Cornell University
ILR School

Cornell University ILR School
DigitalCommons@ILR

Transcripts of Criminal Trial Against Triangle Owners

Kheel Center for Labor-Management Documentation & Archives

12-11-1911

Vol. 3, sec. 1 (pp. 1211-1290). Trial resumed December 19, 1911. Defendants' witnesses: Commissioner of Labor describes inspection procedure for Triangle factory; testimony of building superintendent about testing hose, lighting conditions; testimony of supplier re physical layout of factory

Follow this and additional works at: http://digitalcommons.ilr.cornell.edu/triangletrans

This Article is brought to you for free and open access by the Kheel Center for Labor-Management Documentation & Archives at DigitalCommons@ILR. It has been accepted for inclusion in Transcripts of Criminal Trial Against Triangle Owners by an authorized administrator of DigitalCommons@ILR. For more information, please contact jdd10@cornell.edu.

Vol. 3, sec. 1 (pp. 1211-1290). Trial resumed December 19, 1911. Defendants' witnesses: Commissioner of Labor describes inspection procedure for Triangle factory; testimony of building superintendent about testing hose, lighting conditions; testimony of supplier re physical layout of factory

Abstract
Vol. 3, sec. 1 (pp. 1211-1290)

Defendants' Witnesses Trial resumed December 19, 1911

JOHN WILLIAMS, Commissioner of Labor (defendants' witness), discusses building inspections, long discussion of report of inspection of Triangle Waist factory

ISAAC STERN, steam contractor and building superintendent of Asch (Triangle) building (defendants' witness, p. 1246), testifies about testing hose, lighting in stairways, questioned extensively about previous testimony at Coroner's inquest

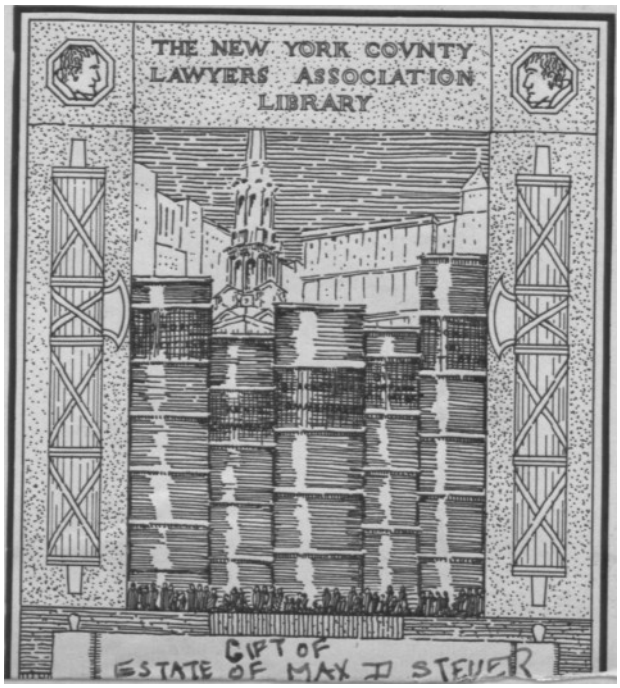
MAX HERSCH, manager of embroidery department of M. H. Pulanski & Co., (defendants' witness, p. 1272), sold goods to Harris & Blanck, visited premises, testified as to routine whereabouts of Harris, physical layout of premises, lighting

Keywords
triangle fire, williams, stern, hersch, commissioner of labor, steam contractor, building superintendent, manager

Comments
http://digitalcommons.ilr.cornell.edu/triangletrans/8

This article is available at DigitalCommons@ILR: http://digitalcommons.ilr.cornell.edu/triangletrans/8

LIBRARY OF



Volume III

Eva Kaplan 1731-1737
Mary Alter 1737-1750
Louis Alter 1750-1755
Edward N. Markowitz 1755-1768
Dora Tiger 1768-1786
Theresa Elbaum 1786-1789
Peter Wortman 1789-1798
Michael Iacovella 1799-1802
Rose Cohen 1803-1805
Dinah Lipschitz 1805-1816
Emile W. Teschner 1816-1821
Eva Harris 1822-1824
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 will 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 inspector 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 previsions 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 cheek 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 Defendants1 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 start 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

3

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, l910.

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-

fendants 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 standspipes, 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 then 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 eight? 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 we 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 me 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 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 sane 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 lime 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 t 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 was 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 test 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.