once more and took down another load, and then he took about a minute or a half minute and I waited and I didn't see him coming up any more. Somebody started in hollering, somebody in the back, fire, they were hollering in the back, and I heard fire hollered and I ran back to see, they said the fire was in the packing room and so I went back and looked in the packing room and I see that there was fire in the packing room. So I didn't think of the elevator, I didn't think it would come up any more

but which it did afterwards I learned, but I didn't know there that it was coming again.

Q. Where is the packing room? A. The packing room was as over here on the end (Indicating) in the corner, University Place and Waverly Place, right in that corner.

Q. In University Place and Waverly Place corner. A. I mean to the University Building and Waverly Place.

Q. Was Waverly Place the side of the building, the place where the fire escape was? A. Yes, sir.

Q. That is what you call Waverly Place? A. Yes, sir.

THE COURT: That is the northwest corner?

THE WITNESS: Yes, sir.

A. (Continuing) So when they hollered the fire is in the packing room and I went over there and I see in the packing room that the fire is blazing there; so I don't think the elevator will come up any more and I started to holler "Girls, let us go up on the roof; get on the roof". And we all rushed and I cried to them to go up the Greene Street stairs and at that time the smoke was very thick in the room there and it was getting very dark.

Q. The smoke was what? A. The smoke was very thick and we stepped back. I can't remember at that time what I was doing exactly but I remember seeing two little girls come tearing down and screaming to me "Mr. Harris save me". I don't know how I was encouraged but I said "Let us go if we can, Mr. Tichenor this way" — the fire was there I said that you can't go there [...]

I said go one of you two if you can't all go, better one of you get out. Well we were passing to the Greene Street way going on the roof and while we are going there -- there is a window you know, as you go up stairs, there was a window there on the staircase.

Q. On the Greene Street staircase? A. Yes, sir, a window and that window was open and the fire was coming in that window, blowing right into the window.

Q. And the window was open? A. Yes, sir, on the staircase and the fire was right in the face. That is the way we ran up. And I say Don't stand there, come on girls, come on quick and we went as much as we could. We all ran and I says let us run up on the roof, we can get up on the roof away. Of course we went right out onto the roof and next to that building there was a wall about ten or eleven feet, I don't know how high exactly but I climbed up that wall.

MR. STEUER: I think that that wall is seven or eight feet is it not Mr. Bostwick, it has been so testified to here in this case.

A. (Continued) I know it is over ten feet but I climbed up that wall, that place where there is hooks and wire, me and another man, we came up on top of that other building and we broke the skylight over in the next building because the door which is leading down was locked from the roof, and we hollered down to the engineer to help us and a man came up and opened the door and brought up a step ladder and we threw down the step ladder, and then we started to take them up.

Q. Started to take who up? A. All the girls that we have on the roof, every one of them that had come up.

Q. After you got up there some time, did Mr. Blanck come up to the roof? A. Mr. Blanck when I got out on the top there he was there but I had not seen him go up.

Q. You saw him afterwards? A. After, when he was there but I did not see him in the time, we were all so mixed up so, I could not say, I did not see Mr. Blanck at all, I don't know where he was; perhaps he was near me but I could not remember exactly.

Q. Who took Mr. Blanck's two children up do you know? A. Yes.

Q. I mean from one loft to the other loft, how did the children come, do you know yourself, if you don't we don't want to know what others may have told you? A. No, no, I myself don't know how they come up or how they come out only what they told me.

Q. I don't care about that. A. No, I don't know.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Blanck had charge of the financial end of the concern, did he not? A. Yes, sir.

MR. BOSTWICK: That is all.

BY THE COURT:

Q. Mr. Harris, I think there has been testimony here that some years ago there was a fire in the ninth loft? A. Yes, sir.

Q. Except on that occasion were there other occasion, was

there any fire in any part of your premises in the Asch building? A. Yes; we had a couple of fires which we didn't make any claim to the trade for damage from, as it happened in the day time and we were able to put it out.

Q. When was the first fire, what was the date of the first fire? A. I really can't tell.

Q. About how many years ago? A. We had two fires that we claimed damage for.

Q. But now, without respect to making any claim, when was the first fire that you had in any part of those premises? A. Without making claims?

Q. Yes; without reference to that one way or the other.

MR. STEUER: When was that Mr. Rubin?

MR. RUBIN: The first one was April 5, 1902.

MR. STEUER: April 5, 1902.

A That is about right.

Q. What loft was it in and what hour of the day?

MR. RUBIN: The next was November 1, 1902.

A. In the morning.

Q. And was there a fire in the ninth loft after that at any time until this one? A. Yes, sir.

Q. When was the next one?

MR. STEUER: The fact is it was on November 1st I think.

MR. RUBIN: November 1, 1902.

MR. STEUER: 1902, the same year.

Q. Do you remember about any other fire there? A. Two fires which we made claims for and three fires that we didn't claim at all, because one fire was put out practically by me. I put it out myself and it was only a few bundles of waists which we thought it didn't pay to make any claim for.

Q. You mean to say that there was five fires before this one? A. Yes, sir; three fires was not much, we thought it not worth claiming for and was put out by ourselves and the help.

BY MR. BOSTWICK:

Q. Now Mr. Harris, the fire of April 5, 1902 was how extensive? What was your damage by that fire, can't you say about how much damage was there in that fire of April 5, 1902? A. I could not say off hand.

Q. Well was it in the neighborhood of about \$19,142? A. Well I knew it was \$18,000. or \$20,000. or \$16,000. or \$20,000. or something.

Q. It would be in the neighborhood of about \$19,142.? A. Maybe; I don't know.

Q. Now the fire of November 1, 1902, do you know how extensive a fire that was? A. No, I could not say.

MR. STEUER: I told you you could put in the claim, whatever that claim is, \$12,000. and something as it?

MR. BOSTWICK: \$12,905.66.

Q. Was that the damage, the amount of the damage? A. Well the goods only was damaged.

Q. Those were the two fires where there was substantial loss?

A. Not on the second one.

Q. You don't understand me Mr. Harris? A. No, sir.

Q. These were the two fires where you had had considerable less, large loss? A. Yes, sir.

Q. Now as to the fires where there was only slight damage, you understand that? A.

Yes, sir.

Q. Were those fires prior to 1902 or after 1902? A. After.

Q. About 1902? A. Yes.

Q. Now can you -- give us as best you can the dates either as to the month or year when the three other fires occurred? A. Well one I knew was about two years before this fire.

Q. That was about 1909? A. Yes; I came down on the floor and an operator was sitting there, -- I could not say for sure that he was smoking a cigar, but after, we did find a cigar and I was suspicious and I was standing there and I saw the flame come out all at once out of his basket where he kept his cuttings and we took hold of this and picks it right up and carried it over to the open space in the building, where there were pails of water sitting all around, we had about 40m pails of water sitting on that floor and we poured in a few pails of water and put it out. After we had put it out I started to investigate and search through the stuff and I found a piece of a cigar and then I discharged the man.

Q. That was in 1909? A. Yes, sir; there was four dozen waists burned in that fire worth about \$60. or \$40. and we didn't care to make any claim. It was about that time but I couldn't

say exactly.

Q. Where was the other of the fires, of the two fires that was slight? A. Well one was a fire on the ninth -- at night, when the cutters were working there over time. In the back, where there is that partition, there is in back there a cage there, and all of those things, and the partition was not very high, it was not more than about eight feet or so, six or seven feet; so the cutters, a cutter must have seen this fire, and they got at it and at they rushed at it, the full eight cutters from that floor when they saw that it was a fire, in a box, they see the box was all afire and they went at it and with a couple of pails of water put it out.

Q. What year was that? A. That I can't remember.

Q. Well was it before 1909? A. (No reply).

Q. Well was it between 1902 and 1909? A. It was about I think in the same year when I put that fire that was in that basket out.

Q. Put it 1908 or 1909 so we will make it a little longer period? A. Yes.

Q. Now can you tell us about when that other fire took place? A. I don't remember it at all.

Q. Was that before that? A. I cannot recollect, it was probably something of this kind.

Q. Was that since you have been in the Washington Place building? A. Yes.

Q. So that since you have been in that Washington Place

building you have had five fires prior to the fire of March 25, 1911? A. Yes, sir.

Q. Now when the operators went out at night as I understood you to say, the examination of the employees was done under your direction and Mr. Blanck's direction? A. Yes.

Q. And you said that you personally had nothing to do with it, never stood there and examined the employees, that is their books and bundles as they passed out? A. No, sir.

Q. Now Mr. Alter performed that duty on the tenth floor, didn't he? A. Yes, sir.

Q. And at the time of the fire Joe Wexler on which floor? A. Joe Wexler, on the eighth floor.

Q. On the eighth floor? A. Yes, sir.

Q. And he had succeeded a watchman that had gone some weeks before, he took the place of the watchman that had been there before? A. No; we never had there before anybody.

Q. Are you sure about that Mr. Harris? A. Yes; we didn't have on the ninth floor before to do that work anybody, to look in the pocket books, we didn't have it, but we had — he was the first man you know. It was on account we find some goods was missing.

Q. Don't you remember that there was a watchman on the eighth floor and Joe Wexler had been employed there in another capacity, and then finally Joe took his place for the last few weeks? A. No, sir, we only had one watchman and one colored man, that is all what we had.

Q. And Nathan Zeller had charge of it on the ninth floor? A. Yes, sir, on the ninth floor.

Q. Now the object of having those watchmen there was to prevent the employees from taking things which did not belong to them was not that so? A. Of course.

Q. You didn't want them to take any of your shirtwaists? A. No, sir, surely not.

Q. And you didn't want them to take any of your laces, is that not so? A. Certainly.

Q. And you didn't want them to take any spools of silk ? A. No.

Q. And you didn't want them to take any of that stuff? A. As far as I could take care of it.

Q. And your proposed to stop it if you could? A. Oh, yes; if I could.

Q. Now you had had some experience in having things taken from your factory had you not? A. Well, enough.

Q. Well, as you say enough, you had had it several times? A. Yes, we once locked up about six girls and we found in their room, the room of one girl two dozen waists; one girl about three dozen waists; and one girl had in every — in every girl's house we found so many waists, and we had detectives that went around there and we searched in every house and found from two dozen to three dozen waists that these girls had taken, and there was six girls that we locked up in one night.

Q. About when was that? A. Well, about three years to

my memory, if my memory is good.

Q. How do you remember of finding a bag, a handbag, and finding that it belonged to one of the employees, and that some of your goods were in it? A. Yes, sir.

Q. And about when was that? A. That was just four weeks ago.

Q. Four weeks ago? A. Yes, sir.

Q. You mean before the fire? A. No; four weeks before -- two weeks before this trial commenced.

Q. Now do you remember before the fire finding one of the bags, hand bags? A. With some goods?

Q. Of one of the girls and finding some of your stuff in it? A. Yes, sir, we found in one case where one girl had took away two waists and carried it in her rat, she had it in her rat, these two waists.

Q. When was that compared with the date of the fire? A. Oh, about eight months. She had the two waists in her rat, and it stuck out, a little end of a string and one girl coming along behind that girl saw this little white string in the hair and said "Look here what is sticking out here" and when she started to pull she pulled out the waist; and they stopped that girl and they took that girl into the office and they took out the two waists; and they asked her "What you want to do it for?" She was a presser. She said her mistress asked her to bring her two waists. So of course we didn't want to make any trouble and we discharged her, all that we could do was, we could discharge

her, we could not do any more.

Q. After you had these six girls arrested about three years ago you didn't have any more arrested, you simply discharged them when you found there had been stealing? A. Yes, we arrested a few of them, and had them fined, a few of the girls and after that they sued us for damages and the only way we could find — we found the best way is to discharge them and not be bothered with them any more. That is the best way to get quick rid of them.

Q. Do you think there was a great deal of stealing in your factory?

MR. STEUER: I object to that as immaterial.

A. Well as to that I can't tell.

MR. STEUER: The newspapers will come out with head lines tomorrow that will put us out of business, we wont get any more employees --

MR. BOSTWICK: I object to that remark.

THE COURT: I didn't hear the remark but I sustain the objection.

MR. STEUER: It was not a remark, a reflection upon anybody.

THE COURT: I think that question calls for a conclusion, not for evidence.

Q. During the year 1911, that is from January 1st to March 1, 1911, how much worth of goods was stolen from your factory so far as you know?

MR. STRUER: I object to that as immaterial

THE COURT: I will allow it.

A. That we can't -

MR. STEUER: I except to Your Honor's ruling.

A. (Continuing) That is pretty hard to find out.

Q. How many times in March -- during the year prior to March 25th, that is from December 25th -- from March 25<sup>th</sup>, 1910 to March 25<sup>th</sup>, 1911 — A. Yes, sir.

Q. -- the year immediately proceeding the fire, how many times did you find people stealing goods from your factory?

MR. STEUER. I object to that as immaterial.

THE COURT: I will allow it.

MR. STEUER: I except.

A. I could not answer it.

Q. Well would you say it was ten times. A What do you mean, before the fire?

Q. Yes.

MR. STEUER: He said in the year before the fire.

Q. The year before the fire, the year immediately proceeding the fire? A. Oh, we had a couple of them, the girl with the waists in her rat and about a couple more perhaps, I don't know.

Q. Now all the instances when you found goods taken from your factory by the employees, how much in all would you say was the value of the goods that you found had been taken by these employees?

MR. STEUER: I object to that as incompetent, irrelevant

and immaterial.

THE COURT: I will allow it.

MR. STUEUR: I except.

A. You mean goods that was found.

Q. That you found. A. We find perhaps -- in one year you mean?

Q. In one year. A Prior to the fire?

Q. Yes. A. Well, ten dollars or fifteen dollars or twelve dollars or eight dollars, something like that.

Q. You would say it was not over \$25, wouldn't you?

MR. STEUER: I object to that as immaterial.

THE COURT: I will allow him to answer.

MR. STEUER: I except.

A. No, it would not exceed that much.

Q. Now how many times during the year prior to the fire did the watchman report to you that there had been stealing on either the eighth, ninth or tenth floors?

MR. STEUER: I object to that as immaterial.

MR. BOSTWICK: I will withdraw the question and reframe it.

Q. From March 25, 1910 to March 25, 1911, how many times during that year did the watchman who had been designated by you to stand on the respective floors, eighth, ninth and tenth report to you that they had found employees departing from the building with your goods in their handbags or in their hats or concealed about their clothes?

MR. STEUER: I object to that as immaterial.

THE COURT: I am receiving it for a certain purpose.

MR. STEUER: May it please Your Honor am I to understand that there is something in the law that prevents people from protecting their property.

THE COURT: Not at all. Not at all.

MR. STEUER: You would have to put everybody in New York on trial under those circumstances.

THE COURT: I am not receiving it except for a certain purpose, as bearing upon the motive the defendants may have had for adopting certain methods.

MR. STEUER: Why the defendants, as I understand it Your Honor, had an absolute right to adopt any method that they saw fit to protect their property.

THE COURT: Do you want me to state precisely why I am proceeding this way?

MR. STEUER: It don't make any difference to me; I am not afraid of anything that can occur Your Honor; not the slightest fear that any statement may prejudice us; I don't think there is any possible purpose for which evidence of this kind can be received.

THE COURT: I am receiving it merely as bearing upon the question as to whether or not in connection with protectionary steps of the character mentioned, these defendants did not have a like purpose in having but one exit instead of two from the factory.

MR. STEUER : The defendants as I understand the law Your Honor, had a perfect right to command and direct their employees in their employ to leave by one exit, and if they did it as I understand the law, and I don't think Your Honor can have called to your attention any decision, dictum or suggestion in any case where the Courts have ever said that business men do not have the right to direct all their employees to leave by one exit if they had 50; and the common practice in the large stores of this City Your Honor, is to compel them to leave by one door.

THE COURT: I am thoroughly in accord with you on that proposition. There is no provision of law that compels factory owners to have their employees go out of more than one door; and there is no provision of law that prevents an employer adopting in connection with the passage out of employees, of any protectionary steps that are lawful.

This evidence is received merely as bearing upon the question as to whether or not these defendants did not in aid of the protection of their property cause the other exit to be locked and not otherwise.

MR. STEUER: What is the question?

(Question repeated by the stenographer.)

I don't think I have made myself clear to Your Honor. That part of the testimony which would have as I see it, probative force upon that proposition, to-wit for instance:

that they only had a watchman on the Greene Street side, I don't object to; because it would perhaps be a legitimate inference for the Jury to draw that by reason of the fact that they only had the watchman at the Greene Street door, the Washington Place door could have been locked and I make no objection to that. But Your Honor, when you come to inquire the extent to which there were robberies or purloining of goods, the reason I object to it Your Honor is because it opens up to a great many things that might injure us in a great many ways; might injure us in the business of getting help and holding them; and also --

THE COURT: I think you have gone into it as far, Mr. Bostwick, as I will let you go into it. I think you have developed it as far as this witness is concerned, sufficiently for any use that could probably be made of it on this trial.

Q. What is the question (Repeated again by the stenographer).

THE COURT: I will allow the witness to answer this question Mr. Steuer and give you an exception.

MR. STEUER: Exception.

A. What is the question? Q. (Again repeated by the stenographer) A. What do you mean by their clothes?

BY THE COURT:

Q. How often were you told that people were taking out year stuff during the year, how often? A. I could not say.

Q. Just a little louder, the Jury want to hear you. The answer is "I could not say." A. I could not say.

(Recess was here taken for five minutes after which the trial was resumed.)

BY MR. BOSTWICK:

Q. Mr. Harris on the day of the fire, there was employed and working on the eighth floor about how many persons? A. About 180.

Q. How many? A. 180 I guess to 200, — 180.

Q. On the ninth floor how many? A. Over 200.

Q. About how many over 200 would you say? A. Well that is hard for me to say — sometimes —

Q. Would you say there were 260? A. Sometimes 260; sometimes 200; sometimes 220.

THE COURT: On the date of the fire what is your best recollection as to the number working on the ninth floor?

THE WITNESS: I don't think if I could give you any idea over 200 we will say.

Q. Would you say between 225 and 260 would be fairly accurate? A. Yes, sir.

Q. And on the tenth floor, how many would you say were employed and working?  
A. Oh, about 40.

Q. Now according to your calculation, that would make less than 500 employees, considerably? A. Well. I never counted them.

Q. Don't you think you had on the day of the fire more than

500 employees? A. I would not say yes or no.

Q. You knew how many machines you had, didn't you? A. They were not always occupied.

Q. I know that, but you have got a pretty keen notion of what proportion were occupied when you would look at the factory in operation. A. Yes.

Q. Is that not so? A. Yes, on the ninth floor machines were never all occupied, never.

Q. How many machines did you have on the ninth floor? Didn't you have as many as 300 machines on the ninth floor? A. No, there was not.

Q. What? A. No, not quite. Never was over 200 or 240 or 260, something like that, I could not tell you exactly.

BY THE COURT:

Q. What was your system of keeping track of the number of persons who worked for you on any particular day, how did you know? A. We never kept it

Q. You mean to say they were paid by the piece and not by the day? A. The majority was piece work. By the week was perhaps 100 in the whole building, the rest of them were all piece work.

Q. And you had no method of keeping a record of those who actually came? A. No, sir; didn't come today -- come tomorrow; didn't come tomorrow -- come next day; or something like that; we didn't keep it.

BY MR. BOSTWICK:

Q. Was your firm a member of the National Fire Protective Association? A. Members?

MR. STEUER: What do you mean by members?

MR. BOSTWICK: I have a report here and I want to know whether it was his report — if this report would refresh his recollection.

MR. STEUER: Tell him what the figures are.

Q. If the report of the New York Board of fire underwriters states that on the 8th floor there were something like 275 operators, and on this floor — and then that there is something like 300 operators were on this floor — meaning the ninth floor; and that on the tenth floor approximately 60 employees were on this floor, you think that would not be correct? A. On the eighth floor 270?

Q. Approximately 275 operators. A. We didn't have 270 machines on the eighth floor.

Q. But didn't you have other people engaged in other kinds of work on the eighth floor? A. Besides operators, only cutters, they amounted only to about thirty cutters; we had about 180 operators, there was never more than 200 operators, and less than 200 operators on the eighth floor.

Q. Didn't you believe in all you had more than 500 employees at the time of the fire? A. I don't think so.

Q. Now among those operators, the majority were females, were they? A. Yes, sir.

Q. What percentage of these operators would you say were

females?

THE COURT: Now you are using the word operators and include in that the various classes of workers there.

MR. BOSTWICK: I will correct my question.

THE COURT: The word "operator" has a technical meaning to this witness.

Q. What percentage of your employees would you say were girls? A. I would say about 60 or 70.

Q. 60 or 70 per cent? A. Yes, sir.

Q. Now the ages of those girls varied? A. What is that?

Q. The ages of those girls were different, they were different ages? A. The age?

Q. The age of these girls? A. I understand.

Q. What was the youngest of the ages of those girls? A. Youngest — well I didn't ask their age; if a girl came in, if she looked young, either she produced her papers or she was not accepted, that is all I know, that was the rule.

Q. Mr. Harris, you have seen over 100 employees on this stand haven't you? A. Yes, sir.

Q. Don't they fairly represent the age of the employees in your factory?

MR. STEUER: You mean the average.

Q. (Continuing) Their average.

MR. STEUER: I will admit it.

MR. BOSTWICK: I want him to admit it.

A. These girls I never asked them their age; to me they looked

some of them perhaps would be as oh something like 18, some 17, some 16.

Q. I understand that, I started out with that question. I want to know whether the bulk of them, the most of them were young girls or old girls, if you can't say ages state it, if you don't know, say so? A. Well the girls to my opinion were all about twenty or over twenty, most of them over twenty.

Q. Most of them over twenty? A. Yes, that was 90 per cent.

Q. Now what proportion of those girls were in your judgment foreign born?

MR. STEUER: I object to that as immaterial.

A. (Interrupting) Well I didn't pay particular attention –

MR. STEUER: Wait a minute.

THE COURT: I think that is immaterial.

Q. What proportion of your employees in your judgment could not speak English?

MR. STEUER: I object to that as immaterial.

THE COURT: I think I will allow that.

MR. STEUER: I except.

THE COURT: If he knows he may say.

A. No; I sever had much to do with the operators; we had a superintendent. I had never anything to do directly with the operators personally, that was Mr. Bernstein used to engage them and discharge them, that was his end.

Q. Did you know in the course of your duties, having ~~ withdraw the question. I understood you to say that it was

your duty taking care of everything, designing and manufacturing? A. Yes, sir.

Q. Now in the performance of your duty of taking care of everything, designing and manufacturing, did you have occasion to learn whether any of these employees could or could not speak English? A. Well some of them could not. I heard them speak Italian or Jewish or English. They may know English though, but they used among themselves, they spoke Jewish and other languages; I didn't investigate carefully.

Q. What percentage of the employees so far as you know spoke English?

MR. STEUER: I object to that as immaterial.

THE COURT: Sustained.

Q. Did not the large percentage, did not the very large majority speak a foreign language while working in the factory?

MR. STEUER: I object to that as immaterial.

THE COURT: Sustained.

Q. Diagram No. 1 (Diagram placed before witness). I ask you, Mr. Harris to look at People's Exhibit No. 1, which purports to represent the 8th floor. This is drawn — purports to be drawn to a scale of a foot to a quarter of an inch. This represents the Washington Place side of the building (Indicating). A. Yes, sir.

Q. And that the Greene Street (Indicating). A Yes, sir.

Q. Over here were the freight elevators (Indicating). A Yes.

Q. And over here was the -- (Indicating). A The stairway.

Q. The stairway next to the freight elevators? A. Yes, sir.

Q. And then came the most northerly wall to which was attached the fire escape? A.

Yes.

Q. And over here the Court leading to the University? (Indicating). A Yes.

Q. And here (Indicating) are the men's toilets, the women's toilets and dressing room and Washington Place stairway and the Washington Place elevators (Indicating) A. Yes, sir.

Q. And here (Indicating) are tables? A. Tables.

Q. And posts are here (Indicating). A Yes, sir.

Q. There were cutting tables on this side (Indicating). A. Yes, sir.

Q. And cutting tables on that side (Indicating) A. Yes, sir.

Q. I ask you to look carefully at that diagram and state whether it accurately and substantially sets forth the conditions as they existed on the eighth floor of your factory at the time of the fire.

MR. STEUER: That question Mr. Bostwick is in itself inconsistent; because substantially represents is not an accurate representation.

MR. BOSTWICK: I will take out the word substantially and leave it "An accurate representation of the conditions." A. I don't remember that door (Indicating)

Q. You don't remember the door? A. No, sir.

MR. BOSTWICK: Indicating a door between the loft proper and the space included by the wooden partitions. Is that right?

A. Yes, sir.

Q. Meaning the street wall, freight elevators? A. Yes, sir?

Q. By the Greene Street elevators? A. Yes, sir.

Q. And the Greene Street stairway? A. Yes, sir.

Q. Now with the exception of that door which is indicated by a single line — A.  
That door was not there, and this (Indicating) was not there.

Q. And you don't think that there was that projection? A. This partition line ran about so far (Indicating).

MR. STEUER: Is that the eighth floor.

MR. BOSTWICK: This is the eighth floor. A. (Interrupting) Is this the eighth floor.

Q. Yes. A. The eighth floor, let me think a little while before I say.

Q. Yes, take your time Mr. Harris. A. On the eighth floor was no partition.

BY MR. STEUER:

Q. On the eighth floor no partition at all? A. Yes. there was a partition.

Q. On this side (Indicating) A. This was not en the eighth floor, this just opened straight. This was the partition.

running just to cover the view of the cutters (Indicating), that is here was a box for keeping all dirt in (Indicating) and this was nothing at all (Indicating) this was absolutely vacant.

BY MR. BOSTWICK:

Q. You mean from letters A and B? A. That was not in there.

Q. There was no partition? A. No, sir.

BY THE COURT:

Q. Now having in mind those partitions that did run as far as the — towards the University Place wall as is shown in that diagram, did that partition stop nearer Greene Street, at a point nearer Greene Street? A. It stopped on Greene Street in between the window. This is the window (Indicating) and it ran about, just to cover the tables. There is five tables, it was about fifteen feet long.

MR. STEUER: From the Greene Street wall?

THE WITNESS: From the Greene Street window.

Q. Did it cover the stairway? A. Yes, sir, it finished where the -- it was not within so far (Indicating) it did not go within so far. Here is a door and it was right straight (Indicating).

Q. Right on a line. A. Right on this line.

Q. So that on that diagram it is indicated as somewhat longer than in point of fact it was? A. Yes, sir.

BY MR. BOSTWICK:

Q. And where to? A. Right here it finished.

Q. Opposite to that? A. Yes, sir, nothing was over here in this place (Indicating).

Q. Where you put a line and your initials, will you put your initials there? A. Yes, sir  
(Witness marking on diagram)

Q. That is where you think the partition stopped? A. Yes, sir.

Q. Now with the exception of there being no partition between A and B, and the partition which is indicated by your initials stopping at the line drawn — A. Yes, sir.

Q. Is the rest of that diagram so far as you can observe an accurate description of the eighth floor? A. We had a door in this here.

Q. Well you have got a door there leading directly between, to the stairway? A. Yes, sir, that is it, all right. Here are the cutting tables (Indicating). This is the eighth floor?

Q. This is the eighth floor. A. These here are cutting tables (Indicating).

Q. Was there, Mr. Harris, in front of the passenger elevators on the eighth floor a partition? A. Yes, sir.

Q. Now did that partition run from the -- A. Just started from the door.

Q. From here (Indicating)? A. Yes, sir.

Q. Over to here (Indicating)? A. This is the wall.

THE COURT: So it ran on the same line?

THE WITNESS: As the wall. This is the wall between the elevator doors (Indicating) and between the doors

was a will as wide as this (Indicating a space on Court room wall.)

Q. Do you recollect Mr. Harris that the Washington Place stairway came out into the loft more than the passenger elevators, do you recollect that?

MR. STEUER: You mean the Washington Place.

Q. The Washington Place stairway door was further in the loft than the doors to the passenger elevators? A. No, sir.

Q. Most people don't remember that? A. I remember because it is just on a level with the elevator.

Q. Let me see if I have not got a picture that will show it.

BY THE COURT:

Q. When you say the doors, you mean the sliding doors? A. No, Your Honor; this is the door from the elevator (Indicating); the elevator comes inside so far as this corner here (Indicating) remaining like a corner (Indicating) -- brick wall comes in and runs this way (Indicating); the brick wall from the building and that wall it ran up to the door; that wall included the two elevators and the door, and then ran again and back — this was a brick wall and then it ran directly to the place where we had these two dressing rooms. These are over here (Indicating) Then came in the brick wall; this came up this way (Indicating). Here was the dressing room; and this wall was right in the building where the elevator doors and the doors leading to the stairway and to the street were.

Q. You mean to say that the elevator doors were as near to

Greene Street as the door leading to the stairs? A. Yes, sir.

Q. And on the Washington Place side? A. Yes, sir; this is a brick wall coming in (Indicating).

Q. You are now pointing to the wall along the – A. Washington windows.

Q. Washington place? A. There was a window. In here about four or five feet away from that window (Indicating) a brick wall came along.

Q. The brick wall on a parallel with the Washington Place wall and alongside of the passenger elevator and nearest to Washington Place? A. Yes, sir; there was that wall that was brick (Indicating) That was made of brick and extended inside, within the building.

Q. You had some sliding doors put in by a carpenter? A. Yes. Why we went and put in sliding doors Your Honor, to cover the two doors from the elevators.

Q. Yes. The sliding doors; and on the same line with them not as the Washington Place door, that is to say the sliding doors -- A. Not the sliding doors — that was on the same line.

Q. The sliding doors were as near to the Greene Street wall as the Washington Place stairway door? A. No, the sliding door we had about three feet where the Washington Place door was in about three feet.

MR. BOSTWICK: Well now Mr. Harris I show you People's Exhibit No. 2.

MR. STEUER: Just a minute. Do you understand what he

means Your Honor.

Q. He means that the Washington Place doors are three feet nearer University side wall than the sliding doors? A. Yes, sir.

Q. Which was in front of the elevators and the sliding doors of the elevators and the sliding doors in the partitions? A. Yes.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 22; and that is the way the building is built on every floor I think; and I ask you whether that recalls to your mind the fact that the elevators did not come out into the loft as far as the stairway door came out into the left? A. Yes, sir it did, just the same, on the same line -- on the same line.

Q. I think you're in error about that Mr. Harris. A. There are the two elevator doors (Indicating) And there is a door to go down street (Indicating).

Q. I am not criticizing your testimony; it is not a point on which there would be any question of criticism to be raised but we want to find out the facts.

MR. STEUER: So many people say it is not so, and Mr. Blanck says it was not so, I do not think that Mr. Harris is right about it.

THE COURT: The stairway wall appears and is in the other lofts underneath, and it is probably of brick underneath in the other lofts and that could be verified easily enough.

THE THIRD JUROR: Mr. Harris just said that the sliding doors which were placed in front of the elevator doors were about three feet further into the left than the door leading to the stairway; and the carpenter told us here today that the sliding doors was six or seven feet away. That proves the door leading to the stairway was a little way back.

Q. There was a partition in front, and when I say in front, I mean towards the Greene Street side in front of the passenger elevators and before you come to the first row of machines?

A. Yes, sir, when you stepped out of the elevators there was a little partition around which you walked through two sliding doors to get through.

Q. And there was a partition in front of that? A. Yes, sir.

Q. Now with the exception of the absence of this partition, and the corrections you have made over there (Indicating) is the rest of that diagram an accurate description of the eighth floor.

Q. Now the ninth floor. (Another diagram placed before witness. ) Now take a good look at this diagram showing you People's Exhibit No. 2. This is Washington Place. (Indicating) And this is Greene Street (Indicating). Here are your passenger elevators (Indicating). There is your stairway (Indicating). Here are your two dressing rooms (Indicating), the ladies toilet (Indicating) and men's toilet (Indicating.) Here

is the fire escape (Indicating). Take a look all over that and I call your especial attention to this, to those marks (Indicating) so that you cannot be misled by anything. A. What is that (Indicating)?

Q. This is the stairway, the Washington Place stairway (Indicating). What I want you to do is to take a look at the rest of the diagram so you can state what is correct and then we will put it in afterwards what you say is not by way of exception. A This was not a partition (Indicating).

Q. That was a screen, wasn't it? A. A screen.

**BY THE COURT:**

Q. That is to say it was not fastened to the floor, it was like an article of furniture, you could push it over? A. To protect them from the wind coming in.

Q. You mean to say it was not fastened to the floor? A. It was fastened to this (Indicating) holding down, with just a strip on top, the cap; and this here was the door (Indicating) the whole thing was a kind of door, just a kind of a door.

Q. He is referring to what is apparently a partition. A. It is not a partition you are referring to now.

**BY MR. BOSTWICK:**

Q. The wood screen marked, wood screen on the diagram, A and B? A. Yes, sir.

Q. About how high was that wood screen? A. I can't remember; I don't know.

Q. Could you see over it? A. Yes, I think so.

Q. Then it was not as high as your eye? A. Not much higher. This here was a door (Indicating).

Q. There was a door on the ninth floor (Indicating)? A. Yes, sir.

Q. Leading to the Greene Street stairway and freight elevators? A. Yes, sir.

Q. And that is the place where, on the 8th floor, you say, there was a door by mistake on that diagram? A. Yes, sir.

Q. Now I show you some squares and parallelograms, three in number (Indicating) A. There was nothing along there.

Q. Near the Washington Place door? A. No sir; nothing there.

Q. You say there was nothing occupying that space? A. Absolutely nothing.

Q. Which is indicated on this diagram? A. Yes, sir; here is a small screen (Indicating) about the same as on the eighth.

Q. There was a screen in front of the Washington Place elevators the same as you have described in front of the elevators on the 8th floor? A. Yes, sir.

Q. In other respects does this diagram accurately show the conditions in the 9th floor, the tables for the machines and the motors, the windows, the stairways, the doors and elevators, the posts, the places where the examining tables were and the dressing rooms, and the toilets? A. It would be about the same if this is divided as to the measure, the same as our machines were divided.

Q. These measurements were taken Mr. Harris, from the conditions which was shown on the floors after the fire, as shown in People's Exhibit No. 24 (Handing picture to witness). A Yes. This could have been taken two ways.

Q. I don't understand you; but I want you to make clear anything about this diagram that you disagree with. A. I could not disagree with anything, as I don't know exactly how it was done, whether it is done measuring from the leg to leg or from top to top.

Q. Or from top to top? A. I don't know how it was, I could not give you an idea about that.

BY THE COURT:

Q. You had that number of rows of tables of machines right in that loft? A. Yes, we did.

Q. And they were substantially that length? A. That I don't know, that I could not say.

BY MR. BOSTWICK:

Q. Well now, do you know that these first machines, speaking of the one nearest Washington Place stairway had 20 machines on it? A. 10 and 10 - no it could not be 20 machines, it might have been 18 — 9 and 9.

Q. You think it only had 18 machines on it? A. Yes, sir.

Q. The next one shows 36 machines? A. No it could not be on account of this crack.

Q. They have allowed 4 machines for that, how many machines do you think it should be?

A. About 2 machines less.

Q. About 34? A. About 34.

Q. The next table shows 40 machines? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. The next 36 machines? A. Yes, sir. Q. And the next 40? A. 40.

Q. And the next 38? A. 38.

Q. And the next 36? A. Could not have 36 — 34.

Q. About 34? A. Yes, sir.

Q. You know it is longer at this end (Indicating) than it is over here (Indicating) A. 34.

Q. And the next or last one, the one nearest Greene Street, 38? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. So that you differ only in that you think there were about 6 or 8 machines less than indicated by the numbers on each of the tables as written upon the tables? A. On certain tables.

MR. STEUER: How many do you indicate Mr. Bostwick?

MR. BOSTWICK: This is indicated on the diagram.

MR. STEUER: How many do they total?

MR. BOSTWICK: How many do they total?

MR. STEUER: Yes. If you haven't added them, I don't want to know.

MR. BOSTWICK: No, I have not added them.

THE COURT: About six or eight.

BY MR. STEUER:

Q. How many do you say on the first table? A. 18.

MR. STEUER: How many do you say?

MR. BOSTWICK: 20 on this.

MR. STEUER: I will add it up in a minute. According to that the diagram shows 284.

THE COURT: How many do you say there were.

Q. How many do you say there were, I think Blanck says there were 265? A. I don't know, I didn't count them.

BY MR. BOSTWICK:

Q. You say there were 2 less here (Indicating) and 2 less there (Indicating) making 4 off. A. And 2 less here (Indicating).

Q. 2 less here makes six off. That would make 278. A. I remember exactly the tables.

Q. In all other respects does the diagram substantially set forth and show the relative positions on the various things and places that I have heretofore mentioned? A. With the exception of the break here in this table (Indicating).

BY THE COURT:

Q. What was that? A. A break like this (Indicating).

Q. You say there was a break in one of those tables, an opening? A. An opening.

MR. BOSTWICK: A break in the top of the table

MR. STEUER: There was a break?

THE WITNESS: Here was a break (Indicating).

BY MR.. BOSTWICK:

Q. You know there was a break in the second table from the

Washington Place door? A. There was a break here (Indicating).

THE COURT: You would say there was a break in the fourth table from Washington Place?

THE WITNESS: There was three breaks I remember.

Q. Three breaks on the ninth floor. A. I remember it, I laid them all out on the floor from my office, I knew about it.

Q. So in what portions of the four tables would you say there was a break? A. That would just about be in the same thing, I could not tell you exactly because that was three breaks I know that.

BY MR. STEUER:

Q. He means in what part of the table, having a break over there. A. Either on this side of the post (Indicating) or this side of the post (Indicating).

Q. Either on one side or the other of this middle post? A. Yes, sir somewheres, just where I can't tell. I laid out the factory, and I put in the machines and everything that was done about putting up the factory was done by me.

BY MR. BOSTWICK:

Q. Now Mr. Harris you say that at the time these machines were put in, counting the machines on these tables that we have gone over, that you laid out the floor? A. I always supervised this kind of work to the best of my knowledge.

Q. Were you the person to give the order for the machines? A. Yes, — the order for the machines?

Q. Yes. A. That would not make any difference, if it was

given by me or Mr. Blanck, we decided upon that, with the machines about it.

Q. You say you laid out the floor? A. Yes, sir.

Q. Were you the one to determine how long these tables should be and the number of machines there should be on them? A. Well we experimented in the laying of them out when we laid them out first, we built and brought them in a few at a time; we figured out one table and we go according to the layout of the business, to the best of —

THE COURT: To the best of your judgment?

A. (Continuing) Best to determine how to do it.

Q. Were you going to use the word “economy”? A. I was saying common sense, that is it.

Q. Common sense? A. Yes.

Q. You wanted to get that particular number of tables into that particular space? A. I had a particular number you see and the business to figure on. Of course this was not all put in in one day, I want you to understand it, that was put in one or two rows and then we added on more and more, a little added on; and by adding on, we would figure out we needed more and more room, and go according to our room and at the same time to do the best way with the space.

THE COURT: Did you run the putting in of the machines on the ninth loft all at once?

THE WITNESS: No, sir.

Q. Now with the exception of the break in the fourth table

that you have spoken of, is the diagram correct in all the particulars that I have mentioned? A. It would be about correct.

Q. Now the tenth floor (Another diagram laid in front of witness). Now I ask you to look at People's Exhibit No. 3 which purports to be a diagram of the 10th floor in the same scale. A Yes, sir.

Q. And I ask you whether that correctly and accurately sets forth what it purports to set forth, and the proper dimensions, so far as you know, omitting therefrom, however, the divisions of the tenth floor into offices by various partitions, and the absence of such tables as were there, and other things?

A. Only one thing I can't remember and that is this coming out further than the elevator; that is the only thing that don't agree with my memory.

Q. There is a great many Mr. Harris that have said the same thing, I have had to take several witnesses —

MR. STEUER: This man who made that diagram — these men, Mr. Harris, were experts, and they were probably there and made their measurements and I do not think there can be any question of memory here.

THE COURT: If you should know, for example, Mr. Harris, that on the 6<sup>th</sup> floor of that building and being in the sixth loft should see the position of the door, the stairway door on the sixth left as compared with the elevators, do you think that would refresh your recollection in any

way as to what the condition was on the 9th loft?

THE WITNESS: Of that building, yes.

THE COURT: I think it would be a good plan for him to go on the sixth loft or one of the other lofts of that building and take a look.

MR. STEUER: The doors have been changed.

MR. BOSTWICK: Not on the sixth; they have been on the eighth and ninth and tenth.

THE COURT: I mean one of the other floors.

THE WITNESS: If they hadn't changed them it might.

Q. I show you a picture, People's Exhibit No. 22 of the sixth floor, which is identical with 8th, 9th and 10th floor and I ask you if that don't refresh your memory as to the fact.

MR. STEUER: How is his memory on the subject important?

A. (Interrupting) I could not go into --

MR. BOSTWICK: Not at all except he wants to correct the diagram.

MR. STEUER: I consider that Whiskeman's testimony and Moore's testimony is better on that subject than his.

THE COURT: For the purposes of this case shall we understand that?

MR. STEUER: I would consider that the measurements furnished by Whiskeman and Moore with relation to the position of the Washington Place door as much more relevant than Mr. Harris'.

A. (Interrupting ) I would not say I am right but --

THE COURT: You are giving us your best recollection.

THE WITNESS: Yes, sir.

Q. Now Mr. Harris, there was provided under the cutter's tables, bins? A. Yes, sir.

Q. In which the cutters would throw what was left over and not to be used in the manufacture of goods? A. What we called the cuttings.

Q. Cuttings? A. Yes, sir.

Q. Now near the aisles where the operators worked there were baskets? A. Each operator had a basket.

Q. And each operator had a basket? A. A basket, and it shoves right under, goes under the machines.

Q. And was it to the side of the operator? A. Right by the side and goes about three quarters of the basket goes right under the machine, it runs even with the chair about.

Q. Now the average distance between the tops of the tables on which there were the machines was about four feet is that not so? A. You mean from one machine to the other on the same table?

Q. No. Assuming this was a table (Indicating) and then assuming this to be the next table (Indicating). A. The next table.

Q. And the machines being on those tables (Indicating). A. Yes, sir.

Q. The distance between those tables upon which the machines were fixed was about four feet, wasn't it? A. Was five

and some seven and some six, you will find by the measurements on the ninth floor, some were seven feet apart.

MR. STEUER: Have you got those equally distant on that diagram?

MR. BOSTWICK: No, they differ slightly.

A. (Continuing) About two feet difference, some would be seven feet wide.

Q. Now the distance between the one nearest Washington Place — the one between Washington Place and the next one was four feet ten and the largest was seven feet one? A. As I have said some were seven feet equally laid out, just figured it to the best purpose you know.

Q. So that these distances are correct as indicated on here, four feet ten?

MR. STEUER: Mr. Bostwick, referring to the smallest one it was a distance of four feet eight.

A. That was five feet, our smallest measurement was five here, and on account of posts we have to allow two feet more so they will be able to pass easier. Wherever there was posts we made more room.

Q. Now on the 9th floor in the very corner of the building, and when I say corner I mean right next to the Washington Place windows and the most westerly place, what was in there, and what was that used for? A. That corner, nothing; there was a couple of girls sat there and cut out laces, small chairs, nothing there.

Q. Was there any table in there on which they cut? A. No, there was a box they used to turn over to cut on the box, not a special table, just a box in the corner, right in that corner.

Q. Now were there any finishing tables or any kind of tables of any kind on the ninth floor? A. No, sir; there was a couple of figures standing there.

Q. A couple of figures standing? A. You know, busts we have to try on garments, to see how it is fitting.

Q. Will you show us as near as you can with reference to these three windows on the Washington Place side, will you show us here by a circle? A. What?

Q. Where the figures were. A. It was not a place they were supposed to sit, they were used as figures to show them how they fit, and were left often where they were used.

Q. They were movable about? A. Yes, sir.

Q. They were figures? A. Yes, sir, just moved them as you wanted to.

Q. Was there any desk of any kind there? A. No, sir.

Q. Or any table of any kind? A. Here was a desk (Indicating ).

Q. Any desk of any kind? A. Nothing there (Indicating).

Q. Here (Indicating)? A. No, sir.

THE COURT: Referring to the Washington Place side  
over by the Washington Place elevators.

A. (Continuing) Now there was one of those girls used this box, there was a couple of girls that stood there right

in that corner behind the elevators.

Q. There was examining tables near the fire escape side? A. Yes, sir.

Q. How near to the fire escape was the nearest side of the examining table? A. What do you mean, how near, by the end of the table?

Q. No. Assuming this to be the wall of the building (Indicating). A. Here is the wall.

Q. And assuming the windows to be in here (Indicating). A. Yes, sir.

Q. And assuming this to be an examining table. A. Yes.

Q. How near was the side of the examining table nearest to the fire escape from that fire escape? A. Well aside from the table she had had there --

MR. STEUER: I object to it.

THE COURT: I will allow it.

A. (Continuing) About the end of the table here (Indicating).

MR. STEUER: As he said there was a table in front of the fire escape, that is what I object to, has he said that?

THE COURT: Yes. there is testimony to that effect.

A. (Continuing) The end from the table reached about here (Indicating); and the other end from that table reached about here (Indicating).

BY THE COURT:

Q. You put your initials there. A. (Using pencil) This was a table running this way (Indicating); and there was finished. And then the other table commenced and here was passageway (Indicating). The table run on an angle.

Q. You have indicated this by your pencil marks, that the westerly end of the examiner's table which is nearer to Greene Street – A. Yes, sir.

Q. ~~ Extended to the -- A. To the window of the fire escape.

Q. To the window? A. Stopped before the window.

Q. Stopped at the casing of the window nearest Greene Street? A. Nearest Greene Street, yes, sir.

Q. And that is the other examining table began – A. From the University — we will say this way (Indicating).

Q. How far, if at all, did it extend over that window? A. Not at all.

Q. Not at all? A. Not at all.

Q. So that you say the two windows leading out on the fire escape balcony had no examining table in front of them? A. No, sir; it was about five to six feet in between.

MR. STEUER: May we show this to the Jury so they may see (Referring to diagram). These are the marks on there (Indicating),

Q. As you said to Judge Crain just now it stopped at the casing of the windows? A. Yes, sir.

MR. STEUER: This examining table came to this casing

(Showing Jury.); this examining table started at this casing and went there (Indicating).

THE WITNESS: Was about six feet in between the two.

MR. STEUER: Two windows leading to the fire escape here (Indicating).

Q. At the end of one of those examining tables was another table was there not? You have indicated that there were two examining tables and the position that they were in. A. We call them practically one, they were divided.

Q. There were two separate tables? A. Yes, sir.

Q. Two separate examining tables? A. Yes, sir.

Q. They ran along in the general direction of the wall in which the fire escape was?

A. Yes, sir.

Q. Now where, with respect to those tables, was the desk of Mary?

MR. STEUER: Mary Lowenthal.

Q. (Continuing) Of Mary Lowenthal? A. Outside the table. Here is the table running to Greene Street (Indicating); the desk was right near to the table, right near to the examining table.

Q. Was it at the side of the table or was it at the end of the table? A. At the side of the table near to the end of the table.

Q. Near that desk of Mary's there was another table, was there not? There was not an examiner's table but a table on which certain things were put. A. Inside towards Washington

side, a short table about half as long as this table (Indicating).

Q. That ran in the same direction as the Greene Street wall? A. Yes, sir.

THE COURT: I think we will suspend here. You are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you. And the Court will stand adjourned when it does adjourn until Tuesday morning, at half past ten.

(The Court thereupon took an adjournment until Tuesday, December 26th, 1911 at ten-thirty o'clock a. m.)

#### LAST EXHIBITS

People's Exhibit 49

Defendants' Exhibit K.

New York, Wednesday, December 27, 1911.

TRIAL RESUMED.

MR. BOSTWICK: It is hereby conceded by the People that the defendants had posted in their factory in Yiddish, Italian and English a sign on each of the floors prohibiting smoking.

THE COURT: Now I will say to those in the body of the room after they have found seats, that there must be absolute quiet in the Court room during the summation of Counsel on both sides and any person now in the Court room desiring to leave before Mr. Steuer opens for the defense may do so. Those in the room not wanting to leave will remain until the completion of Mr. Steuer's address.

I will say to you gentlemen of the Jury that at the conclusion of Mr. Steuer's address the Court will take a recess for five minutes and you may come then again to your seats.

Mr. Steuer, if it is agreeable to you I will let you know five minutes before your time has actually expired.

MR. STEUER: All right, Your Honor.

THE COURT: It is now about quarter of ten. The understanding was that you should have two hours.

MR. STEUER: Yes, sir.

THE COURT: In other words until a quarter to twelve. You may open the summation.

MR. STEUER: With Your Honor's permission may it please

you Gentlemen of the Jury:

There has been sworn as I calculate 155 witnesses on this trial. There were sworn 103 on behalf of the People. Of the 103 that were sworn on behalf of the People there were 51 on matters that arose subsequent to the time of this fire. There were 52 who testified with relation to some matters that have in some way preponderance here under the indictment.

There were sworn on behalf of the defense 52 witnesses. Of the 52, 50 testified directly with relation to the matters covered by the indictment; and two only, one Horowitz a locksmith, and the other was a man who gathered debris every morning under a contract. The other 50 who were sworn on behalf of the defense all testified primarily with relation to the door that has been referred to as the Washington Place door in this case.

Now it must be obvious to you, therefore, gentlemen at once that where there are 140 odd witnesses to be reviewed that it cannot be done in two hours. I am going to content myself therefore as speedily and as far as I possibly can to call your attention to the testimony on behalf of the defense after I shall have in a very few words, outlined to you what I deem is the charge against these defendants:

They are accused as you will recall, of the crime of manslaughter in its first and in its second degree; and as I understand the claim of the Prosecution it is that this

manslaughter was committed in two ways:

First, that the business of the defendants was conducted in such a culpable negligent matter as to amount to criminal negligence, and that that criminal negligence was the direct cause of the death of Margaret Schwartz. You will bear in mind it does not make any difference how negligent the defendants might have been; if that negligence did not bring about the death of Margaret Schwartz, that is the end of that chapter in this case.

Next the People claim second: That there was a law passed by the Legislature of the State of New York, and to clarify that and to take no chance about it, I am going to read it from the People's memorandum. That section of the law reads as follows, it is Section 80 of the Labor Law:

“Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber securely fastened thereon if in the opinion of the Commissioner of Labor the safety of employees would be protected thereby. The stairs shall be properly screened at the sides and bottom.”

We have nothing to do with screens in this case, but this is the thing that has application to this case and I therefore call your particular attention to it:

"All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours."

Now Gentlemen of the Jury, at the time when this Labor Law was passed there came into existence, by its very provision, a Commissioner of Labor, a State Officer who for the first time had such an office, -- prior to that time it did not exist. It became his duty to administer this law, and it became his duty to appoint inspectors for the purpose of seeing to it that this law was complied with.

Now you will notice the subdivision that I have read. "All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable." I just want to say one word about that. Of course these defendants had absolutely nothing to do with the construction of the building, or the construction of these doors. These doors were there constructed so as to open inwardly.

I believe the witness Whiskeman testified that if these doors had been constructed so as to open outwardly, they would not have been able to open them at all, because the building was so constructed gentlemen, with the stairway being so close to the door itself that there was not room for the door to open outwardly.

Now when a person hires a building, -- hires lofts, and that building, and its construction has been approved by the Superintendent of Buildings of various Departments of the City of New York, and in addition thereto for years and years been found absolutely correct by the Commissioner of Labor, -- who is the man charged with the supervision thereof, -- and his inspectors report and it becomes a record of the State of New York that it was impracticable for these doors to open outwardly, it seems to me it would be strictly a waste of time and idle to waste any further time in commenting on that subject.

Now the second subdivision of this law, that has application to this case is what I have read and starts with the words: "All doors leading in or to any such factory shall be so constructed as to open outwardly when practicable and shall not be locked." That means as I read it "all doors" because it starts with "all doors". "All doors shall not be locked, bolted or fastened during working hours."

Now I do not understand that it has been claimed by anybody that the doors have been bolted, locked or fastened during working hours. But I want you to bear in mind that I am not here to state the law. I have nothing to do with the statement of the law, and the Judge who presides upon the bench has that peculiar province; and of course your

instructions with relation to the law must come exclusively from him. I have called your attention to this section and my reading of it solely and only Gentlemen of the Jury because I now ask just a patient hearing for the little time allotted me while I review before you as many of the witnesses who have been called in this case as I have time to refer to.

It became extraordinarily mete and proper it seems to me when there was a law which appointed a Commissioner of Labor and which required him upon his taking office, the duty to the State which he held, to appoint inspectors to go to this building to see if this factory loft was being properly conducted, to call him. It would seem to me that would have been the People's duty to call him to show that for the years that there has been a Commissioner of Labor,--a period of ten years, — while these people have had this loft, there has not been made proof before you that during those ten years of the inspectors -- and I want you to bear in mind that the Commissioner of Labor swore before you that no notice is given to the people whose factories are about to be inspected, for if that notice was given them that would defeat the very object of the law. And you must remember that these reports made by the inspectors are a matter of record of the State. These reports are made to

the Commissioner of Labor and the report books form a part of the records of the State as to whether or not these lofts are being conducted in conformity with the law, and those men who inspected these premises reported for the year 1910, and no reports previous to those of 1910 have been brought before you Gentlemen, and you can rely on it Gentlemen of the Jury that had there ever been a report in any of the reports that are in the custody of the State that these doors had been locked during working hours, that that report would have been produced before you and you would have seen it in evidence.

Here you have the authorized officer of the law, the man charged with the duty of seeing to it that these doors are kept as required by that law being as I say present, and called before you and swears that the inspectors who made their various inspections in these lofts always found that those doors were kept unlocked. You will see the force of that, bearing in mind that every witness that was called by the People testified that in all the years, year in and year out, day in and day out, these doors, -- or rather the Washington Place doors, ~~ were kept continuously locked. You must find for yourselves as to whether a disinterested person, persons who are working for the State of New York whose duty it is to see that the law is absolutely com-

plied with, told the truth upon the stand; and you must say whether the people who came here, -- most of them with law suits, many of them because they lost their dearest relatives, closest relatives in that fire, -- and I don't charge to them anything that I would expect would not be regularly done, -- and I say as compared with the others mentioned in this case, compared with the sworn officer of the law, disinterested on both sides to listen to what they had to say by their reports, whether they are telling the truth.

Now then, I pass to the witnesses in the case. The next witness we called after the Commissioner of Labor, Gentlemen of the Jury, was this girl May -- I forget the middle name -- Leventine.

Now May Leventine has a law suit against Harris and Blanck. May Leventine has never been in the place of Harris and Blanck since the time of this fire. May Leventine was called upon as she testified by three people in the employ at that time of Harris and Blanck. She had told not only to them, but to the newspapers the manner in which she made her escape and what had happened in this fire. We called upon her; when I was called in the case there was no Counsel for the defendants, on behalf of Harris and Blanck -- she was called in and asked questions. Then she

was called by the District Attorney and the stenographer took down the statement exactly the way in which she said that she got out of the building at the time of the fire and what she knew of the conditions there prevailing prior to that time. She declined to make any statement to us. She got a call from the District Attorney's office as I say. She immediately went down to the District Attorney's office. At the District Attorney's office she signed a statement. I asked the District Attorney to let me see that statement. Up to the present time I have never seen that statement. Up to the present time you have not been permitted to know what was in that statement. But May Leventine told you from the witness stand that she was working there and knowing the place -- because it is impossible I will show you if I get a chance to refer to it, that the witnesses called by the Prosecution all sat in places where it would have been absolutely impossible for them to see this door -- and May Leventine sat on the ninth floor at the first row of machines from the Washington Place door facing that door. And she told you that on the occasion of the fire she ran to the Washington Place elevators; that she didn't know there was a fire; that she had heard a tremendous noise; that she thought the elevator dropped; that she ran to the elevator to see;

that she knocked upon the elevator door and that the elevator man did not come up; that thereupon she went to the Washington Place door, — and she was not a witness for us. Bear in mind that she has still got a law suit, for if May Leventine swore that the door at that time was open that would be the end of May Leventine's law suit, so she does not stop there. May Leventine says that at that time the key was in the Washington Place door. She turned the key. She went out into the hall. She looked down and saw the smoke, and she turned back and shut the door. Who impeaches May Leventine? They did not bring the stenographer of the District Attorney's office to say that she had ever said anything different. On the contrary they bring yesterday a gentleman by the name of Franko, -- the other man that they brought here, his testimony was all stricken out so I will pay no heed to that. They bring Franko who lost a daughter in the fire. And what did he say? May Leventine was first recalled and she testified to what she had said at the office of the Consul, the Italian Consul. Now the Italian Consul lost no daughter in that fire. The Italian Consul must be a man of some intelligence. The Italian Consul has lost no relative as Mr. Franko has that is very near and dear to him. Why did not they bring the Italian Consul here

to testify to that, to what May Leventine said. They don't bring him here. He would have no possible motive for telling only what he heard. But they brought Mr. Franko who says what? That May Leventine did not tell him she had gone out through that door. Perhaps she didn't remember to tell him that; perhaps she didn't remember to tell him that she had three children as she testified here. She probably didn't tell him that. It is not a question of what she didn't tell him. What was the fact? She told him that the facts were that she went over to that door and opened the door and she herself unlocked it, went into the hall, looked over the bannisters and saw the smoke and turned back; and then went down by the Washington Street elevator; not in the car. When she got to that elevator the crowd was so great that she could not get in; and it was the last time the car went down she believed so she got hold of the cable, and on that cable slid all the way down bruising and burning her hands and for weeks was confined to her bed.

I ask you Gentlemen of the Jury bearing all those circumstances surrounding her in mind, and all of these injuries which she sustained, and still having pending a law suit against these people, what is the motive of May Leventine in coming here and telling you as she did that

the key was in the door; and that she herself turned that key and that she went out into the hallway?

Now the next two witnesses we called or rather the next witness that we called was a girl by the name of Annie Mittleman, It would of course be asking you gentlemen too much to remember each one of these various witnesses but I wish you could remember them. Annie Mittleman told you that her sister had a table on the first row of machines from the Washington Place side, which is in the same row of machines that May Leventine worked at. That she worked at the row of tables that was four or five from the Washington Place side. That she came over to her sister's table after the power had been shut off. That while they were there and one of the girls had gone to get the clothes from the dressing room, at that time the noise occurred; and then they went to the Washington Place elevator and the elevator man did not come up. At that time May Leventine came along and inquired what it was and they said they could not tell. That May Leventine said that we will go to the Washington Place elevator door -- that is the place that May Leventine testified she went, and she says that then she went to the Washington Place door; and Annie Mittleman said that she does not remember which of these two girls turned the key but that the door was opened and that she went out with May Leventine, and she looked

down over the bannisters and that the door was open and she saw the flame and she saw the smoke and she saw the girls going down stairs, and fearing that she could not get down safely she turned back through the open door and told her sister who was standing there also that there was a fire; and that they went then and stood in front of the Washington Place elevator door until the elevator came up and stopped on the ninth floor and took them down to safety.

Now it may be said of Annie Mittleman is working for these people and possibly that is her motive. Well Gentlemen of the Jury if that is her motive and that is a sufficient motive, what about all these other people who have got these law suits? Don't you think that they also have their motive? Is it really to be said in this case now that this is one case where a witness is still in the employe of the defendants and for that reason she must be a perjurer.

Annie Mittleman was sent for by the District Attorney. Annie Mittleman went down to the District Attorney's office and made a statement immediately after this fire. It was only a short time after the fire when there was not anything at that time pending against these defendants, -- there was not any indictment then; nobody apprehended any such

thing as an indictment; and Annie Mittleman went down and made a statement to Mr. Bostwick. I ask You Gentlemen of the Jury have they called any stenographer to contradict her statement?

Now the next witness whom we called was Ida Mittleman. Ida Mittleman you will recall testified substantially as her sister did.

I want to call your attention to one thing with relation to these two witnesses: When they were asked whether they had ever talked to anybody in the family about this case they said "Oh, yes, constantly." Had they talked it over with their sisters and with their friends? Of course they did. When the Prosecution's witnesses were on the stand and two sisters in one family were being examined --I think it was the two Singer girls -- they testified, they stated upon this stand that they had never spoken about it to anybody, never had spoken to their mother, never had spoken to a living soul about it. Mind that gentlemen. Now consider who is telling the truth there or not.

The next witness, the one I want your particular attention to, is a witness by the name of Williamson. Now Williamson testified he is not now working for the defendants. Williamson is the colored day porter. Williamson testified that he used to go to work at eight

o'clock in the morning; that he then attended to the toilets; that he then went to each girl to get the girls' luncheon orders. And you will remember that he testified and told you that it took three men to bring them in and he described the basket that he brought them in and the place from which they were brought. Williamson told you that when he got through doing that, his business was to sweep and to keep that place clean during the day.

Now I call to your attention the fact that Williamson said that time and again he passed through that Washington Place door going down stairs and going up stairs; and I call your attention to the fact that Williamson said that that key to the Washington Place door on the ninth floor was always in the lock of the door. And Williamson said that on one occasion the string by which it was tied to the knob had gotten short, either worn out or was too short or something was the matter with it in some way and that Mr. Blanck called to him and told him that it was not right, that its fastening was insufficient or something so that it could not be used readily and that he stopped down and picked up a piece of lawn and tied it anew to the key and around the knob, and that is the way it was kept all the time.

Did anybody impeach Williamson? Williamson did go to the District Attorney's office; and Williamson made a

statement to the District Attorney. Was anybody called to say that he said anything different at that time? What is his motive, gentlemen of the Jury in coming here to commit perjury before you?

And I wish to call your attention with relation to Williamson and his testimony, and that testimony given by the Prosecution:

Girl after girl went on the stand and testified that they had never seen Williamson and they told you that there was not any such a man. Not by name they did not say that, it was not a question of failing to remember the name; but they said there was not any such thing as a colored porter on the ninth floor, that is what they said. There was not any man that came around to them to take their orders for luncheon, that is what they said. Did they tell you the truth or didn't they? That is the way to test these people and to compare them Gentlemen of the Jury. I commend Williamson to you as an absolutely honest man. And if Williamson's testimony is true, he told you that he swept by that Washington Place door every day; and he told you that every day he saw the key in that door. Did he tell you the truth or didn't he?

The next witness that we called was a man. That man Gentlemen of the Jury was a man by the name of Harris, --

also a colored man. Harris does not work for these defendants. He worked for them up to and including the time of the trial. Harris told you that he was a night porter. That he came to work at about a quarter to six in the evening; and that every evening the night watchman would wait until the employees were discharged from each loft; that the key to the Washington Place door was always in the door; that the night watchman had the keys to the Washington Place elevators; that the Greene Street elevators were fastened by bolts up and belts down, and that he had the key to the Greene Street door; and he told you that in the evenings he got three keys from a Mr. Alter, and that in the morning he returned them to Mr. Alter; and he told you that he passed through that door. I ask you gentlemen of the Jury, what is that man's motive? Has anybody impeached him? They brought an affidavit forward that was signed by him and showed it to him. He said every statement in that affidavit that Mr. Bostwick showed him was correct except one, and that is that the very last statement in the affidavit which was to the effect that Mr. Blanck had sent him to the District Attorney's office, and he said that was not so. He said he had received a subpoena every time that he went down. Did anybody contradict him on that? He said he told the gentleman before he signed

the affidavit that that statement was not correct; and the man said that it was of no importance, -- and neither it was; and he signed it. Did they bring the man before whom he signed to contradict that? What Gentlemen of the Jury are you going to say to Harris' testimony? And why should you say that he did not tell the truth?

Now I call your attention to the testimony of the next witness, a man by the name of Rubin. I don't know whether you recall Rubin or not. Rubin was a cutter on the eighth floor. Rubin was discharged quite some time prior to the fire. Rubin told you that he was the head cutter on the eighth floor. That his business, by reason of the fact that he was head cutter required him to go to the ninth floor and to the tenth floor. Rubin said that his table was right near the Greene Street side and that whenever he went up to the ninth floor or the tenth floor he always went by the Greene Street stairs. That was not very favorable to the defense was it? But he told you that his business on the ninth floor was right near the Washington Place door; and that this work he had to do caused him to go to get the goods that he had to use; and just as he went up stairs by the Greene Street stairs because it was near to him, just so did he come down stairs always by the Washington Place stairs; and that on no occasion did he

ever have any occasion for trouble in getting through that door or using any key on it because the door was open.

Gentlemen of the Jury, as to Rubin, a discharged employee, and brought before you under subpoena, and having no business connection or association with these two men of any kind, why, why do you say that Rubin lied to you under oath? What motive can he possibly have, can you possibly discover? I wish you could recall Rubin's attitude on the stand, and Rubin's appearance and say from that whether he was the kind of man that impresses you as being a perjurer.

The next man was Hyman Silverman. Mr. Silverman was in the defendants' employ, these two men for nine years. Then he opened a little cigar and stationery store over in Newark, N. J. Nobody thought of Silverman, and nobody thought of bringing him here as a witness. Silverman read that there were people testifying upon this trial that that Washington Place door was always kept locked. Silverman knew that for nine years he stood in that place on the ninth floor immediately in front of that door, and that that door was open. Silverman knew that every day that the key of the Washington Place door was in that lock. Silverman left his cigar store and stationery

store ever in Newark, N. J. and came over here without subpoena and said that he wanted to testify to what was true and he went upon the stand and testified and you heard him. Gentlemen of the Jury what connection has Silverman with these defendants? Gratitude? Yes. Worked for them for nine years and he ought to be grateful. Made his living through their industry, of course by his work and effort. But if a man were to commit perjury, do you suppose he would leave his little cigar store and stationery store, without any reason or any subpoena? He came over here and lost his time and went upon that stand and testified that he stood in front of that door for nine years. That he saw the foreman come in and go out, the superintendent Bernstein; that he saw the forelady go down stairs and come up through that door; that he saw Blanck and Harris and others go in through that door. Gentlemen of the Jury, did Silverman look to you like a man that was committing deliberate perjury?

The next witness whom we called was Edmond E. Wolf. I wish you could recall Wolf. Wolf was a manufacturer's agent, Gentlemen of the Jury, carrying Harris and Blanck's line as well as that of other manufacturing concerns. Wolf said that whenever he came to Harris and Blanck's

place he went up by the passenger elevator to the tenth floor. Apparently the passenger elevator never stopped below the tenth floor for Harris and Blanck's people although they did stop below the tenth floor for other people, other tenants in the building; but apparently from the testimony that is in evidence here they didn't stop on the eighth and ninth floors. He said that whenever he was there and he was there very frequently to see either Mr. Harris or Mr. Blanck, you remember how he described that he had very frequent occasion to go downstairs to either the eighth or ninth floors. He is not now in their employ and has not been for months, he testified, by carrying their line, the line of goods sold by Harris and Blanck.

I do wish that you could recall Wolf's appearance on the stand and as to his manner of testifying. He told you with positive recollection he did not ever more than four or five times go down by the Washington Place stairs. He did remember the last time that he went down that there was a light on the Washington Place stairs; and that that was the first time that he had ever seen a light on the Washington Place stairs; and you will remember that the testimony in this case was that the light on the Washington Place side was only put in about ten days before the

fire. That is the testimony of Mr. Stern. Was Mr. Wolf lying? Is Wolf a perjurer? If Wolf said the truth then who else is telling the truth? Did he tell the truth or didn't he?

The next witness whom we called was Samuel Bernstein. Now as to the witness Bernstein, Gentlemen of the Jury, I want to call your particular attention to his testimony. Bernstein as he testified was the Superintendent. Bernstein's duties put him on both the eighth and the ninth floors and everybody testified to that, all of the other witnesses, even the People's witnesses, testified that he was the manager and was on both of those floors. He testified that he had constantly to go from the eighth to the ninth floor and from the ninth to the eighth floor; and that he had to do that is undisputed in this case. Bernstein told you that as he must naturally be all over both of those lofts, he could not have been the superintendent and manager without being.

Now he told you he could not begin to tell you the number of times every day that he went from the ninth to the eighth floor and from the eighth to the ninth floors; and he told you that it was by the Greene Street side and by the Washington Place side indiscriminately dependent upon where he was. Did Bernstein lie?

Bernstein lost a brother in that fire, gentlemen of the Jury and he lost other relatives. He is related to these two men by marriage. Their wives are cousins and he is their uncle. I ask you gentlemen of the jury if for their wives, would he come here and lie and say that that door on the Washington Place side was locked always or unlocked always; when he has claimed that by reason of that fact that that door was locked his brother was killed?

You know Jacob Bernstein his brother is the man who is supposed to have jumped around like a wildcat, Jacob Bernstein is the man supposed to have been seen dying in front of that door. Do you think there is any motive in the world that would have induced Samuel Bernstein to come here and testify before you, that every day including the day of the fire, he went up and down those steps innumerable times, and that the door was always open? You remember Bernstein's description of the fire itself. Is there any question that that moment was a solemn one with Bernstein?

Mr. Bernstein showed a little temper on cross examination, exhibited a little temper and Mr. Bostwick did too. This is what occurred: He was asked whether he didn't come down before the Grand Jury; and the insinuation was that when he got there, that he came there for the purpose

of influencing witnesses; and his answer to that was no, that he was trapped to come down. He said he was served with a subpoena, and he pointed out the man in this room who served him with the subpoena; and then he said while he was there a girl came over and he did have a little conversation with her but that conversation had nothing to do with the case; and Mr. Whitman came in and got angry at him and ordered him out and said he would punch him in the jaw and that is not all that Mr. Whitman said, you remember how that that question was bellowed at him by Mr. Bostwick -- yes bellowed is the word -- why you knew he said yes that he would fire him out of the building and he would do worse, he more than threatened to punch him in the jaw. Whitman is in this building, Has he been produced to deny what Bernstein said? The young man whom he pointed out as having served the subpoena up there before the Grand Jury was in this room day after day. Has he been called to deny what Bernstein says? Is there a doubt in the world but all these men were subpoenaed to come time and time again to the District Attorney's office, and after to the District Attorney's office to the Coroner's Jury and after the Coroner's Jury to the Grand Jury. Now gentlemen of the Jury with every motive for hating these people unto

death, this man Bernstein comes here and tells you that that door was always unlocked and that he used it even after the help was discharged in the evening. What are you going to say to the evidence and to the proof when you are considering whether or not that they proved beyond a reasonable doubt that that door was locked?

The next witness that we called was a girl by the name of Gussie Rapp. Gussie Rapp told you she was forelady on the ninth floor, of the first two tables by the Washington Place door. She said during the day time, time and again she had to go to the eighth floor to get materials. That was not contradicted. Gussie Rapp told you she used the Washington Place stairs, she used the Washington Place elevator, and she used the Greene Street stairs; and that the Washington Place door was always unlocked and that the key was in the door. I want to withdraw that statement, what she did say was she said that the door was always unlocked -- no that was not it. She said this: That there may have been, she has no positive recollection of it, that there may have been a time when that door was locked when she came to it, but if it was she simply had to turn the key and pass through. This was her testimony. But a great majority of the times she knew positively that she had passed through that door and used no key. Now gentlemen of the Jury

that was the statement of Gussie Rapp. They talked about bringing the stenographer to contradict Gussie Rapp. Gussie Rapp told Mr. Bostwick that she said the same things to him in his office, and that remains uncontradicted up to this time as they have not called any stenographer who took any statement and although that statement was called for by me. What are you going to do about the testimony of Gussie Rapp? I wish you could just recall her for a moment, it is too much to expect you gentlemen to recall every witness, but I do wish you could recall her and her manner of testifying and her behaviour upon the stand.

Now the next person that I called was a girl by the name of Ida Cohen -- Willinsky. Her name was Cohen then but now it is Willinsky. That girl worked on the eighth floor and not on the ninth floor. That girl has never been in Harris and Blanck's place since the day of the fire. She was brought down here by a subpoena. She told you gentlemen of the Jury that when she first saw that fire she was on the eighth floor; and she described the place where she saw it. She said she went to the Washington Place door and she said that a crowd of girls got up there by the Washington Place door and that she reached the door first and had her hand on the knob

and that the girls were pressing her so hard that she was afraid that her face would go through the glass and that she begged and begged and pleaded with those girls to give her an opportunity to open that door; but they would not. They screamed and crowded and pushed her up against that door. Mr. Brown came over, and Mr. Brown had to push the girls back and Brown told you how after pushing the girls back he got hold of that door and pulled at the door and that he had to keep crowding the girls back because even while he was opening the door in their great anxiety to get out, that they crowded, almost crowded the door shut again. What in the world would be Ida Willinsky's motive, Gentlemen of the Jury, to come here and lie? She is not working for these defendants and has never been in their place of business since the time of the fire. Is there any question, Gentlemen of the Jury that that girl told you the truth? Isn't it your experience that as everybody knows that not only with panic stricken girls, but with most grown up women or trained men those of careful thought, when in contemplation of death being visited upon them by the burning flame, is not that your experience? Why do you remember the testimony of Chief Worth. He said that flame and that smoke as I saw it approaching the windows on the eighth floor was the kind that creates

panic, deprives people of their reason and makes them insane. You ask these girls, pursued by these flames at that time to use reason. It is impossible. The panic drove them. The panic kept them at the door; and the panic prevented it being opened; and if Brown had not gotten there and crowded those girls away from that door, that door would not have been opened any more than the one up stairs after they had once gotten to it as they did in this case.

Now the next witness that we called was a girl by the name of Yetta Kreitzberg. Yetta Kreitzberg worked on the tenth floor in the shipping department. She said every day she had to go to the ninth and the eighth floor at least ten times a day. She said that she used the elevator going down, that she used the Greene Street stairs, and that she used the Washington Place stairs and that she did that every day for a number of years.

How Gentlemen of the Jury what is Yetta Kreitzberg's motive? Why should she come here and commit perjury? She told you she always found the door open or at least so that by turning the knob she could get in or out. You twelve men are here to say whether that door was that way, whether that was true, and whether it has been shown beyond a reasonable doubt that it was kept locked. You have to say that. Now there could be no mistake on the

part of Yetta Kreitzberg. Yetta Kreitzberg said that she went down these steps directly opening the door on the ninth and the eighth floors. She is either a deliberate perjurer or she is telling the absolute proof. Do you believe that Yetta Kreitzberg would come here and create a deliberate lie, and make herself a perjurer. I wish you would remember her also so that you could picture to yourself just whether you think she is a perjurer. I could not ask you to keep them all in mind, each witness. But I probably knowing that I would want to again refer to them was a little more careful in that regard, I knew that I was going to talk about these things and so perhaps in that my I was able to keep it before me better. But I wish you could remember her and her manner of testifying on the stand. Has she been contradicted? She went down to the District Attorney's office. She made a statement. Have they brought any stenographer to contradict her.

Now the next witness that we called was Lena Handschuh. She was the forelady. She worked several years on the eighth floor and worked several years on the ninth floor. She said that every day that she worked in these premises, by reason of the fact that she was the forelady she had to go up on the ninth floor, she said that she went from the eighth to the ninth and from the ninth to the tenth

and from the tenth to the ninth. She said she used the Washington Place door.

Now there was a terrible impeachment made of Lena Handschuh. She went down to the District Attorney's office and made a statement to the District Attorney, and the statement was signed the same as the others. It was made within four or five days or immediately after the fire anyway. Not that there is any great discrepancy in this case, but the District Attorney says that the statement that she made to him is different than the statement she made on the stand. She said on the witness stand that the key of the Washington Place door was in the lock. She said she passed in and out of that door. That is all conceded. But says the District Attorney, has your salary been raised since the time of the fire? Yes, two weeks ago. Now by God they kept pretty good track of Harris and Blanck. Yes, it was raised. How? Well, I left their employ; a man offered me \$25. a week and I worked and was getting only \$18. There is not one of those girls that would not leave in a minute for an advance of 50 cents, and I don't blame them for it either. I am not saying that by way of criticism at all. Every one of those dollars means a great deal to one of those girls and when it came to the question of between \$18, and \$25. she went, and then these people to get her back,

when she came for her salary and explained why she left which was the first knowledge that they had of it, they gave her the \$25.

With all the power of the District Attorney's office, that it has command of, she named the man who raised her salary to \$25. That man sat in the Court room yesterday with Mr. Bostwick. Was there anybody called to contradict Lena Handschuh that this man had offered to give her \$25. a week and for that reason she had quit us? Does that prove that Lena Hadnschuh lied? Where is the terrible impeachment of that girl, when you come to pass on whether or not those doors were opened or closed that you cannot believe her testimony.

The next person we called as a witness was Louis Sederman. Louis Sederman sprang upon us that the hose was rotten, he would have said that the hose was rotten if it was the last expression he ever uttered in his life; he was bound to get that in if he got nothing more in. But he testified that he was assistant shipping dark and that it was his duty to go down on each floor so many times that he could not begin to tell about it; that he went down both of these stairways and not by the elevators.

And he told you that on the occasion of the fire that he heard about it and then went to the eighth floor; that he

found Samuel Bernstein on a table and the people bringing the fire to him and he pouring water upon the fire. And that when they were not able to put it out that way that he ran to get the hose and he started to turn and there was no water; but he said the water wouldn't have done the least bit of good anyway because the hose was rotten. Now Gentlemen of the Jury he went to the District Attorney's office and he made a statement. Has he been impeached?

The next witness that was called was a witness by the name of Louis Brown. You will remember Brown the machinist; and you will remember that there was a reference made to his statement. Brown told you that every day he went up from one floor to the other and that it depended upon where he was as to whether he used the Washington Street stairs or the Greene Street stairs. That was apparent to you I am sure, Gentlemen of the Jury. He told you that the key was in the lock and then you will remember Brown's statement that at the time of the fire that Brown said that he was called over there to the door and he thought perhaps that the door might be locked because he had seen these crowds at the door and the door not being opened and you will remember his having said that when he had gotten through, when he had pushed his way through that crowd how he thought perhaps the door

had been looked and the first thing that he did was to turn the key, and it would not turn, because the door was not locked. He then took hold of the knob, pressing these girls back and pulled at the door until the door was opened and every girl got out.

Now Gentlemen of the Jury, I want to call your attention to two things particular about Brown's testimony. The first is this, that I wish to call your attention to: That one of the girls on the stand said that she saw Brown pull the whole door knob right through the door. You remember that testimony. But what I wish to call your particular attention to in Brown's testimony is this. You know that as part of our case and in order to make it appear that Annie Mittelman and that Mary Leventine were honest girls Brown should have sworn that at the time when the girls were passing down from the eighth floor that the smoke and flame were in the hall, because you remember that in the statement of Mary Leventine she said that the reason why she went back and did not with Anna Mittleman go down the stairs, she said the reason why she went back was because she saw smoke and flame in the hall. Now Brown is in our employ. That, perhaps, ought to give us control over Brown. Brown was the fellow, you know, who would not tell anybody what his salary was. Brown said when the girls were going down, that a girl

either fainted or did something like that on the seventh floor, and that he ran down and helped her, and then turned around and turned her over to a policeman; and that at that time that there was neither smoke nor flame. If we were cooking up testimony, and Brown testifying two days after the Mittleman girls and two days after the Levantine girl, if we were the kind that were making testimony, what would have been simpler than to suggest to Brown brown when you went down those stairs there must be smoke and there must be flame?" But No. What did Mr. Brown state? He said at that time there was neither smoke nor flame and that he turned back and ran into the loft. And Gentlemen of the Jury you will remember that everybody admits that the Washington Place door on the eighth floor at that time was wide open, don't they? And that every girl passed down through that door; that that door was wide open is the uncontradicted testimony in this case. And it is also the uncontradicted testimony in this case that two girls then started for the window and had actually gotten out of the window, and would have jumped in another second but that Brown got hold of one and a policeman got hold of the other and pulled them back into the lofts and saved them. Brown says further that at that time when he got that girl out, that the smoke and

the flame was so intense that he had to grope on the floor in order to find his way out. So Gentlemen of the Jury the pretence is that there was not any flame.

If you will just let me have that exhibit from the hand rails in front of the eighth floor door (Court Officer handing exhibit to Counsel.)

Well Gentlemen of the Jury if there was not any flame, where did that come from (Indicating). Now you know to burn it that way had to be some flame. That is hard wood; and you know how it rested on an iron and it was some, I think four or five feet from the door if there was not any flame, how did that get in this shape. There must have been some flame to have caused this to be burned this way. Do you believe that there was not any flame and that these girls were mistaken when they say that there was any flame outside at all and that when this door was opened that there was to be seen this flame down stairs, don't this kind of confirm that idea?

Gentlemen of the Jury, let me tell you this. During this trial a discussion arose as to whether my recollection of the evidence was correct, the claim being made by me that one of the witnesses had testified that in his effort, -- one of the fireman testified that in his effort to get from the eighth to the ninth floor he found the heat in-

tense, and that he had a struggle to get up from the eighth to the ninth floor and Counsel on the other side said that my recollection was wrong, and my objection was overruled on that ground, that that testimony was with relation to the Greene Street side. Since that time I have looked up the testimony and I find this to be the situation: That Capt. Worth testified that in getting up on the Greene Street side when he got to the eighth floor the flame was so intense that they could not pass it at all, that they had to come up on their bellies and to play the hose into the flame before they could themselves get up there. That at that time the Washington Place side flame was so hot that they were unable to get from the eighth floor, go up from the eighth floor and that in the endeavor to get up to the ninth floor that the heat was so intense that these firemen had a great struggle to get up there. Now Gentlemen of the Jury that will show you whether there was smoke and whether there was flame independent of this other testimony. That flame and smoke I would like to - I am now referring to the eighth floor and while I am speaking of the flame being in the hallway I want to call your attention and I will refer to the testimony of one or two witnesses.

Do you remember this young Alter girl, that is the stenographer? She said that she worked on the tenth

floor. She is related to both of these men, and her father is the man who has got charge of the tenth floor. She said that her typewriter was on an angle with the Washington Place door and she could see the people coming in and out on the tenth floor. She said that every day she used to go down from the tenth to the ninth and eighth floors.

Now Gentlemen of the Jury, there is a relative of both defendants. Her father and she make their living as a result of working for these defendants. You would naturally expect that in view of the fact that people were coming in and going out that she would say that they went down this Washington Place stairs altogether. Gentlemen of the Jury what does she say? She does not say that come in and go out only by the Washington Place stairs but that she saw them do that. Do you think that that testimony is truthful? She has been located there, working there every day in that same place every time she went down herself she said she went down by the Washington Place elevator. Why wouldn't she have said that she went down by the Washington Place door if she had wanted to tell anything but the truth during that whole period? But what she said was and it was important, and I think you will remember it and it

bore the imprint of truth and it was this: That when she heard of the fire and as she was on the Washington Place side and had gotten to the Washington Place door she opened the door and there was the flame and the smoke, a volume of smoke, and she said on her direct examination and she said the same thing on her cross examination, how she ran away from it. Did that girl lie? On cross examination Mr. Bostwick said to her "Are you sure it was flame?" I remember her attitude on the stand and she said "As I looked over the rail I saw a great volume of smoke and I saw a red streak." And he said "Do you know that it was not a reflection?" She said "I know it was a red streak, it might have been a reflection." Do you think that little girl told you the truth? Well now if it was a red streak from the tenth floor, how about May Levantine and Annie Mittleman seeing it from the ninth floor?

The next witness I called was a fellow by the name of Greenspan. Greenspan was the man that created quite some fuss and was going to be contradicted terribly by the man who swore him to his affidavit and who was brought into the Court room and that man did not become a witness upon this stand; I think his name is Sheridan. He was the man that claimed to have sworn Greenspan to the affidavit.

But aside from that Gentlemen of the Jury, Greenspan testified that he was a machinist on the ninth floor. Not now in our employ. Absolutely no motive for his testimony. Greenspan went down to the District Attorney's office and made a statement. Greenspan's statement is in evidence before you. You look at Mr. Greenspan's statement and see if an examination of it by you twelve men do not find that it is precisely what he told you here, and that what he said is absolutely correct.

Gentlemen of the Jury, two girls went on the stand who were the Prosecution's witnesses. I don't know whether that circumstance is clear to your memory or not but one of them, a girl by the name of Anna Guillo came in here and told you that she worked on the ninth floor and had a seat on the Greene Street side. She said she ran over to the Washington Place door. Why, I ask you, why did she go over to that door because she was right near the Greene Street entrance, why did she leave that? When she got to the Washington Place door, she left the Washington Place door and whom do you suppose she saw at that Washington Place door? She said the person whom she saw there was Willie Greenspan. Now Gentleman of the Jury so that there may be no question about that, and I consider it very important, would you loan me your first

volume of the testimony just a moment.

THE COURT: You can have my copy (Handing same to Counsel.)

MR. STEUER: Thank you very much, Judge.

THE COURT: Would you like to have the balance of the testimony?

MR. STEUER: I will call for it a little later if I have time for it. I want to read to you Gentlemen of the Jury: "Q. And you got to the Greene Street door so that you could get through safely and still went down the Greene Street steps? A. Yes. Q. When you saw Willie at the door -- the machinist -- didn't you follow Willie when he left the door? A No."

Willie the machinist was Mr. Greenspan.

"QV What did you see Willie do at the door (Referring to the machinist)? A Trying that door."

Now I will show you another witness of the Prosecution, Katie Weiner said that it was Willie at the door: "Did you see the machinist on the ninth floor near the Washington Place door? A. Yes, sir." I am reading from page 586. "Q. What is the machinist's name? A. Well, his first name is Willie, and I think his second name is Greenspan or Winstropf."

What did Willie Greenspan tell you? This that I

have read from Gentlemen of the Jury was from the testimony of two witnesses called by the Prosecution who hadn't mentioned on their direct examination that they ever saw Willie Greenspan at the door. Willie Greenspan said that he was at the sink on the ninth floor. When he heard the cry of fire he looked round and that afterwards he saw the flames; that he went to the Washington Place door, that he opened the Washington Place door, that he never got any further, that when the Washington Place door was opened he was struck in the face by the flame and smoke, and he saw the flames and he went away, and he got out by the Greene Street door. Has anybody contradicted Willie Greenspan? If Willie Greenspan told the truth, was that door open or was that door shut?

The next witness which we called was a girl by the name of Rose Rosenfeld. Rosie Rosenfeld was an operator on the ninth floor who sat near the Washington Place side. She said she had worked for the forelady and had assisted her by going down stairs and getting work and bringing it up and sometimes she worked afterwards for a couple of hours on the eighth floor. She said when she went with the forelady she went down by the Washington Place stairway, Mr. Bostwick asked her "Did you make a statement to Mr. Koenig" and she said "Yes" she did.

“Did you tell that to Mr. Koenig? A. Yes, I did.” Has Mr. Koenig been called to contradict her? What are you going to say about that, about her testimony when you come to consider her testimony, was she reasonable in her testimony, did it have the ring of truth?

The next witness that we called was Nathan Salub. Now Gentlemen of the Jury, I call your particular attention to the evidence of Nathan Salub for this reason, that an effort has been made to contradict him. Nathan Salub was the night watchman that worked two years as a presser and afterwards he became a night watchman up until the time of the fire and he has told you what his duties were as night watchman. He said that at night when he got to work he was stationed at the Greene Street door and would look at the girls wallets or pocket books as they have been called in this case as they passed by. After this he would go over to the Washington Place elevator doors; that he would lock those doors; that he went first and got the key up on the ninth floor, he got his keys from Mr. Alter; that he would then lock these Washington Place doors, he would lock those doors, that he would turn the key in the Washington Place door and leave it there; that he would lock the elevator doors at the Washington Place. That is was his invariable and uniform custom

to lock that Washington Place door every night after the help had gone. That he would then go over to the Greene Street side and lock up over there and you remember how he said he locked the elevator doors there. After that he and the colored man Harris would sweep up and clean up on the eighth floor, and then go up on the ninth floor and when finished they would wait for the morning for Mr. Alter to come; that they would turn over the keys after he had unlocked the elevator doors on the Washington Place side; that he would unlock the door on the Washington Place side and leave that key in the door; that he would unlock all the doors and that he then turned over to Mr. Alter the keys to the Washington Place elevators and to the Greene Street door.

Now he was asked whether he made a statement. "Yes, I did. Q. Where? A Two men called on me at St. Vincent's Hospital." At that time he was still confined to his bed. He had been there ten days or so or it might not have been as long as that. This job of night watchman is not the finest plum in the world; there are one or two jobs in this world that are better. He was still in the Hospital after he had been injured in this fire suffering with a severe injury because he too went down the cable and he was in the hospital for weeks; that was maybe ten days after the fire or it may not have been only three

or four. I don't recollect the exact time but he was still in St. Vincent's hospital and they came up there to see him at the hospital and took his statement. His statement was taken by a stenographer and by an Assistant District Attorney. The Assistant District Attorney was not called. Do you think if the stenographer, do you think that this stenographer could act as an interpreter (Pointing at the stenographer) Don't you think he is a pretty busy man when he is taking down question and answer? How many men do you think can take down question and answer in the City of New York in the way in which lawyers usually talk and examine witnesses?

But Nathan Salub's statement is absolutely true. If you don't think so take his answers to the questions put to him, go over them carefully, his statements here and what he testified in his previous statement, the statement of Nathan Salub, and you will find that the statement at the hospital was precisely the same as his statement was upon this trial. I ask you Gentlemen of the Jury, did Nathan Salub tell you the truth or didn't he? If he didn't tell you the truth about these doors, were they locked or open?

I want to call your attention to this statement from Mr. Bostwick's opening address when he was telling you

what he was going to introduce in evidence. I want to also call your attention to his change of tactics after he heard some of the evidence and I don't think you will have any more doubt that that door was open. There was a question asked of the witness, it was asked of all the witnesses as to how they went out at closing time. And the pretence now is not that these girls told the truth that the door was always locked, it is a clear and entire change of front now. It is this that they were locked just before the help was discharged. Well Gentlemen of the Jury, nobody has testified to that. On the contrary those girls all testified that they never saw a key, that the door never had a key and the door was always locked without a key; that there was neither a key in it nor had anybody applied a key to it, that is the testimony for the Prosecution. There is not any pretence that anybody locked that door just before the help was dismissed.

Now the next witness which I called was Frank Pasterneck. Since the time of the fire Pasterneck has never been near the place of the defendants, Harris and Blanck. He has been subpoenaed to come on the stand and he has testified that he worked at a machine two tables removed from the Washington Place door. He said that day after day he saw people come in that Washington Place

door: Mr. Bernstein, the foreladies, Mr. Blanck and Mr. Harris, He said there were not many people came that way and nobody went down so as to go to the street that way. And why would they choose to go on that side, through those doors and down those stairs? Gentlemen of the Jury, it is conceded that the Washington Place stairs had no artificial light. There was not a window on the stairs. There was no electric light until ten days before that fire. I ask you if you were choosing a stairway to go down in that building at a quarter to six from the eighth or the ninth or the tenth floors, would you choose the stairway that had no window, the stairway that had no electric light, would you choose the stairway that had both the windows and electric light? Who did walk down those stairs at all? Did the working girls, the working people, did they walk down those nine flights, would they choose to walk down those flights of stairs or did they use the elevators, which do you think? There was not a reason for using that Washington Place door going from the eighth or ninth or tenth floors to the street. The suggestion is absurd. It never has been claimed that these stairs or this doorway was used for the purpose of going down to the street on our behalf, the elevators are there for that purpose.

The next witness we called was a girl by the name of Eva Kaplan. Eva Kaplan stated that she never used the door in the winter time. She said she did use it in the summer time, she went both to the eighth and the ninth floor through that door in the summer time. She said in the summer time the door stood wide open.

Here let me call your attention to something about Mr. Bostwick's case. Mr. Bostwick knew what his testimony was going to be if ever a man did. I have not the testimony to refer to it but I have it in mind now that in his opening Mr. Bostwick said that in the summertime that door stood open, but when he called his witnesses every one of those girls say that even in the summertime that door was never open. And what is more remarkable still, one of the girls said that she worked for three years in front of the fire escape windows and that the windows were never opened; she never even tried to open it; she never saw whether it opened easy or hard; and she tried to pretend that there was a rule even against opening the windows in the summer time. And yet the evidence is here that in front of each of those elevators and of those entrance doors a partition was built there and that was done at the request of these girls in order to keep out the draught. I call your attention again to the testimony of

Williamson, that time and again the girls asked him to shut the door on the Washington Place side; and at the request of the girls he did shut the door. And do you remember that Eva Kaplan when she was on the stand said that she never saw the door -- never used the door in the winter time but that it stayed open in the summer time and that it was opened in the summer time. Well now I ask you who was telling you the truth in regard to that matter. What was her motive in this case?

The next witness was Louis Alter. Mr. Alter told you that these keys were always in his custody; that the keys to the Washington Place doors and the keys for the Greene Street doors, and that the Washington Place stairway doors were always in the lock. Did that man impress you as being a liar? Did he impress you as if he was bringing his daughter up in a God fearing way? Did he look to you like a man that was telling you the truth or not? You are to say that beyond a reasonable doubt it had been established that that door was always locked.

The next witness whom I called was Edward Markowitz. Markowitz was a shipping clerk. Markowitz told you that day after day he had to use these stairs and that the great majority of times he used the Greene Street stairs; that he also used the stairs at the Washington Place side and that he never had occasion to use a key and never

carried a key.

Now I wish to call your attention to a point in Markowitz' testimony and I would like it you would carry it with you. It is uncontradicted in this case, --and on the contrary I shall read to you if I get the chance from the testimony of Capt. Worth and show you that Capt. Worth said the same thing that Markowitz did. Capt. Worth's exact words were "That on the ninth floor the fire was raging fierce from the west to the east." I don't know whether you recall that instance or not. If there is any doubt about it I would be glad to have it looked up and read it to you that he said the fire was raging from the west to the east. You will remember that the east is the Greene Street side; and you will recall that the west was the Washington Place side where the door is. Now Markowitz said that after he had heard there was a fire he ran down to the ninth floor from the tenth floor. Markowitz told you that he stood, -- and he pointed out the spot, right inside of the Greene Street entrance where he stood. And while he was standing at the Greene Street entrance at that time Markowitz told you that the flames were coming from the west to the east and that he told the girls to go up and down as quickly as possible. Now the purpose of my calling your attention to that Gentlemen of the Jury is that it is not the fact as contended by Mr. Bostwick

that on the ninth floor the fire came first to the Greene Street side and from there to the Washington Place side; but on the contrary Chief Worth testified that he was standing on the sidewalk or in the middle of the street, and that he observed the directions, and that when he was looking at it a minute and a half after the alarm was sent in, that all of the windows on the Washington Place side, that at all of those windows the flames were pouring forth; that he had in mind the location of the Washington Place stairs and that the flames were going up, that the fire was travelling up these Washington Place stairs, and that is Chief Worth's testimony. Does it corroborate Annie Mittleman's testimony or doesn't it? Does it corroborate Mary Leventine or doesn't it? Does it corroborate Mary Alter? Chief Worth was called by the Prosecution. Do you think that he would lie for them. Worth testified also that the flame travelled from west to east on the ninth floor. Do you think he wanted to lie about that too? Markowitz testified that the flames were travelling from the west to the east and he stood in the Greene Street door and he even testified to the place where he stood, to the spot; and this witness Markowitz came down he said, and stood in the Greene Street door and passed the girls out.

Now Gentlemen of the Jury if he came from the tenth floor to the ninth floor and walked into the Greene Street door and he was standing right there by the door, where were the flames? Were they at the Greene Street Side or were they at the Washington Place side.

Now the next witness I called was Dora Tiger. Dora Tiger said that she was at the second table from the Washington Place side facing the Washington Place door. And Dora Tiger said that day after day she was called upon to go down stairs and bring up work; and that frequently she went several times from the eighth floor to the ninth; that she used the Washington Place stairs and that she used the Greene Street stairs; that the door was always open; and that she worked there three and one half years and that for those three and one half years that she worked in that place that that key was in that Washington Place door. Did Dora Tiger lie to you? She was down to the District Attorney's office and made a statement. Did you hear anybody called to contradict her? What is her motive in testifying falsely under oath?

The next witness whom I called was Theresa Elbaum. Theresa Elbaum is a girl who has never worked for the defendants since the time of the fire; she has never been in their place since the day of the fire. She told you she worked in that place as the forelady and that

frequently as the forelady -- that altogether she had worked for them about five years on the ninth floor and that frequently she went in and out of that Washington Place door. That she used that Washington Place door and went up and down through it from the ninth to the eighth and from the ninth to the tenth floor. Gentlemen of the Jury, that girl has not worked one minute for these defendants from the time of the fire. What is her motive in coming here from her work, coming here in answer to a subpoena, coming into this room and going upon that stand and giving the testimony which she gave. What is the motive for her to come here and deliberately commit perjury before you twelve men? You are to say from her testimony beyond a reasonable doubt, whether during those five years that door was opened or shut and that she went out through that door on that day of the fire. What would be her motive, her intent in coming here and testifying that way because really many of them think that they are trying their own case for damages. They think it is the foundation for their own case where they are suing for damages. It has not anything to do with that however. But they believe and you Gentlemen know by this time that Harris and Blanck are sued for a great many hundreds of thousands of dollars in these suits that are brought

against them. If they are acquitted so that charge is not to be laid up against them, it will make a great difference they think with their cases. If they are convicted of a crime it would show, when the conviction was introduced in evidence, it would have a bearing upon the weight of credence that would be given to their testimony in the civil suits. But as a matter of fact these civil suits and this trial are in no way connected. This girl who has been called here, in this particular instance has not been in their place since the day of the fire. Would she come here and tell you that that door was not locked and that the key was in the door for five years while she worked there if it was not true? What is her motive? Her salary has never been raised because she has not been working there; she has not been in the place since the date of the fire.

The next witness called upon behalf of the defendants was Peter Wortman. I have no doubt in a general way you remember Peter Wortman. Peter Wortman was the fellow that lost his voice when he come to the Court House. Now Peter worked on the tenth floor and he had business that called him down to the eighth floor and he had no business to go to the eighth floor, no business that the boss knew about. He said every now and then he used to slip in and see his girl. Gentlemen of the Jury when

that slip in came out do you think Peter Wortman was telling the truth or not? Did he slip in or didn't he? Now he worked right near the Washington Place side. You don't think he took much of a chance going all the way across from the Greene Street side to slip in, that would not be a case of slipping in, that would be a real march, and he would be seen by somebody no doubt. Now I ask you did Peter Wortman tell the truth or didn't he? It seems almost cruel to jest about this affair, and I am not jesting, I am doing the best I can, I am most serious and I am doing it seriously the best that I can and the best that I know how to call your attention to the great weight of the evidence and we have been bringing it to you here from the four corners of the earth in order that you may know the truth about that door.

The next witness that we called was Ida Okan. As regards the testimony of Ida Okan, that is the testimony about which there has been an attempted impeachment in which they called in the stenographer and every word that the stenographer of the District Attorney said that she said was corroborated. In this case the testimony was taken by the Assistant District Attorney Ellison. Assistant District Attorney Ellison was the man of all the Assistant District Attorney's Assistants that I have seen here the least. He has graced us with his presence only once. He was not called. What happened? Ida

Okan testified on the stand that she worked from the ninth floor and that she used both the stairways on the Greene Street side and on the Washington Place side; and time and again she went to the tenth floor to assist in the work there and also to the eighth floor. When the stenographer of the District Attorney was called to contradict Ida Okan, what did they tell her? Mr. Ellison had asked referring to the statement as taken by the stenographer, whether at the time of the fire she tried the Washington Place door and Ida Okan said no that she sat right near the Greene Street door and that she went out by the Greene Street door. There was nothing brought out in the testimony adduced by the stenographer that differed materially and you will remember that after he had got through reading his testimony of what she had said that I asked him if that all related to the day of the fire and he said yes, sir. Do you remember that? If you don't, it is your privilege to have it read and I tell you gentlemen that I do not make a statement to you that I do not absolutely think to be the fact; I have followed this pretty closely and I think that I have it pretty well in mind as you must have seen. And furthermore I have said to Mr. Bostwick that if I made any statement to you gentlemen that was not borne out by the fact that I begged of

him to interrupt me because it wont serve my purpose in this ease to make a false statement to you. I cannot hope, even if I wanted to, even if my motives were corrupt, I cannot expect to fool twelve men and to get away with it. I might try with one if I was that way disposed to, not with twelve intellects all belonging to bright intelligent men who have been following this case stage by stage as you have.

I think Miss Okan testified that she went up and down these stairs and that she used these Washington Place doors. What is her motive? What is she getting for this, for testifying this way and what are the several people who have taken this witness stand and testified as they have doing this for, what it their motive? If it is not true they are uniformly being charged with perjury.

Now the next witness that I have called was Michael Iacovella. Michael Iacovella worked on the tenth floor and he said that in all the time during all the time of the strike which was for five months did he go down to the ninth and eighth floors and it is one of the contentions, that at that time the doors were open. Do you think that he is telling the truth? I want to ask you whether you doubt in your mind that Williamson's testimony when he told you that they put a phonograph in at the time of the strike on the ninth floor and that the

girls used to come up from the eighth floor and listen to the playing that when he went to Mr. Blanck and complained to Mr. Blanck about it that the girls coming up that way was causing him extra work by their leaving of their orange peels and their banana peels and luncheon refuse on the stairs, and that all of that made him so much work that he complained to Mr. Blanck and that as a consequence Mr. Blanck put in a phonograph on the eighth floor, as to that do you think that he was telling the truth or not. Is it the truth that Blanck did put in a phonograph on the eighth floor. Why do all of these girls that went in through that door go on the stand and testify that they have not been through it, that they never saw the Washington Place door open? If they wanted to tell you the truth, why did they say that?

And while I am going along I might mention one circumstance that one girl went on the stand and thought that she could so far fool twelve men that she said that all the colored man did was to stand in front of Mary Lowenthal's desk and sweep and sweep and sweep right in front of Mary Lowenthal's desk. Do you think that that witness was a truthful witness, that that witness was telling the truth?

The next witness that I called was Dinah Lipschitz; and Dinah Lipschitz testified that she was related to these

defendants. Now Dinah Lipschitz testified that she worked on the eighth floor and she said that she was talking to Mr. Bernstein and talking about the price that she would mark the pay of one of the girls which had just come into their employ and had worked only a few days when somebody I think she said it was the sister of one of the defendants, Eva Harris came running forward and said to Mr. Bernstein that there was a fire. And Bernstein told her to use the -- that instrument the name of which I don't seem to be able to master, at any rate he told her to use that instrument, I think it was the telautograph at any rate that instrument that writes out the message and that no information came back, she could not get into communication with them, that she did not get any answer and that then he told her to try the telephone and to telephone to Mary Alter and tell her there was a fire. She told you that she used the Washington Place stairs but not as frequently as the Greene Street stairs but that she used them if she was nearer to the Washington Place stairs she used them instead of going clear across the loft. She told you that she worked both on the eighth and the ninth floors, for years she had been working in that room, I think she said for five years all told and she said that the keys in the Washington Place side were always in the lock. Did she lie? Dina Lipschitz went down to the

District Attorney's office two days after the fire when there was no indictment or anything of that sort and when there was no thought of any such thing as an indictment or anyone having to go on the stand and there has been no attempt to say that Dinah Lipschitz didn't tell the same story down there then as she said here. Did Dinah Lipschitz tell the truth?

The next witness whom I called was a man by the name of Sam Oranstein, Oranstein said that he was there five years and that he sat at the second table on the Washington Place side; and that during all the time he saw Bernstein the Manager, the foreladies and his employers, all of those go through that door.

I have no doubt that I am wearying some of you gentlemen but I have got a duty to perform and I am only performing it in the way that I see it; and I am going to ask you to indulge me until I get through. If I were in your place I presume I might feel as some of you gentlemen do. If this transaction does not go as I want it to I will not have it said that in the time that was allotted to me I did not do all that I could. And if I were in your places I presume that I would feel much as you do.

Mr. Bernstein was the next witness whom I called. He and the witness Eva Kaplan were the only employees. I call your attention to the testimony of Bernstein for

this reason, because that on the stand the District Attorney attempted to impeach him by culling, you will remember the case, the interpreter who said he would recognize him anywhere, and also calling the stenographer.

Now Bernstein testified to this: He said that he was a sleeve maker and that his table was to the right and is immediately in front of the Washington Place door; that you could not come by or through that door without his seeing you if he was looking, of course if his head was turned away why he might not be looking, if he happened to be looking in another direction but that he was sitting with his face so that no one could come in or go out without passing into the view of Bernstein providing he was looking.

He said he used that door on several occasions under these circumstances -- and he said, and by the way I will call your attention to that Gentlemen of the Jury that it has been stipulated in this case that it is a fact and I think it is only right that I should state it to you at this time that it was a fact on every floor in these various lofts there were signs posted in Yiddish, in English and in Italian Languages that smoking was prohibited. That is correct, isn't it Mr. Bostwick.

Now Bernstein said that during the lunch hour he would go out of the Washington Place door and sit on the stone

steps and there smoke. He said on one occasion he was called to the telephone, or received a message rather that was delivered to him, that his boy was sick. That he went up to Mr. Blanck and asked Mr. Blanck, whether Mr. Blanck could not send a physician. That Mr. Blanck did send a physician to his house and that after the boy got better he went up to the tenth floor to see Mr. Blanck and to tell him the boy was better. Do you think that story was manufactured for the purposes of this case? Do you think that Bernstein was induced by anybody to go on that stand in this case? If he has been what difference does it make? Is it possible that all of these witnesses to whom I have referred have also perjured themselves?

Now Gentlemen of the Jury, the people to whom I have thus far referred were all people who were in the employ some time of Harris and Blanck. I have referred to 34; of the 34, 18 of them were either employed up to the time of the fire and not been in their employ since the time of the fire and 16 have been in their employ since.

Now I call your attention to people who never have been in the employ of Harris and Blanck and I want to ask you what you think in respect to them? We called Isaac Stern. Stern is the man who supplies the steam heat to that building, and who is the Superintendent for Asch, the proprietor of that building. He said that he went to

our place of business frequently; three or four times some weeks, some times more and others less and that he often passed through the Washington Place door when he came onto that floor and that the door was open. Mr. Bostwick in some way said that this man Stern had got a motive. What is his motive? Why Stern works not for these defendants, he is working for somebody else. Has anybody suggested any possible theory upon which any such thing can be based. If the building was not properly constructed it was not up to Stern. Stern did not have the building built. Asch was the owner of the building. If the building is not properly constructed he is not answerable. For the resulting fire he is not in any wise answerable, then why is this man Stern shielding himself? Rotten hose! He has got nothing to do with that and yet if the rotten hose was responsible for the result of the fire then why are these two men on trial, it is conceded that they are not responsible for any hose. What is Stern's motive in coming here and committing perjury for these men when his boss has with these men a lawsuit, and they have refused to come back to that loft and litigation with his boss has ensued in consequence. What is Stern's motive in coming here on this stand and testifying?

The next man whom we called is Max Hirsch. Hirsch was the man whom used to work for the defendants and now works for the firm of Pulaski and Company on Broadway. Some of you may know of them; I think they're a very large house. And with Pulaski and Company Hirsch was a salesman and with Harris and Blanck they have a substantial account which account belongs to Hirsch. Hirsch has been working for them for eighteen years. He worked for them for one year and then went away and went to work for an embroidery concern and then he testified that he went back to work for them and he testified that he worked for them for eighteen years.

I am asking your especial attention with this man Hirsch on this account: Is it a fact that every man who sells goods to a concern is going to commit perjury? Now some of you men are salesman. I ask you is it a fair insinuation for anybody to make that because you sell a firm goods that you commit perjury for them?

Now this man Hirsch -- do you remember him on the witness stand? Clean cut. He told you that he had been on the eighth and ninth floors at least 150 times. Do you believe him? Is he lying too? Is Hirsch committing perjury? He said that he had been on the eighth and ninth floors as a salesman with Pulaski and Company at

least 150 times. He said of these 150 times in the seven or eight years that he has been selling these defendants Harris and Blanck, he believed he went down through the Washington Place stairs to put it conservatively he said 50 times. Each time he found the door open or so that it could be turned and anybody could pass in or out. He said during the year next preceeding the fire to put it as he says conservatively he was on the eighth and ninth floors half a dozen times. I again repeat it to you, do you believe that that man Hirsch committed perjury just because he sells these people goods? The next man whom I called was Thomas Horton. Thomas Horton was the porter of the Asch Building. Thomas Horton has also been contradicted by the stenographer. Why? Because Thomas Horton said "Usually locked." Well how did he seem anyway on the witness stand? You remember who Thomas Horton was, Thomas Horton did tell you that he did go down these stairs and he passed in and out of the Washington Place door. He told you that in sweeping down he bumped into the doors, that is the very words that he used in his statement to Mr. Bostwick. Do you remember his statement and how it corresponded exactly with his testimony here with that one expression which he used the identical expression in his testimony on the stand here meaning a question? Now I ask you

is there any conflict between Horton's testimony and Horton's statement? When Horten told you for all the years he had been working in the Asch Building that he went through that door, he went in it and he went out of it on the Washington Place side, you remember how he stated that. You remember who Horton was. He was the colored man not in our employ; we are in litigation with his boss. Do you think he would come here and commit perjury in our lawsuit?

The next witness we called was Henry C. Jacobs who swore that the person, the only one that he was acquainted with at the place of the defendants was Teschener, the salesman and he had met him on one occasion; and on that occasion Teschener took him through the factory and they went down the Washington Place stairs through the Washington place doors. Did Jacobs lie? Jacobs' testimony is of no great consequence. You recall this man Jacobs as he was testifying, his straightforward way of testifying and he come forward and says to these defendants he heard what was going against these defendants and he wanted to help them; and there was only the one time that he went through the door and he came here to say to us if you want me to I will be one to go upon the stand and testify to that. Now that is what sort of a man he was.

By just one look at that man I think you could tell what kind of a man he was, from the style of his face and the manner in which he testified. Jacobs comes up here to tell you about the only time that he went down those stairs and that that only time that he did go down those stairs that the door was open Teschner who was familiar with the place would not have taken them down those steps if he hadn't known when he got down there that he would have been able to get through those doors. So that one time is just as significant as a thousand times. And so you make take from the witnesses who have given their testimony in this case and test them each by the ring of truth and I am sure that your answer will be the correct one.

Now the next man called upon was Herman. Herman is the representative of a very large lace concern. His concern's name was Levy, Sondheim & Company. He sells goods to these people. What applies to my statement with respect to Hirsch applies equally to him. You remember hearing what he had to say, you remember him upon the stand; a clean cut man who sells these people a lot of goods. Does that make a perjurer of him necessarily?

The next one whom we called was John Casey. You remember Casey; Casey was the engineer of the building. They said they had a statement from Casey that was going

to contradict Casey; but they didn't put any statement in evidence or call any witnesses to contradict him. Casey was the engineer. He was the one called upon to fix the radiators; he was called upon at other times to fix other things. He said that whenever he was on the Washington Place side he went up on the Washington Place elevator to the tenth floor and walked down from the tenth floor through the Washington Place stairs and always found the door open. He said also that when he was on the Greene Street side of the building where the Greene Street elevators were that he took the Greene Street elevators to the tenth floor and always walked down the Greene Street side. Did Casey lie to you men? Why? What motive did Casey have I ask you to lie?

The next man that I called was a man by the name of Abraham Bacharach. He represents an embroidery concern. He told you that he was on the eighth and ninth floors in lots of different days, and that he walked down by both the Greene Street stairs and the Washington Place stairs but the majority of times by the Greene Street stairs; and that he always found the door open.

The next man that I called was Sigmund Fucks. Fucks was the man who did the painting on the three lofts and did it during all these years, three years I think he said and when he was working on the Washington Place side and his materials were on the Washington Place side

he used the Washington Place stairs; and when his materials were on the Greene Street side and he was working on the Greene Street side, he used the Greene Street stairs. Did that man Pucks lie to you?

The next witness that was called was Miss Emily Perrett. Miss Perrett is the buyer of Litt Brothers. I wish to call your attention and ask if salesmen who sell goods to people or buyers from other concerns are all perjurers? Miss Perrett told you that she went to that place of business and that if she didn't find Mr. Harris or Mr. Blanck on the tenth floor she went down to the ninth or eighth floor and that she did that a great many times. Now Miss Perrett told you of three or four times that she went down the Washington Place stairs and through the doorway by the Washington Place elevator. I ask you Gentlemen of the Jury did Miss Perrett also commit perjury? What is her motive? What does she hope to gain by coming here and swearing falsely in the interests of these defendants. Did Miss Perrett tell you the truth gentlemen? When this lady said that that door was not locked, but was open and she went through it into that loft, was she a perjurer or did she tell you the truth? And did these other people who had done the same thing tell you the truth?

The next witness that I called was Isaac Segal. Segal's testimony is unimportant as he testified that he was an agent for the sewing machines, a representative of the Singer Sewing Machine Company and that those are the standard machines that are used by all the large shirtwaist factories in America.

The next witness that I called was Tony Suramalli. Now Suramalli was the man who used to come there every morning, he had a contract to take away this waste; and he said that they kept it in metal cases and it was kept near the freight elevator doors; that he used to come over there and supervise the taking out of these cans and taking the dirt away. You remember that he testified that he came there every morning and he went to this place and emptied these cans, that he would go up to the tenth floor and he would walk from the tenth floor down to the ninth floor and the eighth floor and that he would come in by the Washington Place doors. He did this on the day of the fire too, if you will recollect. I don't know whether you recollect Suramalli's appearance or not. It has not made the impression upon me that he was a perjurer and I don't think it has upon you.

The next man whom we called was Bernard Censer. Censer is another embroidery man. You remember he said his business was this, he takes their material, their waists

over to his factory and does the embroidery work at his factory. Censer testified that time and again that he came to the tenth floor and that Harris was not there, that is the boss was not there, that is Harris and he would go down by the Washington Place stairs and see Mr. Harris on the ninth floor or on the eighth floor; that he also used the Greene Street stairway and used the elevator, frequently used the elevator but at times he went down by the Greene Street stairs; but that he did use the Washington Place stairs. Do you think that man was a perjurer also? What was his motive?

The next witness that we called was Teschner who is now employed by these defendants. Teschner is the travelling salesman. Teschner told you that frequently he went down to the ninth and eighth floors; that he used the Greene Street elevators, and that other times he would use the Washington Place elevators; and that other times he would use the Washington Place stairs and that he would go into the loft through the Washington Place door. Did Teschner impress you that he was lying? You recall that he was the one that went down with the representative of Levy, Sondheim and Company. And that the representative of Sondheim said that he went down by the Washington Place stairway accompanied by Mr. Teschner

and this statement of Mr. Teschner falls in line with the statement of the other man. Do you consider that this man, did he impress you as a perjurer in the manner of his giving his testimony or did you think that he was telling the truth? I ask you to remember that he said that he used to go down this stairway, he used to go down it and through into the ninth and eighth floors.

Then we have Eva Harris. Eva Harris was a sister of the defendant and I was very reluctant to call Eva Harris for this reason, that she is the sister of the defendant and I did not wish to conceal this circumstance from you. I am inclined to believe that the Jewish race is a clanish race and the love of each other is great in them; and if Harris was in great danger, I would not hesitate to believe that his sister would say something in his interest; I would not hesitate to believe it for a second, that if she thought her brother was in great danger, she would probably come forward in support of her brother's testimony.

What she said was that she came to the Washington Place door and the Washington Place door was open and that she passed out. Her testimony in this case was not of the least or slightest significance except for this: One of the girls testified that a girl by the name of

Eva Harris had called out on the eighth floor “My God, we are lost, the door is locked.” I called Eva Harris to contradict that. And gentlemen of the Jury, that girl lost her cue. That “My God, My God, the door is locked” gentlemen of the Jury was not on the eighth floor at all; she got mixed up in her location, if you will recollect. That “My God, My God” was intended for the door on the ninth floor and this girl made a mistake, she got on the wrong floor, she got the wrong person, in her instructions she placed it wrong and merely missed her cue. There is not any question about that at all. When this mass meeting was being held pursuant to instructions and everything was laid out, she missed her cue. So she picked out Eva Harris as the one who exclaimed they were lost on the eighth floor and everybody else said and everybody knows that the door on the eighth floor was wide open and that everybody on the eighth floor got out.

Now Gentlemen of the Jury, I called the defendant Mr. Harris to the stand next. Of course the defendant Harris has got every motive in the world for lying to you. This means everything to him. It means that these past years of his life have all been for naught, if you say that he is guilty of this crime. It means incarceration for him anywhere from ten to twenty years,

in the discretion of the Court. It means that his wife and his children are disgraced forevermore. It means the loss of that for which he has labored all his life. It means that when from a shop himself he worked and worked and worked and finally became an employer of labor and that same high degree of character that is obtained by his type of man, it means that all of that is to be brushed away by the occurrence of the 25th of March, 1911.

So I say to you twelve men: Harris has got every motive that a man can have for committing perjury. But did he? Did Harris impress you as a perjurer? Did he talk to you like a perjurer? Or did Harris go on the stand and tell you that he was a designer and a pattern maker and that he had to go, his duty took him any number of times as he said to you from the eighth floor to the ninth floor and from the ninth floor to the eighth floor; and that he had no time to wait for elevators. If he wanted to get to the eighth floor, why he walked down and if he was near the Washington Place stairs he went down those and if it was the Greene Street stairs he used the Greene Street stairs also.

Next I called Mr. Blanck. Mr. Blanck had every motive that Harris has got, every one he has got. Did Blanck commit perjury? Blanck went down to the District

Attorney's office, and the District Attorney absolutely square said to Blanck "If you make a statement" -- although they had called for him to come down -- "You have got to make it on the condition that we can use it against you if we ever want to." And Blanck said "Go right ahead and ask me."

Gentlemen of the Jury, is that the act of a guilty man? A guilty man refuses to answer. The guilty man skulks. The guilty man pulls down the blinds, but the innocent man he says "I want you to ask, I want you to open wide the flood gates of truth; search me as you can; search me as you will; I want to tell." He wants to tell because that is the way innocence behaves. And he did tell. And he told then what he told now, that he went down the Washington Place stairs, that he went up the Washington Place stairs; that he did use the Greene Street stairs very often; that he used the Washington Place stairs; that those doors were never looked and that it was his duty to see to it that they were not locked.

Now Gentlemen of the Jury the only other branch of this case is the question of how they kept their factory. Well now that is, the evidence is with relation to the situation of the tables, that the nearest tables one to the other was four feet eight inches. I would

like you to see these chairs and how they fit under those machines. When a girl sat at one of those machines all that there is outside of the machine is the back of the chair, the rest of it is under the machine. The testimony is that three quarters of it is under these tables and that the putting in of these machines was directed by Mr. Harris and it was done through his knowledge of actual conditions and his discretion as to the layout. The testimony in this case was that there was not a better run factory in New York and there never has been. The defendants built this. Harris himself is a mechanic and he is the man who laid out every stitch of it and because he has grown up from the beginning of the business he knows how it should go to be to the best advantage and he laid it out the best way to be the best both for the operators, the employees and himself. When draughts came in one side they put partitions up to ward it off. Now, gentlemen of the Jury there has been some pretence here that these partitions that were built were for the interests of the defendants. You remember the testimony of the carpenter was that the partition on the Washington Place side was from six to eight feet from the elevator doors. Wasn't that it Mr. Juror, six or eight feet? That was just taking that much space away from their use in this building. What good did it do them, any?

They put it up because having had the complaints of the girls, they wanted to keep their employees and they did this for their benefit.

On the Greene Street side -- this is really very interesting -- on the Greene Street side the suggestion of the Prosecution is why the partition was put in. Why? Because that partition there, that was to enable a person to go out only one at a time; and it enabled them thereby to look at the pocket books. Why that thing is ridiculous. That man stood on the inside in the first place. In the second place we could have ordered them all in line for that purpose if we had seen fit to. Now that partition was there, simply put there for the convenience of the employees to help their health, and to repel draughts and to make the place comfortable and pleasant for them. Now Gentlemen of the Jury I am not talking to you about this in any way or sense as a point of criticism.

Do you remember a man by the name of Louis Levy who testified that he took away on the 15th day of January, 1911, 2,250 pounds of cuttings. 2,250 pounds of cuttings was not anything in that factory. What was there extraordinary about that I asked him in that factory of that size and was it at all unusual to have more than such amounts and he said no, not at all.

I offered to show what they had taken away on previous occasions from the Harris and Blanck factory to the effect that it was more than that and I offered to show what it was. What you have is that in this case on the 20th of February they came and took away in cases what they chose to call "remnants" because they were embroideries; but the witness testified as to size of the material that it was exactly the same as the cuttings that he had taken on the 15th of January, but because it was higher priced material he styled it remnants.

It seems that the girls produced on behalf of the Prosecution testified that they went away from their machines at night dirty, that is in the evening and that they found them clean in the morning. We surely did not hire the porter Harris for the purpose of dirtying the place did we? We certainly did not hire Harris the porter and the porter Williamson for the purpose of keeping the place dirty, did we? We hired the men to clean the place of course; and we hired a woman to take care of the dressing rooms on this floor. And gentlemen of the Jury that brings me to the testimony of the woman Christina Lang. You have got to explain to yourselves the occurrence of Miss Lang, Christina Lang who came here on the stand and said that she was hired to take care

of that cloak room and did take care of that cloak room; and that she saw people coming in and going out through that Washington Place door. That was very much of a surprise to Mr. Bostwick and he was greatly astonished and much put out because one person had really come forward and told the truth about the thing. So Christina Lang was examined and finally Mr. Ryan suggested that possibly she didn't understand. So a diagram was shown to her and then she was asked further whether the door which she saw the people come in and go out were metal doors, the elevator doors, or wooden doors; and she said "wooden doors"; and that examination satisfied Mr. Ryan and satisfied myself and it was perfectly clear and the witness was dismissed. But I tell you when you have got to deal with the District Attorney, when you sit in the Jury Box you may think it is absolutely all right; but when the District Attorney takes this bunch of reporters out with him in the evening and they go up stairs for the headlines for the next morning and the head line comes out and the head line says "Witness in the Triangle case to be investigated", that is enough. What does poor Christina Lang know? That there is a Constitution in this country? That there are really men and laws, and men to administer those laws? That they

have got rights that will be protected and preserved? When Christina Lang thinks of the great power that the District Attorney has got to investigate her, what does Christina Lang do? She comes here and humbly tells you twelve men she made a mistake the day before, a mistake. Why, she was asked the questions and she spoke as clearly and as distinctly, and she was asked "Do you understand these question"? And in each instance she said she did. Now she comes forward before you twelve man the next day. No chance of Christina Lang going wrong about the door. She knows as much about that loft as Mr. Bostwick does or Mr. Rubin or anybody else connected with the District Attorney's office does. She sees the doors, she is sitting by them, she is cleaning the doors; she is intelligent enough to know the difference between metal and wooden doors and she could not possibly go wrong, possibly make a mistake about that. She said that she saw the people come in and go out through that door, both men and women went in through and came out through that door; she comes here the next day herself and says that all of that is a mistake, that she made a mistake. You cannot get a defendants' witness that will ever do that, oh, no. The defendant will never change a witness, one they put it into the defendant it sticks.

What power has the poor defendant got?

Now gentlemen of the Jury with relation to all the witnesses that were called by the Prosecution, and I have only got 15 minutes left and I will have to hurry along and do the best that I can. I don't want to call your attention to the witnesses on the eighth floor; because it is useless; we are dealing here with the ninth floor.

The testimony with relation to the eighth floor was that the girls came from the Greene Street side because they saw the fire in the Washington Place side and ran to the Washington Place door, and then came Machinist Brown and opened this door, the girls could not have opened it seems in the way they were crowding up against it and there was no key used upon the door and every one of these girls knows it. There is not one of them that has said that he had a key in his hand when he went to that door or that Brown used a key to open the door. No one said that Brown brought a key and put it into the door. How did Brown open that door? We have already gone into that.

On the ninth floor the first important witness that was called by the Prosecution was Sam Bernstein, a relative of these two men. Sam Bernstein said that he

worked at the last table on the Greene Street side. Now gentlemen of the Jury, you remember the location. On the eighth floor there are five rows of machine tables that is five tables that have machines on each side, and then there are the cutting tables over on the east, -- over to the Greene Street side.

On the ninth floor there are the machine tables on that side. Now Bernstein worked on the ninth floor, and he worked away over on the Greene Street side and when Bernstein heard a cry of fire, -- Bernstein who says that door was always locked, that he had never gone through that door in his life, never had used that door, never saw anybody use it, — Bernstein says he ran right for the Washington Place door. Now what motive did he have for saying that? Why didn't he run to the door that he was right near to? Why did Bernstein do that thing on the 25th day of March, 1911 that he did do instead of going to that other door?

Now Bernstein said after the fire he had gone to Mr. Blanck and asked for \$5000. He didn't want it for himself but he wanted it for his father because his brother was lost in the fire. I merely make reference to that, I refer to it simply as a circumstance. Later on the defendants have some commiseration about that and that subject matter is taken up further and a suit is

pending and I just won't go into that any more because that is a matter which is in litigation.

The next witness that was called was Annie Gullo. She sat on the ninth floor; and Anna Gullo sat alongside of Bernstein, nearer to the Greene Street side; and Anna Gullo made this remarkable exposition of her movements at the time of the fire. When she heard of the fire she had never known of the Greene -- I withdraw that. She had known of the Greene Street door I mean the Washington Place door but she had never used it and swore it was kept always locked but somehow there at the time of the fire knowing that it was always kept locked, that door, although she was over by the Greene Street floor she went right over to that door not seeing any reason for not going to the Greene Street door but on the contrary passing by the Greene Street elevator and standing as she testified on cross examination right by the Greene Street door, passing by the Greene Street door she said she turned to her left into the open space between the cutting tables and the machine tables and went over to the Washington Place elevators. She went from the Washington Place elevators to the Washington Place door, and found that that door was locked. This is Anna Gullo. She went to the centre of the room looked around momentarily

walked over to the Greene Street door from which she had come and passed down to the street. Why didn't Anna Gullo go down immediately to the street when she passed the door the first time? Why did she first have to jump over the tables and run in between the cutting tables and the machine tables and go to the Washington Place elevators and then to the Washington Place door from the Washington Place elevators, going and trying the Washington Place door and then back to the Greene Street door and through the Greene Street door to safety.

Ida Nelson is the next witness. The testimony that she gave is that as a witness for the People she sat on the Greene Street side. They all testified of course that they didn't see anybody going in and out of the Washington Place door. Why, that would have been a physical impossibility. Look at that diagram just a moment on the ninth floor. Take these tables of machines and put the girls at the last table on the Greene Street side, and see if it is possible for her to do that, to see what is going on around the Washington Place door? There were girls on each side of these tables, on the Greene Street side and they were near to the Greene Street door, and the tables were in front of them and the Washington Place door, and in order to get over to the Washington Place doors they had to walk all the way from the Greene

Street side over to the Washington Place doors. Wasn't it perfectly simple for them to say "No, they did not see anybody pass out of that doorway" for it was an impossibility for them to see it.

Now gentlemen there is a difference between negative and positive testimony. When a person gives positive testimony, that person commits perjury if they are not telling the truth, if they do it deliberately as for instance saying that people did pass through these doors. But when a person sits about a block away from a door and states that they do not see anybody go in or out that is not giving any positive testimony because they did not say that nobody did go in or nobody did go out that door absolutely. So you can see that is about all their testimony amounts to.

Now take Ida Nelson, I think she said that she sat the third machine on the third line on the Greene Street side. She said as soon as she heard fire being cried out on the Greene Street side, that she, Ida Nelson ran to the Washington Place side. The door that had always been locked, these people that were away over on the Greene Street side immediately rushed for, they ran to the Washington Place door and found it locked.

The next witness who testified was Yetta Lubitz. And Yetta Lubitz sat at the third table. She was clear

over on the Greene Street side and instead of going through the Greene Street door as was natural when she was over by the Greene Street door she went over to the elevator and she was one of the first witnesses that has testified as to their examining the pocket books when the operators left at night.

Then there was Esther Cushner. Her testimony was stricken out entirely by the Court.

Then there came Ethel Monick. Ethel Monick worked at the table right near the Greene Street entrance. Ethel Monick's story is a really remarkable one.

Ethel Monick sat at the table with three or four other girls right by the Greene Street door. She was also right near that Greene Street door and she was one of those that ran down to the Washington Place door to find that it was locked and for the same reason as the other girl, absolutely no reason at all, she went by or away from the Greene Street door and the Greene Street elevators and went to the Washington Place side. She absolutely disregarded the Greene Street doors and she ran over to the Washington Place elevators and she said she got out through the Washington Place elevators.

Of course testimony of this kind as most testimony that I have been reviewing is to constitute the evidence by

which you must say beyond a reasonable doubt that that door was locked; and you have got to find it was locked beyond a reasonable doubt.

The next witness that, they called was Becky Rothstein. Becky Rothstein worked on the first line of machines from the Greene Street side, the sixth machine. She was right at the Greene Street door and she started and climbed over to the Washington Street elevator. Why didn't she go down where she was she was asked. She saw Bernstein at the door and there were more than 50 girls between her and the door where Bernstein was but she saw him and she saw Bernstein's hand on the door knob. Now Gentlemen of the Jury you know that what these girls were telling you was what they imagined happened at that time, in their imagination they naturally thought or concluded very readily that that was what he was doing; and I can very easily picture to myself that they could have easily imagined this.

The next girl that they called was a girl by the name of Rose Mayers. She worked at the second table on the Greene Street side facing the Washington Place side. She was also the first one to get her hand on the door knob. It is remarkable how many girls there were that the first ones to get their hands on that door knob. You see we had one girl that was the first one to get her

hand on the door knob.

Then there was May Leventine, she was the first one; and when Greenspan got to the door he said that there wasn't --he didn't see anybody else around there and he had a clear coast, there was nobody between him and the door and he had his hand on the door first.

THE COURT: Mr. Steuer, you will have five minutes more.

MR. STEUER: Well Gentlemen, you of course are expected to recall all of this evidence. To my mind it is a human impossibility. When it comes to one of these long trials, with every confidence in the Jury system there ought to be some better way than there is of preserving the testimony. To my mind I think it would be a splendid idea if the Jury were furnished with transcripts of the testimony from day to day because then they might keep it green in their recollection; but whatever may be the deficiency of a human effort, I think as the testimony went along you gathered sufficient of it so that you may pass upon these two questions:

Beyond a reasonable doubt, did the People prove that Harris and Blanck killed Margaret Schwartz through the negligent way they conducted their business?

Beyond a reasonable doubt did the People prove not

only that that door was locked, because that is of no consequence, did they prove beyond a reasonable doubt that Margaret Schwartz died because that door was locked?

Did they prove that that door was locked. Did they prove anything against these defendants?

Gentlemen of the Jury 1911 is drawing to a close. 1911 was a bitter year for these two men. Thirty years ago were these men in a shop not equipped with electric lights, and electric power, with stairs made of wood and which we climbed together, I labored in one of those shops. The progress that has been made in that is wonderful. I admire the confidence that has been reposed in me by them to present this case to you. Never, never in all my life, and never again in the balance of it I hope will there be such a responsibility resting on me. I took their case; since the day they were indicted I have slept with it and I have pondered with it and labored with it. I do hope, I really hope that I have brought to you the conviction of their innocence.

THE COURT: Anyone in the room that wishes to leave may leave now providing they pass out quietly. Those in the room will be seated and the Officers at the door will close the door.

(An xx recess was announced for five minutes.)

Mr. Bostwick's closing address to the Jury on behalf of the People:

MR. BOSTWICK: May it please the Court and Mr. Foreman, and Gentlemen of the jury:

I wish in the first place to spend just a moment in calling to your attention your duties as jurymen to society, to organized society, and to government. I want you to understand that the rights and the liberties and the lives of the community are in the last analysis dependent in this country, under our system of government upon the action of the jury. The responsibility that is placed upon you is very, very great, because a failure of the jury system to do right would lead to disorder and we would not be safe in the preservation of our just rights which are so dear to us.

I want you also to realize the function of the jury as opposed to the function of the Court. You will remember how the Court all through this trial has been so careful to see that no word came to your ears as legal evidence that was not admissible in the case, that nothing should come before your eye that was not legal evidence in the case. He is the sole arbiter as to what is the law and what is legal evidence to be presented to you. You, in your turn, are the absolute judges of the facts, and you find the existence of the fact irrespective of the Court,

and then the Court finally charges you on the law and you apply that law which the Court set down to those facts which you have found.

You are not here to sit and determine whether these people shall go or stay. You are here to determine whether certain facts exist. If those facts exist the defendants brought those facts into existence, not you. You are not the ones to say "We will now establish this fact and hold these men." No, your province is to listen to the evidence and determine whether these men by their own acts have brought themselves within the provisions of the law.

Gentlemen, the statutes of the State which impose upon certain citizens duties are not put there lightly. It is after decades or centuries of experience that the people of the State of New York enact into law those wise provisions for the preservation of life and health. It was no accident that they read into the Labor Law that no door should be fastened, or bolted or locked during working hours.

I want you to remember that this is not a civil suit, this is not a case of those who lost their dear ones in the fire against these defendants, and no judgment in this case has any bearing upon nor should influence you in the slightest way in its relation to those civil suits.

This is a case of the People of the Slate of New York — the people who framed this law -- against these defendants, and you and the Judge and the people in this room and in this street outside are my clients, and it is for them I plead before you for justice in this case.

The greatest care was taken in the selection of this jury and you all promised upon your oaths that you would administer the law as laid down by this learned court and I trust that when you come to consider your verdict you will take that law from the court absolutely, that you will not permit your own notions of what the law should be to govern, that you will not say to yourself, "I might have done this", or "You might have done that", but that you will listen to those words of legal wisdom as they flow from the bench, and then you will take that law absolutely under your oath of office and apply it to the facts in this case. And when you do you must remember that it is your sworn and solemn duty to decide this case on the evidence in the case. You must not allow yourself to speculate, you must say, "What did the witnesses say?", and "Did we believe them?", and "What do these things teach us that have been presented to the eye of the jury?"

There are two other things that I want to say about your general duty. And the first of these is that I hope and expect that when you get to the jury room you will not

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cease to be the commonsense business men that you were supposed to be when you were drawn from the community, from every walk of life, to hear the evidence and determine the facts. You are chosen because you are believed to be eminently fit to apply the commonsense that you apply in the important daily matters in your business life. And when you come to determine the facts in a case you do not cease to be business men, you do not cease to be commonsense men; you are still those men of the community, exercising that same kind of commonsense judgment, and if you would act upon it in your everyday affairs, in the weighty affairs of your business, you should so act in this case, and that is what is meant by the conviction of a reasonable doubt.

You are not to be influenced by anything that I have said or done in the course of this trial, nor anything that has been said or done by the counsel for the defendants, You are to judge this case solely upon the evidence which has been adduced before you. At the outset, Gentlemen, I wish to take up a few of the things referred to by the defendants' counsel in his summation.

First of all, there was some mistaken ideas of fact and law that I want to dispel. Of course, unintentional (turning to Mr. Steuer). Mr. Steuer referred to the fact that that did not prove that the doors were always locked.

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That burden does not belong to the State-- that they were always kept locked. Suffice it that if the moment when escape was necessary they found that way barred by a door that was locked, fastened or bolted.

He referred to the fact that Dora Tiger had made a statement to the District Attorney's office. An error — no doubt, again, by inadvertence.

He said that none of the witnesses had said that Mr. Brown had opened that door with a key. Another error -- it is not a fact.

I want to correct these mistakes of fact and of law before I proceed further with my argument.

He said that these factory inspectors who came there were the ones to determine whether the doors were open or locked or unlocked. If one of these factory inspectors got to Edna Barry, who was the telephone girl, all the doors could be opened before they reached any one of the floors.

He spoke of the man, the disinterested cigar maker, who had come from Newark, and I want to turn right here just for the one moment to a page or two in the testimony in regard to that man. I want to read you a line. He worked in that place for nine years, and I think this is significant testimony, (page 1468), "Q. You never went down the

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Washington place stairs at night when you were going home? A. I, myself, no. Q. Not during the nine years you worked there? A. No." That is about all the comment I have, although there is lots more that I could make, but the time is so limited that that is about all the comment I want to make on that man's testimony. For nine years that man never went down at night the Washington place stairway.

It was insinuated by counsel for the defendants that if Mr. Brown had inclined he could have testified so and so. Mr. Brown had a record, he had put himself on record in the Coroner's Court, he had put himself on record before the Fire Marshal, he had put himself on record in his statement to the District Attorney, it was too late. Even if he had desired to fit the testimony with the rest of it it was too late. He had burned his bridges behind him.

Mr. Steuer, like every other man who sums up for a defendant, has asked those questions of the air — why didn't they produce this and why didn't they produce that? And the mouth of the District Attorney is closed to explain when as matter of law that testimony would not have been allowed by the Court, we would not have dared to introduce it, but it is easy enough to say, "Why didn't they?" And I say to you, don't you worry about what we didn't

produce in this case. I will be satisfied if you pay careful attention to what we did produce.

He has insinuated that there is some testimony that this fire went from the Washington place side to the Greene street side. I ask you to put opposed to that testimony the acts of those people on that floor, and take into consideration the features that show the physical conditions that existed immediately after the fire, and weigh, and you will find which in the truth.. He has said that certain witnesses were contradicted by the stenographer. There is a fallacy in that. They were not contradicted by the stenographer. They were contradicted by their own testimony, and the stenographer was only called to state what that was.

He has also pointed out, almost in support of my remarks how under circumstances of this character our own witnesses gave much of negative testimony and that that was not perjury. Lots of it they didn't see that might have happened, and it only adds weigh to the truthfulness of the story told by the witnesses for the People.

Gentlemen of the Jury, it is not disputed — mark you, it is not disputed — that on March 25th, 1911, Margaret Schwartz died of Asphyxiation on the ninth floor where she was employed in the defendants' factory. She was twenty-four years of age and in good health. The

defendants personally conducted and supervised this factory at that place, that is not disputed. We have shown you that the locked door was the cause of the death of Margaret Schwartz, and if you will bear with me for a few moments as I review the evidence that has been proven, we will begin from the beginning of the fire to the falling of Margaret Schwartz at the door of the ninth floor on the Washington place side.

Just before the fire the bell had sounded for shutting off the power. Then came the start of the fire on the Greene street side near the cutters' table, right near the Greene street windows. The fire came there, it came with great force. The first alarm of fire was sent in at 4:45 p. m., and in eight minutes over one hundred lives had been snuffed out.

Gentlemen, no bodies were found on the tenth floor, no bodies were found on the eighth floor, no bodies were found on the roof, nor the fire-escape nor the stairway. Oh, that we could say the same of the ninth floor! There were the heaps of bodies and they had been held in there by these locked doors.

Now, let us stop to review the testimony by which these facts are proven and let us look at the cold facts, let us look at the testimony. There is the testimony of the various employees. It is true that weeks have passed

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since it was first given to you and much, of it has faded from your memory, and time does not permit me to take up the book and read it to you, but I am going to recall the testimony of some employees that were called. Remember, there have been one hundred and fifty-five witnesses called in this case, and over one hundred by the prosecution, so you cannot be expected to remember it all.

It has been intimated that these persons have an interest. Yes. But it is not an unnatural interest. Remember that witness after witness on that stand when they were asked if they did not have a lawsuit, or their father did not have a lawsuit, or the mother did not have a lawsuit, they didn't know anything about it. It was not that venomous feeling of hatred, there was no such actual bias -- there was no bias, in my judgment, shown in their conduct. Their suits are perfectly consistent with their testimony as to the facts, because if these men locked these doors, and they lost the daughter, the father naturally brings his suit, and the sister naturally testifies to the truth. Those proceedings have no relation to this case except so far as they show bias, and I claim that instead of showing bias, they are perfectly consistent with the natural human feelings that would exist under the circumstances. The discrepancy that appears in the testimony of the People in this case is the usual

discrepancy which exists while honest people are testifying to a same fact seen from different standpoints. It is one of the badges of truth when people do not exactly tell the same story. Especially is this true in a case under circumstances like this. A fire, a conflagration, travels with great rapidity and with great speed. Was there much time to stand and observe the conditions of and the events that were transpiring almost instantaneously, one upon another? I rather contrast with satisfaction the testimony of the people in that regard and the testimony of the defendants, who almost before the questions were put to them, out of the mouth would come "Tied with a string to the handle"; that was almost the invariable story and it was told with a similarity that was astounding.

Remember that those employees that we brought to that witness stand were of tender years — most of them under twenty years of age, foreign born; many of them not able to speak the language, not of great intelligence, and perhaps they didn't know all about this place that they would have known if it had not been that they were working at their machines, working and working, and had no time to look up.

Gentlemen, the law does not impose responsibility upon its citizens lightly, and the law that says that they

who behave in the manner that causes the killing of another human being because of culpable negligence shall be guilty of manslaughter is just. There may be no intent nor design to take the life of the person killed, or of another. And so the law says that where a life is taken, even without design, and the person is engaged in the commission of a misdemeanor, that shall be manslaughter. The law has not visited that responsibility upon the citizens lightly; it is the wisdom of all time, and it is the edict of the People of the State, which under our form of government you are here to enforce.

As to the general negligence of these people, remember those tables. And what is the proof about those tables? The pictures that are here at your disposal, the diagram which has been passed around here, and the testimony show that those machine tables like that (indicating Exhibit L) ran from the window to the window, from the window to the other side, with a bare space on the north side to pass by until you got in the middle of the loft. On the Washington place side the space was narrow like that (indicating), and motors were there and boxes and belting, and covering. And, remember, it was Mr. Harris who planned and designed the method of the putting in of the tables on the ninth floor. Yes, of standard type, I will admit, but you can get enough machines of

standard type to make it dangerous to work in any place. No passage ways between these tables — they wanted the motive power to run there, they wanted to use every inch of space. They were about here, there were the baskets there, there were the chairs there. I have already described the Washington end — right up against the windows, on the Greene street end. I call your attention to the picture there, look at that table, look at that table. Where is the chance of a person to escape with them so constructed, in such a manner? And there was the belting, there were the partitions, here was the examining table, there were the finishing tables. And the testimony is that some of these tables were directly in front of the fire-escape. There were the cutting tables and the desk, and the figures and the oil-tanks, and the boxes — everything to add to the danger in case of the necessity of escape. And even the Commissioner of Labor himself produced the records that they had not posted the labor law as required by the statute --

MR. STEUER: Now, your Honor, I don't want to interrupt, but it is charged against these defendants, and Mr. Bostwick had conceded that there were no such postings required in their plants, and I don't think reference should be made to that before this jury.

THE COURT: Very well.

MR. BOSTWICK: (Continuing) These fire-escapes were so they couldn't get out there, the tables were in front; the windows were only so high, but the tables were so high (indicating). Why, lots of these employees didn't know that there was a fire-escape there at all.

A word about these cuttings. For two months and ten days these cuttings had been permitted to accumulate under these cutting tables; the last lot of cuttings that was removed amounted to more than a ton; it was 2,252 pounds. They had cut in that period of time over 100,000 waists, and the clippings from 100,000 waists had been put in under those bins. It was not an unusual thing for them to neglect those cuttings. Six times a year was the testimony about that they had removed those cuttings. You recall the nature of the stuff that was there; some of it has been introduced in evidence — it was like tinder.

Gentlemen, five previous fires had warned them of the necessity of keeping the conditions in this factory proper; two of them important -- the fire of April, of over \$12,000 loss, the fire of November 1902, with a loss of nearly \$20,000; that was warning enough for any man to know what he ought to do, besides the three minor fires. These had been the warnings. These things had told them

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how important were the means of egress in such an emergency. All these things that I have mentioned must have been important when we think of the number of employees — 200 on the eighth floor, 300 on the ninth floor, 60 on the tenth floor, and these people had to make their escape. There were two doors as you enter; there was the Washington place door, and there was the Greene street door to the two sets of elevators. These were the only means of getting out, besides the fire-escape. I think that the necessity of care in view of these circumstances has been shown. In spite of these facts there was no superintendent at the time of the fire at the ninth floor; there was on the eighth floor, but none on the ninth. A watchman? Yes, performing his duty, but no superintendent. Oh, even if there had been a key there to unlock that ninth floor door, what would have been the use if there had not been a superintendent to have made that way passable?

Now, with this condition the fire spread rapidly, and I say it spread from the Greene street to the Washington place side. This is important. These employees knew but one method of going out from habit. It was the Greene street, the Greene street, the Greene street, day in and day out. And their own witness, who worked for them for nine years said he knew of no other way to go out, or never went out any other way. And the impulse was to

rush to the only method that they knew of, or to the Greene street door. The fire was there and they got over to the Washington place side, seeking any method of escape.

For a minute let us stop. Let us see the nature of the defense that has been interposed here. There is a denial of some of the important facts, and they have produced that denial by three classes of witnesses; first, those who are still working for and dependent on Harris and Blanck for their living; second, those who are doing business with them — some of them as high as \$75,000, with their big orders; and, thirdly, the relatives of the defendants. And it has been admitted that they would go to great extremes under those circumstances, and confessedly and with more force we can argue the same of the defendants themselves.

As to Greenspan, I am not going to devote any time. He was unfortunately characterized during the testimony in some way or other as the liar. I still entertain that opinion of him and of his testimony. As to Brown, I think he made a pitiable spectacle on the stand -- even before he refused to tell his salary. I haven't any time to spend on Brown or on Bernstein. Bernstein himself would be responsible for some of this if the truth were told, and so would Brown, and so would Stern. If they

told the truth as I believe it to be the law would visit considerable responsibility upon them. And save Horton, why the man denied everything that he had stated in the District Attorney's office.

The only defense that amounts to anything at all is the testimony of May Levantini, of Ida Mittleman and Annie Mittleman and of Greenspan. That they went to the door and found that door open on the ninth floor. That in my judgment is the only defense there is, and I ask you to pay special attention to my criticism of that defense.

First, I am going to speak of Ida Mittleman, and I am not going to bore you with a lot of this testimony. There is just a word or two and I would be derelict in my duty if I did not call it forcibly to your attention: "Q. And has your talk with May Levantini made the thing fresh in your mind? A Yes, sir. Q. And haven't you talked with anybody else to make the thing fresh in your mind? Haven't you tried to get it fresh in your mind? A. Well, my sister did. Q. Didn't you talk with your sister about it? A. Yes, sir. Q. Hasn't what she told you made it fresh in your mind? A. Yes, sir. She told me it all. Q. She told you all about it? A. She told me about how the two of us did go in the hall, and that is what I do remember, and about the door; she said she seen me open it."

Now, you can just see what happened in this case. This little girl has not the single present recollection of anything that happened at the time of that fire, but she admittedly says that her sister has told her all about it, and she is quite sure that her sister has told her the truth, and she told her that "she seen May open the door." There is not a doubt that she believes that story. She believe that to be true, but you can [see?] it is all the reflection of what she has been told as to what happened, and not her own recollection.

Let us go now, for one moment, to Anna Mittleman, and let us see what Anna says: "Q. You know May Levantini? A. I do. Q. Did you talk to her to-day? A. No, I have not seen her. Q. Did you talk to her yesterday? A. I did. Q. And you had a talk about what happened at that door, didn't you? A. Yes, sir. Q. And May Levantini told you what happened at that door? A. She told me she opened the door. Q. And your sister was there at the time was she not? A Yes, sir. Q. Did your sister open the door? A. I can't tell you that. Q. You don't know? A. No, sir, but I believe that May did. Q. You believe that May did? A. Certainly. Q. And you really believe that, don't you? A. I do. Q. You are convinced of it, aren't you? A. Well, that is, I said I don't remember, but being

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that my sister was after May, then she said she was at the door first. Q. And that is the reason it is perfectly clear, isn't it? A. Certainly.”

You can see just what becomes of the two Mittlemans and their testimony. That is what becomes of their testimony. Anna tells May and May, tells Anna, and all this is after they have seen Bernstein, but they don't remember anything about it, they simply are convinced from what they have heard that Levantini was telling them the truth, but they have no present recollection. Anna says that Ida told her so, and vice versa, and they both believe it because May Levantini says that she went to the door. So you can strike out of the entire case the testimony of the two Mittlemans.

Now, as to May Levantini, I am not going to start to take up all the time. There has been some intimation that the District Attorney did not call all the impeaching testimony, and by that I mean this, that when persons made statements to the District Attorney and they were inconsistent, not the same as they told on the stand we have been charged with not binding all those inconsistent statements before the jury. Gentlemen, you are the best judges of the reason of that. You saw that as to some of them it was not worth while and you saw me dismiss

them by saying "That is all. I was not going to bother with it. I did bring to the stand every bit of impeaching testimony which I thought was necessary to convince you, but some of it was self-evident. Some of it was this Levantini. This Levantini lied on the stand. That girl went to the Italian Consul's office and she told that man Franco when she was talking to him about the loss of his little Tiny that she -- she did not say "I opened that door". No, no, it was not until after she had seen Fletcher that she then stated that she had opened the door. And then you have the testimony of the Levantini girl and the Mittlemans trying to get together a story that agreed and they couldn't, and how they had discussions and lengthy discussions, but they couldn't convince each other sufficiently to go on the stand and tell the same story. The Mittlemans simply were telling their story from hearsay; Levantini is the only one in the case beside Greenspan, and Greenspan's discrepancy is so great that I am going to ask you to take his statement to the jury room if you like and read what he has got to say. Let us stop for one moment as to him, just one moment - I am not going to read you anything here but just two words, - "Were your wages raised between the time of the fire and the time you quit? A Yes, sir." Yes, he is friendly to the defendants, they have kept him in their employ and raised his

wages. And I call your attention to one statement alone made by Greenspan, and that is this: "You remember my asking you this question and your making this answer to me, 'You say that the door was locked' (referring to the Washington place door)? A. 'Yes. No, I never said it.'"

In other words, although he did say it to me, and although his statement proves that fact, he went on this stand and perjured himself, and you can dispose of his testimony, and once you have disposed of that testimony you have disposed of every bit of the defendants' testimony that that door was open at the time of the fire, because the Mittlemans' testimony was hearsay and imagination and Levantini and Greenspan are the only two human beings of all that were in that factory that testified to that fact. They are the only two people.

Let us contrast the People's case. What have we got about that door being locked? We have got those who saw and tried it in vain, who put their hands on that handle and who turned it and pulled it in an effort to get out that door. We have got that testimony, and I cannot stop now to go over it. But some of you will recall the faces of some of those little girls on the stand as the row of names of witnesses is read. You will recall Anna Gullo, Ida Nelson, Yetta Lubitz -- and a more convincing witness never told a tale on the stand; Ethel

Monick — that shrewd cross-examiner (indicating Mr. Steuer) never broke one word of her testimony; Beckie Rothstein, Rose Mayers, Sophie Zimmerman, Katie Weiner, Celia Walker, Lillian Weiner, Dora Axelrod, Beckie Bursky, Rose Glantz — they couldn't break her together, one with the threat of discharge, and the other with his cross examination; Ida Singer, Sarah Friedman, Fannie Selmanowitz, Mary Damsky, Ida Deitchman, Gussie Koppelman, Lena Yaller, Lena Zwick.

Are all these an army of little perjurers brought here to say that that door was locked when it was not, and to dispute the lying Greenspan, self-confessed, on this stand? Compare his statement in the testimony, and compare the statement he made to the District Attorney. All this army of little workers must be stamped as perjurers to give credence to the testimony of Levantini and Greenspan.

Have we anything beside that testimony? Oh, yes, we have got the custom of how they went out at night. They all told that. It was Greene street. Even the man, their witness, who worked for them for nine years, testified that he never went out any other way. Have we got any other testimony? Oh, yes. There were all those who tried that door before that day, even though they may be mistaken

in thinking it was always locked where they had their heads down at the machines and couldn't see people come in and out. Have we any other proof of that? Oh, yes. The condition of the stairs, the Washington place treads were as if never used, and the Greene street treads were worn away by that little army of workers as they left and went down that Greene street stairway at night.

Have we any other evidence? Oh, yes. The watchman standing at the Greene street door and watching them as they passed out. Have we any other evidence? Yes. There were two that didn't know, and testified they didn't know there was a door to the Washington place side, and it is admitted. Is there any other evidence? Yes. That partition found near that place. If that is not overwhelming, if that does not force you under your oath of office to find that the case has been made out by the State I don't know what will, unless it is this. You can strike from this record every bit of human testimony and you can take that mute testimony that cannot err, and that cannot lie if it would. I ask you to look at that great monster set up there (pointing to the burned framework of the door, being People's Exhibit 29) that mute testimony. I ask you, Gentlemen of the jury, to go and examine that now, if any of you do not remember the part of it there by that casing, that which was never touched by fire. It

is on the record, because Mr. Moore examined it and he testified about it, but I want something more than Mr. Moore's testimony; I want your observation at that part, and you will see there are clear parts of it that were never touched by fire. That cannot lie, that is a truth telling bit of witness. That door was closed. I ask you now to look at this sill of the door that I have produced. And I state to you that this is another bit of mute evidence that cannot lie to you. This is demonstration, this is truth, and I don't care what your feelings may be you cannot get away from it, you cannot get away from this kind of evidence. There, Gentlemen, is the sill of that door, there it is. It is off the inside of the factory and that is on the outside of the factory (indicating the two opposite sides of the sill). What barred the flame there? The door. The same door that preserved the side of that casing (pointing to Exhibit 29). These bits of evidence speak as if they came from the tomb.

There, Gentlemen, is a piece of evidence that I would like you to take and look at, that you can see whether the fire was on the inside or on the out.

The great piece of evidence, though, in this case is this box, this People's Exhibit No. 30. Gentlemen, all

the locks have been accounted for in that building. This was not a lock on the dressing room, because it is not a padlock. There were padlocks on the dressing room. It is not on the dressing rooms or partitions put there by Puser, because he said that was seven-eighths of an inch in thickness. That couldn't go on seven-eighths inch thickness of wood. All the dressing rooms were open. It could not have been on a door that was open. It was not on a toilet room because they were all open, and it could not fit. The only place on God's earth that that lock and that stile could have been on was the Washington place or the Greene street door. And although bitterly in the early part of this case we sought to prove that it was on the Washington place side and not on the Greene street side, it was not until their own expert acknowledged it was on a lefthanded door and it could not have been on a righthanded door that the final link of the proof was complete. That piece of wood with that plate annexed to it and with that handle and with that lock passed through that fire. And where was it found? Where it naturally would be expected to be found — on the Washington place side, just as near as anything would be after they had taken the bodies out and lowered them and moved the stuff to get the bodies out. And by whom was it found? The eminent Commissioner now of the State,

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Mr. Moore, then a consulting engineer, with no interest excepting his professional work. Not there to find these things. But, Gentlemen, oh, the significance of the testimony, and after all, perseverance can accomplish something. We proved to you that there had been a fire in 1902. That Clark, whose special business was to repair fire damages had been put on this job by the insurance companies, that Baxter was the man immediately in charge; that Baxter ordered some locks from the Reading Hardware Company, the Reading Hardware Company, delivered some Reading Hardware locks to Mr. Woehr, Mr. Woehr with his records came here and proved the taking of those locks from the Reading Hardware Company to Woehr's store, and Mr. Hunter goes to Mr. Woehr's store and puts the same locks that the Reading Hardware Company had handed to him and he takes one of them up and puts it on this door, and this is a Reading Hardware lock, the same kind and make, with the same stamp on it, identical with the one that was sold on December the 2nd, 1902. Why, if there was the shadow of a doubt it has been cleared up by this evidence which is demonstration. Away with this tommyrot, and scientific testimony as to whether this was on that piece of wood at the time of the fire! That won't stand a moment. Gentlemen, there is my proof. You must look at

it, you must examine it, and if you are men of common-sense, if you are men of anything that indicates your right to sit on an American jury, you have but to look at that great piece of evidence to know that that was the lock that barred the people. Who would believe that that lock was not on that door at the time of the fire? Does it take expert testimony? It is true that even in the course of this trial this lock has become loosened, it is not in the condition, so far as the tightness with which it was attached to the stile is concerned, that it was in when first seen, that has followed of necessity, the witnesses have examined it before the trial and at the trial. The jury has examined it, it has been put in the box and taken out of the box, it has been loosened, that is true, but there does not live the man who does not believe that that went through that fire, and if it went through the fire, it went through on the Washington place door and the ninth floor. Is there anything to corroborate it? With it was the disinterested witness Reinhardt, the fireman first there. What did he find? He found the bottom and the sides; there it was, and he kicked it in, he kicked it in, the sides went down. This handle may have been broken then, and this may have been melted, it is true. I don't know. I don't care how that handle got off. It was not

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taken off with a blow pipe, it was taken off by accident, fire or heat — it is immaterial to me. That (indicating dead belt on lock on People's Exhibit 30) is the deadly thing we are talking about and not the missing handle. Was it found there? Are we going to discredit Reinhardt and Dunn -- one of the best witnesses in the case — and Meehan and Flynn and Moore and Saveno and Tortia? Are you going to throw all these aside, these disinterested people who were there and know about the finding of the lock? And its existence upon the door before?

Gentlemen of the jury, why was that door locked? Why was that door locked? Was there motive? Yes. It was to search these poor employees' bags as they went out at night; that is the reason that door was locked at the time they went out. I don't say it was locked nine years ago, but we have Mr. Harris's testimony that they found six girls stealing something and they had them arrested. That stealing has got to stop,-- that stealing has got to stop, -- and something must be done to stop it.

Gentlemen, on this part of the case and without saying another word, although I have got something else I must say, I could stop, never in the history of a prosecution in a criminal Court did the defendants themselves adduce such magnificent and convincing evidence to the jury as when Mr. Blanck, still thinking of the stealings,

and still thinking of the taking of the things away, produced this bag in Court (Defendants' Exhibit E) , with his shirtwaists, he himself producing it. It had never left his mind, and it was his main defense in this court room, -- "I had a right to protect my property." Nothing ever proved in this world before -- and I doubt if it ever will hereafter -- what was in that man's mind, because you cannot look in people's minds -- nothing will ever prove it so clearly as he himself, almost by magic producing it and offering it for inspection. Why, it was the most convincing thing, and the District Attorney in the performance of his solemn duty immediately offered it in evidence. And I ask you now to recall not so much the bag on the premises, but what you saw at that table, and if that don't convince you evidence never will convince mortal man.

Gentlemen, there is a matter of demonstration in this case, and that is that fire did not come upstairs from the eighth to the ninth floor, and there don't live the man who can gainsay that it did not. This (indicating) is the handrail on the eighth floor landing. You are on the stair-well side and I am on the loft side of this piece of wood as it was situated on the landing on the 25th day of March, 1911, at quarter to five o'clock. Here there is a door, the door that Brown opened, and on

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this side of the door are girls, according to the theory of the defense pent up against the door. I think that is what Ida Cohen said. Well, whether the door was locked or not they were this side of the door. Now, there was no fire coming through that door at that time because the people were standing here; Brown had not opened the door. So this side of the wood was cleaner than that side of the wood. Now, that is demonstration. No fire ever came up the well, because that is there. It don't lie to you. It talks to you, Mr. Juryman, and you, every one of you, it says, "I was there, I was there, no fire touched me." And you have got to believe that piece of wood. There was no fire on this side because the door was there and Brown was there and the girls were there, and there was no fire there, so that that handrail belonging to that door was closed, was just as good as that part which is there, and you will find that even the varnish has never been blistered. You cannot have a thing like that with varnish on it and not have it blistered and still go through, flame and fire, that is impossible. Brown testifies that every girl went through that door, and still there was no flame. Mind that. He testified that when he was in the loft, the last person to leave it, he could not see the policeman, but just as soon as he got to the door — that is near this piece of wood on this side — he could see the

policeman, because up to that time there was no smoke and there was no flame.

Now, let us see what the conditions were from there to the ninth floor where these people were pleading to get out. Here is mute testimony (indicating another handrail); this don't lie; you can't say that it tells an untruth. Look at that. Is that the flame that was burning people up? Now, that is the only piece of combustible stuff, with the exception of those two pieces there that there was in that stair-well. Is there any flame running up that stairway, when that is the only thing it can go up? Can you send a message by electricity when there is nothing to send it by? Can you send water through a pipe when there is no pipe? There must be a medium. It is not like wireless telegraphy, -- fire don't run that way -- there has got to be combustion, there has got to be oxidation. Gentlemen, I ask you to take a look at it, I ask you to take that and see if you can find a bit of the varnish that has even been blistered by heat between that eighth and ninth floor.

Now, of course, these doors were down at a time when Reinhardt and Dunn were fighting the flames. Of course at that time when the flames were licking out, when these flames had gone fifteen or twenty minutes and passed away, that is a different thing. That is when

even this little black (indicating) came here, but never heat enough in that stairway even to blister a single piece of a handrail. These are the witnesses that are speaking by the act of providence from heaven, because it is nature and the laws of nature that appeal to you when you see these things. They are the physical objects that tell you that no fire and no flame could have been between that eighth and that ninth floor. And when the people were going out of that eighth floor, when Brown was letting them out, there was no fire in that hall. And the ninth floor there, there is no burn, there is no burn. Of course after the door fell away then the flames licked out. No fire and flame would have burned anybody if that door had been open on the ninth floor.

I ask you to look at the bulb of the electric light still there, with heat from the outside of the bulb and it is not broken. And I ask you to recall the testimony on that point. The only thing that is opposed to that is the statement of Chief Worth. I have the greatest regard and respect for Chief Worth. He is a witness that I would believe at any time on any subject, providing he had a certain amount of opportunity for observation. In other words, if Chief Worth told me there were twenty people there, and he had been there, I would believe it if I only thought I saw twelve. I have the greatest faith

in his credibility, and a finer man, a finer member of the fire department I don't know -- and I know them all -- but Chief Worth testifies he was down on the street, and what he was telling about was a guess of what was happening in that stair-well. And does it amount to a row of beans, when you have got the testimony as opposed to that of the living human beings that were in that stairwell at that time? In answer to Chief Worth's -- and Mr. Steuer put the words in his mouth, "And from that you infer that the flames had gone up the stairs, is that the idea?"

MR. STEUER: That is a misstatement. Those words were used en his direct examination, and they were stricken out. You must not make this misstatement.

MR. BOSTWICK: I read from the record: "Q. Where did you see the smoke, this volume of smoke on the ninth floor?" "And from that you inferred that the flames had gone up the stairs, is that the idea? A. Yes, sir."

Now, I do not care about Chief Worth, because there is a lot of testimony here. Oliver Mahoney swore -- you have all the testimony of the three men. You have the men that first got to the eighth floor, that they went up, and all the testimony, but the very best testimony you have get is right here, these exhibits. That negatives anything Worth said about it. Could flame have gone up that

stairwell, if nothing there was combustible? The stairs are the same to-day as they were on the day of the fire. These very things taken off since this trial commenced, they had not even repaired them, they looked good enough to stay right on the building, they never repaired them, although these others of course had to be replaced, because they were here, but these others (indicating pieces of handrail) had never been repaired on the building, and you know that no flame went up and down that stair-well with those mute witnesses (the exhibits) telling you the true story.

Gentlemen, you recall the testimony of Katie Rabinowitz, or Mrs. Gartman, because she was one of the last witnesses to testify. You remember how she told you that she saw Margaret Schwartz fall up against the partition; you remember how she accounted for every step at the time of the fire on the ninth floor; you remember how she testified how that door was tried and there was no chance to get out, it was locked. I do not believe that any juryman sitting in that box will forget as long as he lives the story of Kate Alterman of the tragic last moments of Margaret Schwartz. A truer story never was told than that. You remember they had been friends, Mrs. Gartman, Margaret Schwartz, the deceased in the indictment, and Kate

Alterman had been friends. You remember how she called her Kate, and she then called back Margaret, and there was no sound that came after that. She died at that ninth floor door and they were passing out of the eighth floor then and these were the conditions between the eighth and the ninth floor, (pointing to the handrail exhibits).

Yes, Brown opened that door on the eighth floor and there /were no dead bodies there, but there were on the ninth. The stairs were not burned while the doors were up, and the rails proved it, the pictures prove it, the sill, the stiles, the case proves it, and the lock itself proves it, besides all the human testimony that there is in this case.

Gentlemen, believe this testimony (pointing to the handrail exhibit) , believe the testimony of these honest little girls that were here, and that told their stories from their hearts, believe them, as you must, and one of the most awful and greatest crimes of history has been proven and is now to be punished in this Court. The testimony of those honest children is before you and you cannot get away from it in this case, and then these things (indicating the handrail exhibits) have brought no lawsuits. These things have no bias. Here are the photographs, here are the rails, here are the sills, there

is the casing, the material that they were working with, the pocketbook from Blanck, the lock, that lock shot, and that bolt there, that held them back — these are the mute witnesses that are speaking to you, and that tell you that every single item of this crime has been proven to mathematical demonstration.

Yes, in the words of the defendants' counsel, 1911 has been a bitter year for the poor families from whom these dear ones have been taken by the neglect of these defendants. Margaret Schwartz died, Margaret died at the Washington place door on the ninth floor because that door was locked and that bolt held that door. Safety and all was on the other side for her and the others, and this safety was kept from her. Why? To prevent these defendants, who had five hundred people under their keeping -- their lives -- from the paltry expense of a watchman.

I have done my duty. The People now look to you to do yours. God grant that you will.

THE COURT: Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or to form or express any opinion thereon, until the same has been submitted to you. You will not allow any one to talk with you about the case, nor talk

with any one about the case, and you may now leave your seats. Those in the body of the room may remain seated, and the Court will take a recess until twenty minutes of two. Jurors may now leave.

(Recess till 1:40 p. m.)

After Recess, Trial Resumed.

The Court now charges the jury.

### THE COURT'S CHARGE

CRAIN, J.:

Gentlemen of the Jury:

The task devolved by law upon the counsel for the defendants and the task devolved by law upon the assistant district attorney in connection with this trial are now about completed. There is very little, if anything, more that either the attorney for the defendants, on the one hand, or the assistant district attorney, on the other, will be called upon to do in connection with the further prosecution of this case. Your duty has been partially performed. A considerable part of your duty remains to be performed. The task which was assigned and which was assumed by the attorney for the defendants has been well performed. The task which fell to the lot of the assistant district attorney in connection with this case has also been well performed. In the conduct of this trial on both sides there has been displayed not merely professional skill and professional courtesy, but zeal and discretion. The court has been greatly aided during the progress of the trial by the assistance given from time to time to the court in every proper way by the attorney for the defendants and by the assistant district attorney. And you will find yourselves greatly aided by

the way in which the case has been conducted on both sides in the unfolding of that which witnesses had to say by questions put to them, by the explanation of various exhibits and by the marshaling of evidence and the presentation of argument on both sides in the summation of counsel. It is not improper to say to you, because jurors sometimes lose sight of that fact, that it is never in any sense a question to be determined in the jury room which counsel has displayed the greater skill or which counsel has conducted the case from the juror's viewpoint with the greater ability. And also it may be said in somewhat the same connection that no matter how skilful counsel may be, and therefore how careful they may be in presenting to a jury the contentions which they desire to make and which they conceive to be persuasive on one side or the other, it rarely happens that any counsel finishes his summation without recalling that he omitted to say something which he might have said, or without the consciousness that perhaps through the limitation of time by which he was bound he was unable to give expression to some of the contentions which he might have desired under other circumstances to have brought to the attention of the jury. So that when you retire to deliberate, to enter upon a discussion of the evidence in this case, you are in no sense confined in your discussion to any considerations that may have been

presented to you by either the counsel for the defendants on the one side or by the assistant district attorney on the other, but the evidence in the case is before you for your consideration and for such discussion as you may consider warranted by the circumstances as they shall present themselves to you in the jury room.

I said that your task had been partially performed. It has, in this sense: That you have listened, as I have every reason to believe, with attentive and open mind to the evidence in the case. That forms no small part of your task, because in the main it is just in proportion as you recollect the evidence that you will be able to weigh and analyze it when you retire to deliberate. A part of your task remain to be performed; that task is figuratively spoken of as the weighing of evidence. It is to be performed by you for the reason that you are made by law the exclusive judges of the facts. It is to be performed by you because the evidence is that which is to be weighed on one side of the balance, the law as given to you by the court being placed upon the other side of the balance. The law is the measuring stick, the evidence is that which is to be measured. The law says that the doing of a certain thing under certain circumstances or the omitting to do a certain thing under certain circumstances is a crime. And then, going into particulars, it specifies what the given crime is, and the question in the

given case for the jury is, Does the evidence establish to the jury's satisfaction, and beyond a reasonable doubt, that that thing which the law says may not be lawfully done under certain circumstances has been done under those circumstances or whether that thing which the law says must be done has been omitted to be done under circumstances making the omission of the doing of it culpable and therefore criminal negligence?

What is it that is to be weighed? What is it that is to be measured? I have said that it is the evidence that is to be weighed and the evidence that is to be measured, and you will readily understand how important it is that you should know what is meant by the term "the evidence" as used in that connection. It includes the spoken word of witnesses responsive to questions put, in so far as the answers of witnesses have been allowed to stand, not being stricken out either upon motion of the assistant district attorney or upon the motion of the defendants' counsel or by the court of the court's own action. The evidence also includes all exhibits which have been marked and received in evidence. The evidence also includes any concession that there may be in the case.

I have now mentioned everything which comes into the scale as the subject matter of your consideration when you retire to deliberate, and you will see that that which I have named excludes certain things. It excludes

anything said by any witness that was stricken out under any of the circumstances mentioned. It excludes any exhibit which has been merely marked for identification but not received in evidence. It excludes any colloquy or conversation that there may have been during the progress of this trial between the attorney for the defendants on the one hand and the assistant district attorney on the other, or between the attorney for the defendants on the one hand and the judge presiding at this trial, or between the assistant district attorney on the one hand and the judge presiding at this trial. It excludes everything which may have been said by either side by way of argument addressed to the court. It excludes everything which may have been said by the court in ruling upon any question of law incident to the reception or rejection of evidence, or which may have been said by the court in passing upon any motion during the pendency of the trial. And you are now told pointedly and explicitly that the decision of question of law during the pendency of this trial by the court, including the decision of motions, imports no opinion by the court as to what your verdict should be.

If you have followed me to this point you will see that I have told you that you are the exclusive judges of the facts, and that that circumstance devolves upon you

the duty figuratively spoken of as the "weighing of evidence" I have told you what is included and what is excluded when the word "evidence" is used by me in that connection, and I have told you that the evidence is to be weighed and measured by those provisions of law which will be brought to your attention in this charge. That as you are supreme in the domain of fact, so the judge presiding at the trial is intrusted with the responsibility of stating the law, and jurors are obligated to take the law as stated by the court. Over against the evidence in this case you can put no other weights than those represented by the law as I will tell you the law to be. Over against the evidence in this case you can use no other measuring stick than the measuring stick contained in and evidenced by legal definitions brought to your attention in this charge.

I might now pass from a consideration of your duty to a statement of the law, but before I do that there are one or two things which I may say, not as directory or mandatory but as suggestions, which you may either follow or not follow as you see fit, because you are the ones to determine exclusively the considerations which will influence you in determining what credence you will give and the considerations which will influence you in the weighing of evidence in this case.

You may not consider it improper to endeavor to recall what in point of fact the witnesses have said, not taking an isolated answer to an isolated question as necessarily expressing the real meaning of the witness, but preferably taking everything a witness has said upon a given subject as expressive of the meaning of that witness. You may not improperly ask yourself, What is the witness' relation to the controversy --interested or disinterested, biased or unbiased? What is the witness' seeming intelligence? What were the witnesses' opportunities for observation, and what were the witnesses' capacity for observation? Is the story told by the witness probable or improbable? Is it consistent with itself? If inconsistent, is it inconsistent in a minor matter only, or is it inconsistent in a material matter? Is it in contradiction to the evidence of some other witness? And, if so, is it in conflict with the evidence of only one other witness, or with the testimony of concurring witnesses?

You will be loath to ascribe the commission of perjury to any witness. Wherever you can reasonably reconcile testimony given upon a basis of an intent on the part of the person testifying to testify to that which is true and not false, you will do so; but if you reach the conclusion that any witness has committed deliberate

perjury respecting a material matter, then, and in that event, you are at liberty to wholly disregard the testimony of such witness.

To avoid repetition -- because that which I now bring to your attention is as applicable to the charge contained in the indictment which charges these defendants with the crime of manslaughter in its first degree as to the charge contained in the indictment which charges these defendants with the crime of manslaughter in its second degree -- I will say to you that the burden of proof is upon the prosecution, and that burden requires that before a defendant can be found guilty a jury must be satisfied from the evidence beyond a reasonable doubt of the defendant's guilt. That is not the rule in civil cases. In civil cases as a rule a verdict is justified by what is known as a mere "preponderance of evidence," although it may be a preponderance which falls far short of removing reasonable doubts in the minds of jurors respecting the propriety of the verdict rendered. But in criminal cases the prosecution must go further than that, and a juror must be satisfied, before a verdict of guilty can be lawfully rendered by the evidence, that the defendants are guilty as charged beyond all reasonable doubt.

Under our system of jurisprudence a defendant is not required to affirmatively establish the fact of his

innocence, if it be a fact. A defendant in a criminal case is presumed to be innocent until the contrary be proved. As already stated, in case of a reasonable doubt as to whether his guilt is satisfactorily shown, he is entitled to an acquittal.

It has been said, and truly and properly said, that it is a dangerous thing for a court to attempt to define what is a reasonable doubt, and the danger lies in the circumstance that a definition is nothing but the substitution of other words for words used, and there are no two words of plainer meaning or in more common use than the two words "reasonable" and "doubt." Those words mean when used in the law precisely what they mean when correctly used in every day life. Not every doubt answers to the description of a reasonable doubt. Reasonable doubt is a doubt that is founded in reason, sustained by reason -- a doubt for the existence of which a juror entertains a reason, a doubt back of which there is a "because," so that a juror says he doubts the guilt of a defendant for such and such a reason. It is not a whim, it is not a caprice, it is not the action of unreasonable sympathy. It has been the subject of comparatively recent definition by the Court of Appeals, and that definition is couched in language very similar to that I have given you in the same connection. In fact, what I have said is in part my

recollection of that which in the case to which I am about to call your attention the Court of Appeals said: "Proof beyond a reasonable doubt," say the Court of Appeals, "has been well defined to be that which amounts to a moral certainty as distinguished from an absolute certainty. A doubt is a state of mind in which a conclusion cannot be reached upon the question before it. If it is not due to mental inability to co-ordinate the facts in evidence it must arise from the absence of some material fact or because such a fact has not been sufficiently established by the evidence, and therefore the foundations for a belief are insufficient. A reasonable doubt is not a mere whim, guess or surmise, nor is it a mere subterfuge to which resort may be had in order to avoid doing a disagreeable thing, but it is such a doubt as reasonable men may entertain after a careful and honest review and consideration of the evidence. It must be founded in reason and must survive the test of reasoning or the mental process of a reasonable examination."

We are now brought to that point where it becomes my duty to tell you that which the law has to say respecting what it is that constitutes the crime of manslaughter in its first degree, after which I shall tell you that which the law has to say regarding what it is that constitutes the crime of manslaughter in its second degree. I will

not give you the whole of either definition, because to give you the whole would be to give you portions of law inapplicable in the light of the evidence in this case and which would confuse you rather than aid you, and my purpose is to aid you as far as may be in my power in your effort to reach a verdict which shall represent what you believe to be established by the evidence in this case.

First, then, it is proper to say that the defendants are charged in the indictment on which they are on trial before you with the crime of manslaughter in its first degree, and also with the crime of manslaughter in its second degree, and the charge relates to the circumstances under which it is charged and alleged that one Margaret Schwartz met her death. The indictment is an accusation in writing, it is nothing but an accusation, and to that accusation the defendants have said by their plea that they are not guilty.

"No person," says the law, "can be convicted of manslaughter unless the death of the person alleged to have been killed and the fact of killing by the defendant as alleged are each established as independent facts, the former by direct proof and the latter beyond a reasonable doubt."

Homicide is the killing of one human being by the act, procurement or omission of another. Manslaughter

in both of its degrees is one of the kinds of homicide defined in the Penal Law. Homicide, which constitutes neither murder in its first degree nor murder in its second degree, and which does not fall under the law's definition of excusable homicide, nor yet under the law's definition of justifiable homicide, is manslaughter in the first degree, when committed without a design to effect death by a person engaged in committing or attempting to commit a misdemeanor affecting the person or property either of the person killed or of another.

It is of the charge contained in the indictment and of the substance of the contention as made by the prosecution in this case that these defendants are guilty of the crime of manslaughter in its first degree because the People contend and charge in the indictment that these defendants answer to the description of persons who were engaged in committing or attempting to commit a misdemeanor affecting the person or property either of the person killed, that is to say, Margaret Schwartz, or of another. And the People's contention in that regard arises from the claim that these defendants at the time of the death of Margaret Schwartz were engaged in violating, or in not observing a provision contained in section 80 of the Labor Law, which forms part of article 6 of that law, entitled "Factories ." The provision in question reads: "All doors

leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours.” Now I have read to you the whole sentence, beginning with the word "all, " but the contention of the People is founded upon the assertion that these defendants were engaged in the commission of a misdemeanor in that, while section 80 of the Labor Law was in part applicable to them, they omitted to have unlocked or unfastened during working hours a door leading in or to a factory of which they were the proprietors, located in the County of New York. That clause of that law, and more particularly that part of that clause of that law relating to the obligation to have doors open, has been the subject of judicial construction, and as so construed it has been held, and you will regard it as being stated as the law of this case, that that subdivision of that section means that every such door shall be unlocked, unbolted and unfastened during working hours, and that that section is violated if any door answering to the description of a door leading in or to any such factory is locked, bolted or fastened during working hours. The working hours include not merely the period of time during which persons are actually employed at their machines, cutting tables, examining tables or desks, but also include a reasonable period of time for the exit of such persons from

the place in which they are employed after the cessation of their work.

Section 1275 of the Penal Law provides that any person who violates or does not comply with the provision. of article 6 of the Labor Law relating to factories is guilty of a misdemeanor. It is because section 1275 does so provide, and it is because the People contend that the part of section 80 of the Labor Law which is found in article 6 of that law requires that the proprietors of a factory shall keep unlocked or unbolted or unfastened during the period described as working hours doors of the character in such part of such section mentioned, and because the People contend that these defendants omitted to do that and were engaged in the omission to do that at the time when Margaret Schwartz met her death, that the People contend that, coupled with the alleged circumstance that the death of Margaret Schwartz is, as they contend, traceable to the alleged locked condition of such a door, that the indictment, in so far as it charges these defendants with the crime of manslaughter in its first degree, is founded.

I believe that I am correct in saying that it is not a matter of dispute in this case that on the 25th day of March, 1911, the defendants, as copartners in business under the name of the Triangle Waist Company, were engaged

in the manufacture and sale of shirtwaists on premises located in the County of New York at the corner of Greene street and Washington place. I believe that I am correct in saying that it is not a matter of dispute that in connection with that business the defendants occupied on that day as lessees, that is to say, tenants in possession, certain portions of such a building, namely, the eighth, ninth and the tenth floors. I believe that it is not a matter of dispute in this case that on the 25th day of March, 1911, there was a fire which had its origin in some portion of the eighth floor of those premises, and that at the time of the origin of the fire there was a person in the employ of these defendants by the name of Margaret Schwartz, and that that person is the person named in the indictment. That Margaret Schwartz died upon a portion of the premises so occupied by these defendants, and that she died from asphyxiation, which was produced by the smoke incident to the fire.

What was it that caused the death of Margaret Schwartz? Did she meet with her death — and I am now speaking simply in its relation to the count in the indictment charging these defendants with the crime of manslaughter in the first degree -- because these defendants had locked and kept locked the door on the ninth floor leading from their ninth floor to the Washington place

stairway? What was the condition of that door at the time that the fire started and at the time when Margaret Schwartz met her death? What was its condition between those periods of time?

When I put questions of this kind it is merely to invite your attention to the provisions of the law applicable to the crime as changed in the indictment of manslaughter in its first degree.

Was that door locked during that period?

If these defendants were on trial, charged not with a felony but with a misdemeanor, and were particularly the alleged misdemeanor of an omission to keep that door unlocked, I might be disposed to charge you that it was not an element to be established by evidence in the case affirmatively that they possessed at the time actual knowledge that the door was locked, if it was locked. But because they are not charged with a misdemeanor, but are charged with a felony, and because of the force and significance which I attach to the words "engaged in," I charge you now that it is the law of this case that you must be satisfied from the evidence, among other things, before you can find these defendants guilty of the crime of manslaughter in its first degree, not merely that the door was locked, if it was locked, but that it was locked during the period mentioned under circumstances bringing knowledge

of that fact to these defendants. But it is not sufficient that the evidence should establish that the door was locked, if it was locked, during such a period; nor yet that the defendants knew that it was locked during such period, if it was locked, but you must also be satisfied, from the evidence beyond a reasonable doubt that there was the relation of cause and effect between this locked door on the one hand, if it was locked, and the death of Margaret Schwartz on the other hand.

Was the door locked? If so, was it locked under circumstances importing knowledge on the part of these defendants that it was locked? If so, and Margaret Schwartz died because she was unable to pass through, would she have lived if the door had not been locked and she had obtained access to the Washington place stairs and had either remained in the stair-well, or gone down to the street, or to another floor?

When you retire to deliberate you will first consider the question of these defendants' guilt of the crime of manslaughter in its first degree. If upon the evidence you believe them to be innocent of that crime or if upon the evidence you entertain a reasonable doubt respecting their guilt of that crime, you will consider the question of these defendants' guilt of the crime of manslaughter in the second degree. In that connection your

attention is invited to a portion of the law's definition of the crime of manslaughter in its second degree. It is the law that such homicide, that is to say, homicide that is neither excusable homicide, nor justifiable homicide, nor manslaughter in the first degree, nor murder in either its first or second degrees, is manslaughter in the second degree when committed without a design to effect death, by any act or culpable negligence of any person which, according to the provisions of this article -- and the article referred to is the article of the Penal Law defining homicide -- does not constitute the crime of murder in the first or second degrees, nor manslaughter in the first degree.

Culpable negligence as so used means criminal negligence, and criminal negligence has been stated to be the unintentional failure to perform a duty implied by law whereby damage naturally and proximately results to another. Criminal negligence here means not such negligence as would entitle one to damages, but the negligence which is a violation of the law decreed by the State for the protection of the peace and the quiet of the State and of the life of all the individuals of the State. Criminal negligence may in general be defined as a dereliction of duty under circumstances showing an actual intent to injure, or such a conscious and intentional breach of duty

as to warrant an implication that the injuries were intended. Culpable negligence is the omission to do something which a reasonable and prudent man would do, or the doing of something which such a man would not do under the circumstances surrounding each particular case. It is the want of such care as a man of ordinary prudence would use under similar circumstances. In order to constitute the crime of manslaughter in the second degree a jury must find that the defendant by some act or culpable negligence procured the killing of the deceased. The jury must not only find that the evidence establishes before they convict the presence of mere ordinary negligence on the part of the defendant, but they must find it in such extreme degree as the use of the term "culpable negligence" imports in the section of the Code referred to. If the evidence leaves the jury in doubt as to whether such a degree of negligence exists as the statute itself contemplates, it must find its presence not proven and acquit the defendants.

Whether negligence exists is of course primarily determinable by a consideration of what the duty devolved upon the person charged with negligence was at the time. An occupant of a factory not peculiarly exposed to the danger of fire by the character of the work carried on within it is not bound to anticipate a merely remote or possible danger and to take measures to prevent its occur-

rence. That was the rule of common law, and is the rule to-day, except as modified or changed by statute. Such an owner or occupant was not bound by the common law to take any extra and unusual precautions for the purpose of protecting the operatives again at the danger arising from fire which such owner or occupant was not reasonably bound to anticipate.

What, if anything, does the evidence disclose in this case respecting the character of the business conducted by these defendants upon the premises in question on the 25th day of March, 1911, viewed from the standpoint of danger to be apprehended from fire? Was their factory a factory peculiarly exposed to the danger of fire by the character of the work carried on within it? That is a question which so far as it may be material to answer it at all in this case may be answered by you in the light of all the evidence in the case, so that when you come to the consideration of the question as to whether or not these defendants were culpably negligent, should you come to the consideration of that question under the circumstances heretofore stated to you, you may not improperly approach it from the standpoint of the degree of care required to be exercised by them as depending upon those general principles of law to which your attention has been called and as depending upon what you may find to be the character of the business as at that time carried on by

them from the standpoint of danger to be apprehended by fire. Where a statute, that is to say, a law, is framed to prevent injuries, or to lessen the likelihood of a person meeting with death from certain causes, is violated, and the death is due to the violation of the statute in the sense of being a direct result of the violation, the breach of the statute may be considered in determining the question of the presence or absence of negligence. So that when you come to consider, should you come to consider the question, as to whether or not these defendants were culpably negligent as that term has been defined to you in this charge, you may consider in that connection the question as to whether or not these defendants were engaged at the time in the violation of that provision of the Labor Law to which your attention has heretofore been directed in connection with the charge against these defendants as contained in those counts in the indictment charging them with manslaughter in its first degree. I feel that I have not made that perfectly plain to you, and at the risk of repetition I state it over again. If under the circumstances mentioned you come to the consideration of the question as to whether or not these defendants were culpably negligent and whether Margaret Schwartz met her death because of culpable negligence on the part of these defendants, you may in that connection consider the

question as to whether or not they did violate the provision of the Labor Law respecting doors heretofore brought to your attention, and whether, if they so violated that provision, their violation of that provision was the direct and immediate cause of the death of Margaret Schwartz.

In this case, as I recollect the evidence, certain witnesses purport to state things which they say were said or remarked which they say were made by persons at the time of the fire who were in the lofts and more particularly on the ninth floor. The broad and general rule excludes statements of that kind in the sense that usually they are not receivable in evidence and may not lawfully be considered by a jury in reaching a verdict. That rule of law is the rule of law which excludes what is known as hearsay, but there are certain circumstances under which such statements are receivable, and ordinarily there is nothing but a question of law for the court when such alleged statements are offered in evidence as to whether or not the circumstances existed making them receivable. Ordinarily, if the court reaches the conclusion that those circumstances are shown to have existed and thereupon receive a such statements in evidence, or alleged statements in evidence, nothing remains for the Jury in connection with the alleged statements but to determine whether in point of fact they were made, and if made, what

if any, weight they shall give to them. But it sometimes happens, as it has happened in this case, that the evidence is partially conflicting as to the circumstances under which such things were said, if they were said, and as to the inferences which may be drawn with respect to the circumstances existing at the time when such things were said, if they were said, and for these reasons there is a preliminary question of fact which is submitted to you for your determination under certain instructions; or, in other words, you are about to be told when and under what circumstances you may consider such statements if you believe them to have been made, in evidence, and under what circumstances you will exclude them from your consideration entirely.

Were such exclamations made? That is the primary question and it is a question of fact. If they were made they may be considered by you as forming a part of the evidence in this case, provided you find first as a matter of fact that they were contemporaneous -- and that means at the same time -- with the main transaction. Secondly, if you find as a matter of fact that they formed a natural part of such transaction, and, thirdly, if you find as a matter of fact that they also formed a material part of such transaction. Under such circumstances they are receivable in evidence by you because of the brevity of the interval, if any, between them and the principal

transaction, and because their connection with the principal transaction is such, as to form a legitimate part of it and to receive credit, and support as one of the circumstances forming and illustrating the main fact, namely, the fact which is the subject of your inquiry.

Again, you may receive and consider them in evidence if you find as a matter of fact, first, that they were the impulsive or instinctive outcome of the act. Although not strictly contemporaneous, they are receivable under the circumstances I have mentioned, because of the supposed improbability that the spontaneous utterance of the instant would be false. If under the circumstance mentioned you should receive and consider such alleged statements as in evidence, you would give them such weight, if any, as you may consider them to be entitled to.

Finally, gentlemen, and I have been constrained to talk longer in charging you than I had anticipated, I may say that you will appreciate the propriety of making every reasonable effort to reach a verdict in this case. With that end in view you will doubtless agree with me that every juror should give full expression to his views. And having expressed them should listen with respectful attention to the views of his fellow jurors. There is an orderly way of proceeding, and the court hopes that you will proceed in that way. It is the duty of each juror to discuss and consider the opinions of others. While that

is his duty, he must decide the case upon his own opinion of the evidence and upon his own judgment. If in the jury room a discussion should arise as to what in point of fact the evidence was respecting any matter, you may ask the officer having you in charge to bring you again to where you now sit, so that in the presence of these defendants and in the presence of their attorney, and in the pretence of the assistant district attorney and of the court, there may be read to you for greater certainty from the stenographer's minutes that portion of the testimony as to which the dispute has arisen.

MR. STEUER: I was going to request your honor, if possible, to make a little more explicit the intent of the court's ruling upon the motions of the defendant made at the close of the People's case and at the end of the entire case.

THE COURT: Gentlemen, I can only say this, that that matter is not to be the subject of thought by any one of you, and much less the subject of comment. So far as you are concerned it imports nothing; it imports nothing so far as the court is concerned respecting any opinion as to what your verdict ought to be. Now, gentlemen, you may retire.

(The jury now retires to deliberate upon a verdict.)

MR. STEUER: I want to except to that portion of the court's charge in which it instructed with relation to the provisions of section 80 of the Labor Law and defining the meaning of the word "all" as therein contained and using the word "every" with relation to it, as meaning that the requirement is that every door should be unlocked, unbolted or unfastened.

And, also, I except to that portion of the court's charge in which it says that working hours include not merely the hours during which they are employed, but also includes a reasonable time for exit during a cessation from their work.

And I except to that portion of the court's charge in which the court defines culpable negligence.

And I except to that portion of the court's charge in which it states that culpable negligence may result from a breach of any statute, and, in connection with this case, particularly that portion of section 80 of the Labor Law theretofore by the court referred to in its charge.

And I except to that portion of the court's charge in which it instructs the jury with relation to the so-called voluntary exclamations.

Those are the only exceptions.

27.

(The jury, which retired to deliberate at about 2:55 P.M., returned to the courtroom at 4:45 P. M., and rendered a verdict of not guilty.)