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Vol. 3, sec. 3. (pp. 1408-1507). Testimony of traveling theater owner, lace salesman, porter, sewing machine operator re whether door was locked

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## Vol. 3, sec. 3. (pp. 1408-1507). Testimony of traveling theater owner, lace salesman, porter, sewing machine operator re whether door was locked

### **Abstract**

Vol. 3, sec. 3 (pp. 1408-1507)

HENRY C. JACOBS, traveling theater owner (defendants' witness, p. 1408), describes one visit to the premises

SIM HERMAN, lace salesman (defendants' witness, p. 1412), testifies about the routine whereabouts of Mr. Harris, which stairs or elevators were taken

WILLIAM HARRIS, porter (defendants' witness, p. 1418), testifies about string on key

ANNA MITTLEMAN, sewing machine operator (defendants' witness, p. 1438)

SAMUEL RUBIN pattern maker, discharged before the day of the fire (defendants' witness, p. 1443), asked about how he came and went between floors, physical layout of premises

HYMAN SILVERMAN, machine operator, now cigar store owner (defendants' witness, p. 1458), asked about key in door, watchman examining workers' pocketbooks as they left, Mr. Blanck routinely trying the door; came to testify after reading about the case (no subpoena)

EDWIN E. WOLF, salesman (defendants' witness, p. 1477), discusses whether he found door locked on visits

JOHN CASEY, engineer/mechanic, worked under superintendent Mr. Stern (defendants' witness, p. 1487), questioned about length of key in door; questioned about previous statements, argument between attorneys over seeing written testimony

ABRAHAM BACHARACH, embroidery manufacturer, sells to Harris & Blanck (defendants' witness, p. 1498), describes customary way he entered and left premises; describes usual whereabouts of Harris, whether he had ever locked a door

### **Keywords**

triangle fire, employee, jacobson, theater owner, herman, lace salesman, harris, porter, mittleman, sewing machine operator, rubin, pattern maker, silverman, machine operator, wolf, salesman, casey, engineer, mechanic, bacharach, embroidery manufacturer,

### **Comments**

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HENRY C. JACOBS, called as a witness on behalf of defendants, being duly sworn,  
testifies as follows:

(The witness states that he resides at 27 25 Bedford avenue, Brooklyn.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I own and operate theatres and traveling theatrical companies.

Q. How long have you been in that business? A. About thirty years, I guess.

Q. Have you any business relations of any kind with Harris and Blanck? A. No, sir.

Q. Have you any social relations of any kind with Harris and Blanck? A. No, sir.

Q. Are you acquainted with anybody, and were you acquainted with anybody in their employ prior to the 25th day of March, 1911? That is the date of this fire, Mr. Jacobs? A. Yes, sir.

Q. Who was the person with whom you were acquainted is that fire? A. Mr. Teschner, one of their salesmen.

Q. One of the salesmen of Harris and Blanck? A. A. traveling salesman.

Q. And he is still one of their traveling salesmen? A. Well I don't know, I guess so; he was when I last heard.

Q. Did you ever go to the place of business of Harris and Blanck to see Mr. Teschner?  
A. Yes, sir.

Q. Now many times did you go there? A. Oh, perhaps three

times or four times.

Q. Was there any occasion when Mr. Teschner took you to the factory of Harris and Blanck? A. Yes, sir, there was.

Q. More than once or just once? A. Just once.

Q. Will you please tell the jury when that was, as near as you can recall — in what month? A. Well, it must have been during the month of October, of a year ago last October.

Q. That would be October 1910? A. 1910.

Q. When you went up to the place of business of Harris and Blanck on the only time that you did go there, to what floor did you go? A. To the floor on which their offices were.

Q. That was the top floor of the building? A. I don't know whether it was the top; it was the tenth, I believe.

Q. The floor on which their offices were, at any rate? A. Yes, sir.

Q. Did you go up in the passenger elevator? A. Yes, sir.

Q. On the occasion when Mr. Teschner took you through the factory did you then go up to the tenth floor? A. Yes, sir.

Q. And is that where you met Mr. Teschner? A. Yes, sir. Mr. Teschner had an office up there, - a room, a compartment.

Q. On the tenth floor? A. Yes, sir.

Q. Will you tell the jury, please, how you went down stairs from the tenth floor, if you did go down? A. I went down on the elevator from the tenth to one floor below that, which was the ninth.

Q. Which elevator did you go down on? A. Washington --

on the elevator on which I went up, -- Washington place.

Q. When you got down there, tell the jury what you saw on the ninth floor? A. Well, I saw a large room or loft, with a number of men and women at work.

Q. A large number of men and women at work, were there not? A. Yes, sir, a great many.

Q. What were they working at mostly? A. Sewing white goods on machines.

Q. Where did you go from the ninth floor? A. To the floor below that.

Q. How did you go from the ninth floor to the floor below that, Mr. Jacobs? A. By backing to the left — probably if I told how I got there I could get it.

Q. Tell it in your own way and get to it, so that it will be right? A. We left the elevator at the ninth floor, stood there right at the entrance to the elevator, and looked down upon the heads of people at work, and Mr. Teschner told me that they had another just such place as that on the floor below, and we walked to the left a very short distance, went out of the door and got into the hallway, walked downstairs and into a room corresponding or similar to the floor above, and walked to the right again, to the entrance to the elevator, and when we got through inspecting or looking at that room, we rang, or he rang for the elevator, and we continued on downstairs and out.

Q. And you didn't go upstairs again? A. No, sir.

Q. Is that the only occasion, Mr. Jacobs on which you went through that doorway?

A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Mr. Jacobs, when you looked down on these operators at work, were you standing on the stairs or on the landing? A. No, sir, on the floor with them, on a level with them.

Q. Was that right near to the door of entrance? A. I should say fifteen feet perhaps; I couldn't tell exactly, however.

Q. Were you in the factory? A. Yes, sir, in the room.

Q. Were you standing in the doorway? A. Yes, sir, as you left the elevator.

Q. When you say you looked down, you mean simply across, over? A. Looked out.

Q. You were at no height above the eleoperators? A. Oh, no, on the same floor level with the —

Q. And you have a distinct recollection that on October 1910, you left the loft by the elevator at the ninth floor, you stood there and then you looked down at this mass of people at work, and then you turned to the left, a short distance out, and then through that door, and then into a room, and then walked through and turned to the right and took an elevator down? A. Yes.

Q. Your recollection on that is very distinct? A. Quite, yes, sir.

Q. What time of day was this? A. I should say about half

past four perhaps, or quarter past four, or thereabouts.

SIM HERMAN, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 740 Riverside Drive.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Lace business.

Q. How long have you been connected with that firm? A. Eighteen years.

Q. In what capacity? A. As a stock clerk first, and then salesman.

Q. How long have you been a salesman for the firm? A. Eight years.

Q. Do you do any business on behalf of the firm with Harris and Blanck? A. Yes.

Q. How long have you been doing business, you personally, on behalf of Levi, Sondheim & Company with Harris and Blanck? A. About seven and a half years.

Q. Is the account of Harris and Blanck with Levi, Sondheim & Company your account? A. Yes, sir.

Q. How frequently do you call at Harris and Blanck's place of business, ~ or did you call prior to the 28th of March, 1911? That is the date of the fire? A. The average of once a day.

Q. And when you say the average of once a day, does that

mean that you called there once every day or that you called there more than once a day, and other times so many times a week? A. Yes, yes.

Q. During the time that you called on them with whom was your business? A. Mr. Harris.

Q. What character of business did you conduct with him, what did you sell him or buy from him or what? A. I sold him laces.

Q. What floor did you go to when you went to the place of business of Harris and Blanck? A. Tenth floor.

Q. And did you always see Mr. Harris on the tenth floor? A. No.

Q. Where other than the tenth floor did you see Mr. Harris? A. On the 9th and eighth floors.

Q. In the years that you have been calling on Mr. Harris to sell him merchandise how many times would you say that you saw Mr. Harris other than on the tenth floor? A. Well, as near as I can possibly get at it in that seven years -- I want to state that I didn't always call at the factory, I think for about two and a half or three years I called at I think 729 Broadway, where they had a show room; the balance of the time, about four years, I called always at the factory, because Mr. Harris was always there.

Q. My inquiry is directed to the four years when you called at the factory. I have nothing to do with the other period at all.

MR. BOSTWICK: I ask to strike out that last answer, "because Mr. Harris was always there."

THE COURT: Oh, I will let it stand.

MR. BOSTWICK: That Mr. Harris was always there at the factory, when he says he was not there.

THE COURT: No, this witness means — well, I will strike that part out.

Q. You mean whenever during the last four years --

MR. BOSTWICK: I object to counsel stating "You mean".

MR. STEUER: All right.

Q. During the last four years when you called on Harris and Blanck and saw Mr. Harris, where did you go? A. At Washington place — that is — at least I believe between Wooster — near the park there.

Q. Will you tell the jury how you would go up to the tenth floor when you called there?

A. Always take the elevator.

Q. Did you always see Mr. Harris on the tenth floor? A. No, I did not.

Q. During those four years will you tell the jury on what other floors you saw Mr. Harris besides the tenth? A. On the ninth and eighth floors.

Q. During those four years will you give the jury an approximate idea of how many times you saw Mr. Harris on the eighth and ninth floors of that building? A. About one hundred and twenty-five times.

Q. Well, was it at least that many times? A. Yes.

Q. Will you tell the jury how you went from the tenth to the ninth floor or from the tenth to the eighth floor, or from the ninth to the eighth, as the case might be? A. When I came up to the tenth floor on the elevator, not seeing Mr. Harris in the office, or the salesman's room, I generally surmised that he was in the back of the tenth floor and I went back there.

BY THE COURT:

Q. When you say the back of the tenth floor what part do you mean? A. The part, your Honor, towards the Greene street elevator.

Q. Proceed? A. Not finding him there I went down the back stairs.

BY MR. STEUER:

Q. Those were the Greene street stairs? A. The Greene street stairs, yes, sir, to the ninth floor. If I did not find him on the ninth floor I went down to the eighth floor, and I generally found him there.

BY THE COURT:

Q. In going from the ninth to the eighth floor how would you go? A. Well, when I went down the Greene street stairs, I would go down the Greene street stairs to the eighth floor.

BY MR. STEUER:

Q. Did you ever go down from the tenth floor to the ninth floor when you did not go by the Greene street stairs? A. I did.

Q. Will you tell the jury on those occasions how you did go down? A. Well, if I was in a great hurry — I want to add

that the only times that I did go down to the ninth and eighth floors by the Washington place stairs was when I was told that Mr. Harris was downstairs.

Q. Well, you have not told us anything about the Washington place stairs. Now, I want to know, when you did not go by the Greene street stairs, how did you go down to the ninth or eighth stairs? A. Sometimes I went by the passenger elevator at the Washington place side, and sometimes by the stairs.

Q. Did you ever go down by the Greene street, or so-called freight elevators? A. Never.

Q. When you went down on the Greene street side you always went down by way of the stairs? A. Yes, sir.

Q. When you went down on the Washington place side from the tenth to the ninth floor or to the eighth floor did you always go by the stairs? A. No.

Q. You sometimes did use in going from the tenth to the ninth floor, or the ninth to the eighth, or from the tenth to the eighth floor, the Washington place elevators? A. I did.

Q. When you did not use the Washington place elevators, and you did not use the Greene street stairs, which way did you go down? A. Down the Washington place stairs.

Q. Will you tell the jury please about how many times — and don't give the largest number, but give the smallest — what would you say was the least number of times that you went down from the tenth floor to the ninth and the eighth floor by the Washington place stairs? A. About fifteen times.

Q. On those occasions when you went by the Washington place stairs how did you go into either the eighth or the ninth loft? A. By the door.

Q. The door that led from the Washington place stairs into the loft? A. Yes.

Q. Did you have any trouble in getting in through that door at any time? A. None whatsoever.

BY THE COURT:

Q. Leaving out of your mind temporarily and entirely the eighth floor, what is your best recollection as to the number of times you went down the Washington place stairs from the tenth loft to the ninth loft, and through the door on the level of the ninth loft, leading from the Washington place stair well into the ninth floor? A. About twelve times.

Q. And the last of those occasions was when? A. I should judge about three weeks before the fire.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. When you came up you went up the Washington place elevator to the tenth floor? A. Yes, sir.

Q. Not finding Mr. Harris there you would walk away over to the Greene street side? A. Yes, sir.

Q. Then not finding Mr. Harris there it was your custom to go down the Greene street stairs from the tenth to the ninth floor? A. Correct.

Q. You wouldn't go back to the Washington place side of the building? A. No, I would not.

Q. What time of the day did you go there? A. Both in the morning and afternoon.

Q. Were you there at closing time when they closed the factory? A. Not that I can recollect.

Q. You are still doing business with them? A. Yes, sir.

WILLIAM HARRIS, called as a witness on behalf of the defendants, being first duly sworn, testifies as follows:

(The witness states that he resides at 532 West 50th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. On and previous to, or before, the 25th of March, 1911, for whom did you work?

A. Mr. Harris and Mr. Blanck, Triangle Waist Company.

Q. And how long had you worked for them before the 25th of March, 1911? A. In all three years.

Q. When did you go to work, Mr. Harris, every day except Saturdays? A. A quarter of six.

Q. And when did you get to work on Saturdays? A. A quarter of five.

BY THE COURT:

Q. That is in the afternoon? A. Yes, sir.

BY MR. STEUER:

Q. Will you tell the jury please, on any evening's work, or night's work, we will call it, just what you did after you went to work? A. Well, I would come a quarter of six

and I would wait until all of the people got out, and I would change my clothes and I would go after I get my clothes changed, and the watchman comes from the eighth floor to the ninth floor.

Q. Speak louder. A. I would change my clothes on the ninth floor.

Q. On the ninth floor? A. Yes, sir, and go from the ninth floor to the eighth floor and begin cleaning.

Q. We would like to know a little more about what you mean by begin to clean. We would like you to tell the jury what you did from the time you started to work until you got through? A. Well, I would sweep, that was my general work, sweeping around machines, sweeping the floor around the machines and between the cutters' tables.

Q. Well, did you clean it up thoroughly? A. Yes, sir.

Q. Tell the jury what you did with the sweepings? A. Take it and put it outside of the door in front of the freight elevator in a trash can.

Q. What was the can made of? A. It was made — the can on the eighth floor was made of tin, a tin can.

Q. Who was with you when you were doing that work? A. A man by the name of Mr. Nathan.

Q. Is that the watchman? A. Yes, sir.

Q. You don't mean that his name is Nathan, do you? That is his first name? A. Nathan Zelleck.

Q. Nathan something? A. Yes, sir, Nathan Zelleck.

Q. What did Nathan do? A. Well, he would sweep around the corners and clean the machines and dusting off and such as that. We would do that work along together as a rule.

Q. Did you two work together? A. Yes, sir.

Q. And you both work on the same floor until you finished that floor? A. Yes, sir.

Q. Which floor did you do first? A. The eighth floor.

Q. Then where did you go when you finished the eighth floor? A. To the ninth.

Q. And what did you do on the ninth floor? A. Do the same thing ~~ sweep and clean around the machines.

Q. Did you do that every night? A. Every night, when the people worked. Sundays they didn't work; when they worked on both floors on Sunday we would clean them Sunday night and every night.

Q. You worked every night in the week, and the only work you did there was that cleaning work, was it not? A. The cleaning work, yes, sir.

Q. You had absolutely nothing else to do for Harris and Blanck, or any other lofts?  
A. No more than ringing that clock, you know. I call it the "Fire alarm clock", I called it. There is a clock, we had had to ring a bell there every hour or so.

Q. What did you ring the bell for? A. That is something I really couldn't explain. I understood it was something, some fire things.

Q. You gave a signal when you came in and a signal when

you left? A. No, sir, we had to ring it every hour.

Q. You had to give a signal somewhere every hour, is that it? A. Yes, sir, about an hour or an hour and a half, something like that.

Q. Was that to the Holmes people that you gave the signal? A. I suppose -- I never did find out that part.

Q. You know you had to ring a bell, that's it? A. Yes, sir.

Q. Outside of ringing that bell and cleaning did you have any work to do for Harris and Blanck from the time that you came to work at quarter to six in the afternoon? Did you do anything else? A. That is the work, cleaning work, yes, sir.

Q. And your work was limited to what floors, Mr. Harris? A. To the two floors, eighth and ninth.

Q. And what time did you quit work? A. Well, when we got through sometimes it would be five o'clock or six.

Q. No, that isn't what I meant. You used to get through with your work at five in the morning? A. Do you mean what time we got home?

Q. Yes. A. Eight o'clock.

Q. Eight o'clock the next morning? A. Yes, sir.

Q. Do you know anything about locking up the place, or anything of that sort?

A. Well, I didn't have the keys, but Mr. Nathan had the keys.

Q. The other man had the keys? A. Yes, sir.

Q. Well, do you know where the keys on the Washington Place side were? A. The key on the Washington place side was in

the door.

Q. Was it left in the door all the time? A. Yes, sir.

Q. All the time that you were on at work? A. Yes, sir.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. You changed your clothes on the ninth floor? A. Yes, sir.

Q. Then you would go down to the eighth floor? A. Yes, sir.

Q. And that is where you commenced to work on the eighth floor? A. Yes, sir.

Q. And you would do all your work on the eighth floor before you started your work on the ninth floor? A. Yes, sir.

Q. And Nathan would help you do your work, that is, he would do work while you were working? A. Yes, sir.

Q. And when you both got through your work on the eighth floor, then you would both go up to the ninth floor? A. Yes, sir.

Q. And in going up to the ninth floor the eighth you would go up the Greene street way?  
A. Yes, sir, every night.

Q. You would go up the Greene street stairway? A. Yes, sir.

Q. Did you do any cleaning on the tenth floor? A. No, sir, not at night.

Q. Only on the eighth and ninth floors? A. At night, yes, sir.

Q. You never went by the Washington place door, did you? A. Not while I was on at night.

Q. You never went through the Washington place door and up to the ninth floor? A.  
(No answer).

BY THE COURT:

Q. Suppose you were on the eighth floor and you wanted to get from the eighth floor to the ninth floor, did you ever go out of the door on the eighth floor on the Washington place side, and walk up the Washington place stairs to the ninth floor and go through the door leading from the stairs to the loft on the ninth floor on the Washington place side? Did you ever do that? A. Not during the time I worked nights.

Q. What do you mean by not during the time you worked nights? A. Because I worked a while in the day time.

Q. Did you at any time while you were working there in the day time do that? A. Yes, sir.

Q. When was that? A. I worked in the day time for a month or more, I suppose.

Q. How long ago? A. I worked there over three years, and I worked a month or so when I first started, before they put me on nights.

Q. In other words, you had been working for Harris and Blanck at the time of the fire for about three years? A. Yes, sir.

Q. And during the first month that you worked for them you worked in the day time? A. Not at night, yes, sir.

Q. And during that first month you say that you sometimes went up the Washington place stairs? A. Yes, sir.

Q. From the eighth floor to the ninth floor? A. Yes, sir.

Q. And how would you get into the loft on the ninth floor

if you went up stairs? A. The door was open, the door was on the ninth loft on the Washington place stairs, and also on the eighth floor from the Washington place stairs.

BY MR. BOSTWICK:

Q. Can you read and write? A. Yes, sir.

Q. Did you call at my office and were you examined by me? A. I don't know who you are, I was examined by some one.

Q. Were you examined by some one? A. The District Attorney.

Q. Who sent you to the District Attorney's office? A. Who sent me to the District Attorney's office?

Q. Yes. A. Who sent you there?

BY THE COURT:

Q. How did you happen to go there? A. How did I happen to go to the District Attorney's office?

BY MR. BOSTWICK:

Q. That is exactly the question, yes, sir. A. Do you mean after the fire?

Q. Yes, sir, after the fire? A. Well, of course, naturally I was working for the company, you know.

Q. Yes, that is natural. You are still working for the company? A. I was at the time, during the time of the fire, but I am not working for the company now.

Q. Not paid by them? A. Not working for them, not paid by them either.

Q. Tell us who sent you down to the District Attorney's office? A. Who sent me down to the District Attorney's office?

Q. That is the question. Who sent you down to the District Attorney's office? A. No one sent me down there.

Q. Did Mr. Blanck send you down to the District Attorney's office? A. No one sent me

—

Q. You say you have seen the Washington place door open in the day-time? A. Yes, sir.

Q. And gone through it? A. Yes, sir.

Q. I ask you to read this affidavit, and ask you whether it is your signature thereto?

MR. STEUER: I object to that on the ground that it is absolutely incompetent.

THE COURT: The objection is overruled.

MR. STEUER: Won't your Honor hear me a minute on that? I certainly did not propound to this witness any inquiry on any such subject, I didn't even know that he had ever worked there during the day-time, and I brought out ~~

THE COURT: That does not relate to the question that is new before the Court. He is asked to look at a paper, I will allow him to look at it.

MR. STEUER: I respectfully except. I object to it on the ground that it is not contradictory, or cross examination of anything that was elicited on the direct, that no question is propounded to the witness with relation to the period now referred to, and that it is a collateral matter to the direct examination, and he cannot

be impeached.

THE COURT: He is merely asked to look at a paper, and I will allow him to look at it.

MR. STEUER: I except.

(The witness takes paper and reads the same to himself. )

A. What is in there is not true. I see at the last where it says Mr. Blanck sent me there, but I told him at the time Mr. Blanck didn't send me there. He said it didn't make any difference.

Q. That is not the question. A. What is the question?

THE COURT: Do you want that stricken out?

MR. BOSTWICK: No, sir.

Q. Is that your signature (indicating paper shown witness)?

A. William Harris -----

MR. STEUER: That was not the question. Mr. Bostwick first asked him that question, but your Honor then merely told him to read a paper.

MR. BOSTWICK: All questions withdrawn.

Q. Is that your signature to that paper? A. William Harris, that is my name, yes, sir.

Q. Did you write your name to that paper? A. I did.

Q. And did you appear before an officer of the law and swear to it?

MR. STEUER: I object to that, - an officer of the law — what does he knew about that?

MR. BOSTWICK: Question withdrawn. There is a mistake in that paper.

Q. Did you appear before James Sheridan, Commissioner of Deeds of New York City on the 18th day of April and swear that that was true? A. Please excuse me, but this is an error that Mr. Blanck sent me there.

Q. No, answer my question.

THE COURT: No, I will hear the witness.

THE WITNESS: (Continuing) This says Mr. Blanck sent me there. I left there about —

THE COURT: That is not an answer, that is stricken out.

Q. (Question repeated by stenographer, as follows:)

Did you appear before James Sheridan, Commissioner of Deeds of New York City on the 18th day of April and swear that that was true? A. I hardly know how to answer you, sir.

BY THE COURT:

Q. Did you swear that the contents of a certain paper were true? A. Some part of it is true. I mean some part of it because I mean Mr. Blanck didn't send me down there.

BY MR. BOSTWICK:

Q. We are not now concerned with whether any of that is correct or incorrect, - we are concerned, however, with whether you went before a Commissioner of deeds and the Commissioner then and there asked you whether you swore that was true, and that you said yes, and thsn ths Commissioner affixed his name— put his name and then put what else is there, and all this after

you had signed that paper? A. All this after I had signed the paper?

MR. STEUER: Even that is improper in form, because that calls for a conclusion. Let him be asked, I suggest, what was done?

MR. BOSTWICK: No, I do not propose to have my questions framed by the attorney for the defendants. He can object to the question, and I will get the ruling of the Court.

MR. STEUER: I object to the question as incompetent.

BY THE COURT:

Q. Were you on a certain day in the office of the District Attorney? If you don't understand, say so? A. If I was on a certain day in the office of the District Attorney? Yes, sir.

Q. And he asked you certain questions? A. He asked me some questions, yes, sir.

Q. And you made some answers? A. Yes, sir, I made some answers.

Q. And something was written out on some paper, is that so? A. Yes, sir.

Q. Then you wrote your name on that paper, is that so? A. Something written on some paper and I wrote my name on some paper, but everything on this paper --

Q. Didn't you read that paper before you put your name to it? A. Before I put my name to it?

Q. Yes. A. No, sir, my name was signed before I read, be~

cause I told the gentleman at the door that Mr. Blanck didn't send me there and so far as the day was concerned that was not asked, whether I ever worked in the day or not, before the paper was signed.

MR. BOSTWICK: I ask to strike that out.

THE COURT: Strike it out.

MR. STEUER: Exception.

Q. Before you wrote your name on the piece of paper that you have in your hand, did you read it over? Now, yes or no to that? A. I read it over.

Q. Did you write your name after you had read it over? A. After I had tried to correct the mistakes he put on, that was on there. He said it didn't make any difference and then I signed my name. I know that well.

BY MR. BOSTWICK:

Q. Did you tell me there was any mistake in that paper? A. It was not you; it was some young man, I don't know who it was, the last day I came down. I suppose it was in the same building, I reckon.

Q. Aren't those the words that you spoke? A. Well, so far as Mr. Blanck sent me there I didn't say that.

Q. All the rest of it true? A. And about, - said something here concerning, I don't ever remember going on the Washington place side of the stairway, and when I said I don't ever remember going there I meant at night, not in the day, you understand?

Q. Didn't you go before a Commissioner of Deeds, and didn't

he say to you "You solemnly swear that this affidavit is true, so help you God", and didn't you say "Yes" A. Well, about working in the day, I wasn't there.

Q. No, didn't that happen? A. I didn't go on the stairways at night.

Q. Did you go to the Commissioner of Deeds? A. Commissioner of Deeds? I went where this paper was made out, of course.

Q. Did you go before a person? A. A person? Yes, sir.

Q. Did that person ask you whether that was true? A. Whether that was true?

Q. Yes, whether that was true? A. Well, of course, —

Q. I don't want to know that, and I ask you to please answer that question.

THE COURT: I think for all practical purposes you have got sufficiently on the record the situation; it is perfectly clear.

MR. BOSTWICK: I ask that the paper be now marked in evidence under these words of the Court of Appeals, "In no event, however, should the writings or any part be read until it has been marked in evidence." Werner, J.

MR. STEUER: You mean I should not read it.

THE COURT: That does not mean that when a paper is offered counsel on the other side may not look at it and look at it to see whether it is receivable or not.

MR. STEUER: Judge Werner says that neither side can —

MR. BOSTWICK: I think under the rulings counsel has not the right to look at it until it is formally offered for the purpose of being read to the jury.

THE COURT: I understand you have offered it in evidence.

MR. BOSTWICK: I ask that it be marked in evidence. I think the distinction is clearly made between the right of the counsel to use a paper which has been admitted in evidence and that which has been marked in evidence.

THE COURT: I have not yet received it in evidence. You at the present time offer it in evidence.

MR. BOSTWICK: I ask that it be marked in evidence.

THE COURT: Counsel on the other side should be allowed to look at it in order that he may frame any objection he may have to the reception of it.

MR. STEUER: I have no objection to the paper.

THE COURT: I will look at it.

(Paper handed to the Court.)

THE COURT: I will receive it.

Received in evidence and marked People's Exhibit 43.

MR. STEUER: Now, either Mr. Bostwick will read it, or I will ask the right to read it.

MR. BOSTWICK: I will read it. (Now reading:)

WILLIAM HARRIS: 532 W. 50th St., testified as follows:

On March 25th, 1911, last Saturday, I was in the employ of the Triangle Waist Co., as night porter. In the afternoon of that day – about 4:45 o'clock – I was on the

street getting some lunch. I went upstairs about half past 4 and got my money, and came down and goes down Waverly place for lunch. and goes around 8th street to a grocery store, and on the corner of Broadway and 8th street — I came back from there to the grocery, and the fire wagon came by, and I said to the grocer, “There’s a fire on the corner somewhere”. He said, “Where is it?” I said, “I don’t KNOW; it's around the corner on Greene street.” When I got to the corner of Greene and 8th street I seen the fire coming out of those windows. I wasn't upstairs at the time of the fire. I had been there and come down. Not being there, I don’t know how it started or nothing like that. I didn’t go back into the building again.

My duties as night porter were to clean the two floors, 8th and 9<sup>th</sup>, every night, and to take the material and put it down by the freight elevator. The man comes in the morning and takes it away. I remember the binds were under the cutters’ tables. They put pieces of lawn in there I don’t know exactly how high they were. They were full of cuttings, in places. I don’t remember whether those under the first cutters’ table were full or not. I don’t think it they were full, because all the rags weren’t put there; it wasn't full all the way. There were quite a few rags in there.

Q. Do you know when they had been taken rags away from that place, of the Triangle Waist Company, before Satur-

day? A. You mean the rags?

Q. Yes. A. I think they called for rags every ten or fifteen days, if I am not mistakes.

I being there at night, I couldn't say just how long before that they called for rags. Sometimes they called on Sunday and sometimes during the week.

I know there is a door leading into the place on the 9th floor from the Washington street side of the building. I have gone through that door way. I went down through that door one night, and I am quite sure they kept it locked, but there if a key tied to the knob. The watchman coming from the 8th to the 9th floor would use the Greene street stairs. I don't remember whether I ever used the Washington place stairs between the 8th and 9th floors, or not. I can't say whether the doors on the 8th or 9th floors of the Washington place stairway were ever locked or not, but if the 9th floor door on that stairway was locked the key was right in the door or tied to the knob. The 8th floor, I don't know about. I was on duty on Friday the 24th from 6 p.m., to 8 o'clock Saturday morning the 25th. I noticed particularly that the key was tied to the knob of the door on the 9th floor, Washington street side. I knew there was a fire escape on that building. It was not part of my duty to shut the windows at night. The other man did that. I did the cleaning and he closed the windows. I have seen the doors

open at night on the 9th floor, Washington place side. I come on about quarter of six. I have seen the 9th floor, Washington place side door open when I came on duty. I never saw anybody open it. I have seen the night watchman try the door. As a rule, he comes to the 9th floor between 6 and a quarter past 6. He closes the elevator doors. If the door is locked he goes away to the other doors. His purpose is to see whether it is locked. He locks it at night. There are only two of us there, and that is why he don't leave the door open- The key on the 9th floor door, near the passenger elevator, was tied to the knob on the inside Mr. Blanck sent me down here. I left there about 2 o'clock. I haven't worked since the fire."

Q. What keys did Mr. Nathan Zollock have? A. What keys did he have? He had a key to the front elevator and a key to the Greene street side door.

Q. Is that all? A. Well, now, he had a bunch of keys, I know he had those keys. The other keys, I don't know what they were used for. He had more keys, I am quite sure.

Q. Those are the only keys that you know he had? A. I know he used those at night.

Q. You have seen him lock those two doors? A. Lock the passenger elevator door and the door to the Greene street side. He carried those keys in his pocket, but the other keys were in the Washington place side.

MR. BOSTWICK: I move that that be stricken out;

I am not asking what keys he carried.

Motion granted. Exception.

Q. Then you said he carried the key to the Greene street door did you mean the Greene street door of the 8<sup>th</sup>, 9th or 10th floor, or all of them or any of them? A. I am positive he had the key to the eighth and the ninth floor, and the tenth floor I am pretty sure he had the key to on the Greene street side, but I am sure about the eighth and ninth.

Q. Sure about the eighth and ninth floors on the Greene street side? A. Yes.

Q. But he didn't have any key of the Washington place side ? A. They were in the door.

Q. He didn't have the key of the eighth floor of the Washington place side? A. It were in the door, I am quite sure, Washington place side, not Greene street.

Q. They were both in the door, both on the eighth floor and the ninth floor? A. On the Washington place side, not the Greene street.

Q. On the Washington place side? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. What? A. Yes, sir.

Q. Was the key in the lock, or was it hanging down from the knob? A. In the lock.

Q. It was not hanging down? A. It was not hanging down. In the lock.

Q. Was it attached in any way to the handle? A. To the handle? There was a string tied to the knob.

Q. How long was that string? A. I suppose that string was about — I couldn't say exactly. I should say about so many, I reckon.

Q. Yes, indicating about twenty-six inches? A. Yes, like that.

Q. Show us again? A. Well, just like that.

Q. Just hold your hands right there?

MR. BOSTWICK: (measuring with a ruler) About twenty-two inches?

A. Yes, sir.

Q. How wide would you say that string was? A. Two or three inches wide, some thing like this, some thing like this (indicating two inches on his fingert by measurement with a rule).

Q. What color was this string by which this key — A. It was a piece of lawn, white; it was white.

Q. It was white? A. Yes, sir.

Q. Was it figured? Did it have checker shapes on it? A. White lawn, white lawn.

Q. There were no checker shapes on it? A. I didn't notice any checkers on it.

Q. Well, now, are you quite sure about that? A. Yes.

Q. You are sure it was not stamped with a checker pattern on it? A. The string I seen was a white lawn string.

Q. Could it have been three inches long? A. Three inches long? I said that long (indicating about twenty two inches as before).

Q. You are quite sure it could not have been so short as three inches? A. Not sir, it was not three inches.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You never measured that string whether three inches or one, did you? A. No, sir, I didn't measure.

Q. You never measured to see how long it was, did you? A. No, sir.

Q. But you know with your own eyes, night after night while you worked there for three years that you saw that key in the lock, don't you?

MR. BOSTWICK: I object to the statement-question.

THE COURT: I think it is objectionable.

MR STEUER: And I respectfully except to its exclusion.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you know Mr. Reginald Williamson?

MR. STEUER: If you ask him about the day porter he will tell you he knows him, but Reginald Williamson seems a little too much.

BY MR. STEUER:

Q. Do you know the day porter that worked there before the fire? A. Yes, sir.

Q. You know him very well, don't you? A. Yes, sir.

ANNA MITTLEMAN, called as a witness on behalf of the defendants, being first duly sworn testified as follows:

(The witness states that she resides at 334 East 5th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You are a sister of Ida Mittleman, are you not? A. Yes, sir.

Q. Did you on the day of the fire work for Harris and Blanck? A. Yes, sir.

Q. What did you do there? A. You mean the time of the fire?

BY THE COURT:

Q. What kind of work were you doing? A. Oh, operator.

BY MR. STEUER:

Q. How long did you work there? A. Two years.

Q. Where was your machine? A. Right near the door, Washington place door.

Q. Was it the first table from the Washington side door? A. Yes, sir.

Q. And when you sat at that first table from the Washington place side, did you have your back to the door or your face to the door? A. My back to the door.

Q. Did you get the signal on the day of the fire, that

the power would be shut off and was the power shut off? A. Yes.

Q. Where did you keep your hat and coat? A. Dressing room.

Q. And did you and your sister have your hat and coat together? A. Yes, sir.

Q. Who was it that used to get the hat and coat for you and your sister when the power was shut off? A. I did.

Q. And did you and your sister dress at your machine every day? A. Yes, sir.

Q. On the occasion of the fire what was the first thing that you knew about any trouble?  
A. I thought it was an elevator crash.

Q. You heard a noise? A. I heard a noise.

Q. Did you know anything about any fire at that time? A. No, sir.

Q. What took place between you and your sister, or what did you do or see done at about that time? First tell us what you did, if you did anything? A. I went to the dressing room and got my clothes and came back to my place and I teard shouting. some noise, what it was I don't knowt and I ran te the elevator and I heard a noise.

Q. Which elevator? A. Washington side door. I heard a noise and I thought it was an elevator that crashed; I went back to my place and told my sister that there must have been an elevator crash and she said, "Well, we will see what happened."

Q. It is not necessary that you should tell what was said.

Tell us without saying what you said to your sister, or what your sister said to you at that time. Tell us what you, your sister, or anybody else did that you saw? A. I didn't see anybody at that time.

Q. Well, you saw your sister, didn't you? A. I saw my sister.

Q. Will you tell us please from the time after you heard the crash and after you said something to your sister, what happened then? A. I don't know.

Q. What is that? A. I don't know what happened.

Q. Well, I don't mean what happened in the building, I mean what happened to you folks, to you and your sister, and anybody else.

BY THE COURT:

Q. Where you went, what you did and all about it.

BY MR. STEUER:

Q. And what you saw? A. We ran to the elevator, rang the bell and stood some time there and we couldn't get down.

Q. Did the elevator come? A. No, sir; then we went to the Greene street side, we were met with a crowd, and coming back we went back to the same place; that was on the Washington place side, stood there with the crowd, and at last the elevator opened and in we went.

Q. Before you went to the Greene street side, did you see your sister go anywhere? A. No, we were together, I believe.

Q. Have you told us now everything you saw? A. Well, if I

could remember.

Q. I don't want to aid your memory, but I want you to think about everything that happened at about that time, and tell it to the jury.

BY THE COURT:

Q. We are starting now at the machine table, you have gone back with your hat and coat, and your sister's hat and coat is that so? A. Yes, sir.

Q. And at that time you heard a crash or a noise, is that so? A. Yes, sir.

Q. Where did you first go? A. To the elevator.

Q. What elevator? A. It was the Washington place side.

Q. And from that point where did you go? A. Went back to my place again.

Q. That was by the machine? A. Yes, sir.

Q. Now from that point where did you go? A. Stood there. My sister went to the Washington side door, and it was open, and went out in the hall, and come back and told me that there was fire, and with that I knew there was fire in the building, so we went back to the elevator.

BY MR. STEUER:

Q. Which elevator? A. That was the Washington side I am alluding to. And we waited for some time until this here George opened the elevator and we got down.

Q. When your sister went to the Washington place side door, did she go alone or did anybody go with her? A. She was

alone, but there was May before, May Levantini.

Q. May was before your sister? A. Yes, sir.

Q. Had you known May Levantini before that time? A. Certainly.

Q. How far away from May Levantini did you work? A. Well, some distance.

Q. At that time did you go out of the Washington place door yourself? A. During the fire?

Q. During the fire or at the time your stater went out did you go along? A. No, I stood in my place.

Q. You stood in your place. Now, did you see your sister go out through that door? A. I did.

Q. Did you see your sister come back through that door? A. I did.

Q. Was it after that time that you went back again to the Washington place elevator? A. Yes, sir.

Q. Now, which Washington place elevator was it that you went down on, if you remember? A. Well, I couldn't remember that.

Q. How many elevators were there on the Washington place side? A. Two.

Q. Can you recall which elevator it was, whether it was the one that was nearest to the Washington place windows or the one that was further away from the Washington place windows that you went down? A. I think it was the one next to the one that was near the window.

Q. I didn't quite understand that.

BY THE COURT:

Q. Was it the one nearest the windows or the one nearest the dressing room? A.

Nearest the dressing room.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You know May Levantini? A. I do.

Q. Did you talk to her to-day? A. No, I haven't seen her.

Q. Did you talk to her yesterday? A. I did.

Q. And you had a talk about what happened at that door, didn't you? A. Yes, sir.

Q. And May Levantini told you what happened at that door? A. She told me she opened the door.

Q. And your sister was there at the same time, was she not? A. Yes, sir.

Q. Did your sister open the door? A. I can't tell you that.

Q. You don't know? A. No, sir, but I believe that May did.

Q. You believe that May did? A. Certainly.

Q. You really believe that, don't you? A. I do.

Q. You are convinced of it, aren't you? A. Well, that is, I said I don't remember, but being that my sister was after May, then she says she was at the door first.

Q. And that is the reason it is perfectly clear, isn't it? A. Certainly.

SAMUEL RUBIN, called as a witness on behalf of the defendants, being duly sworn,

testifies as follows:

(The witness states that he lives at 370 St. Anne's Avenue, Bronx.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I am a pattern maker and foreman in the cutting department.

Q. Whom do you work for? A. I have been working for the Knickerbocker Shirtwaist Company, the Triangle Waist Company.

Q. The question is whom do you work for? A. At present?

Q. Yes. A. At present I am working for the Standard Art Waist Company, 13 East 17th street.

Q. You didn't work for Harris and Blanck at the time of the fire, did you? A. No, I was discharged two weeks or three weeks before the fire.

Q. Whom were you working for at the time of the fire? A. I was working at the time of the fire for the Model Waist Company 101 Crosby street.

Q. So you have not worked for Harris and Blanck at the time of the fire, nor since the fire at any time? A. No.

Q. When did you work for Harris and Blanck? A. I worked for Mr. Harris and Blanck, starting from about November, or in the end of September, I can't recollect exactly the date, about four and a half months.

Q. When you worked for them what did you do?

THE COURT: Pardon me, you haven't the year yet.

Q. That was what year? A. That was last year.

Q. Do you mean the months before the fire? A. The months

before the fire.

Q. You quit about two weeks before the fire? A. I was discharged two weeks before the fire.

Q. When you worked for them what did you do? A. I was a pattern maker on waists, I was the head cutter, taking charge over the cutters and see that the work should be going out exactly, and that all.

Q. What floor did you work on? A. I worked always on the eighth floor, that was my place of having my pattern table, that was always on the eighth floor.

Q. During the time that you worked there did you have any occasion to go up on the ninth floor and on the tenth floor? A. Oh, yes, on the tenth floor I was two or three times a day.

Q. And on the ninth floor? A. On the ninth floor I didn't go so often, but it was about three or four times a week, always.

Q. What was it that took you to the tenth floor? A. On the tenth floor was the stock department of laces and embroideries. I was at the time when the business starts, so I went to get the laces quick enough, so I would go out and ask the fellow that attends to the laces, just picking out, he would send for me, and sometimes he didn't have enough lace for one lot and we had to combine two laces together to finish out, so I used to up on the tenth floor and done this myself.

Q. Anything else that took you to the tenth floor except what you already told the jury? A. Some times I wanted to see Mr. Bernstein, the manager; he was on the tenth floor show

room, and I had a special question to ask him, I used to go up and ask exactly what I would do and go down again.

Q. Is that all that took you to the tenth floor? A. That is about all.

Q. What took you to the ninth floor? A. The ninth floor is, you know I was — I had twenty cutters.

Q. Under you, you mean? A. Under myself, and a cutter is always liable to make a mistake so sometimes it happened a cutter made a mistake, and I had to go up on the ninth floor and straighten up -- the laces were mixed in together, two different designs of laces, one like the other, this was once; and simply Mr. Bernstein used to keep himself on the ninth floor and I wanted to see him. You know Mr. Bernstein was all over the place, so I used to go up on the ninth floor to see if he was in and if he was I would step in and speak with him the matter over and then walk down.

Q. You say you were on the ninth floor as often as four times a week, and on the tenth floor as often as two or three times a day? A. Oh, yes, sir.

Q. Near which side was your table, -- Greene street or Washington place side? A. Greene street side.

Q. When you went up stairs as a rule from the eighth to the ninth floor what stairs did you go up? A. Greene street side, that was near my table.

Q. When you went from the eighth to the tenth floor as a rule by what stairs did you go? A. You mean from the tenth to

the eighth,

Q. No, from the eighth to the tenth? A. Well, I used to go up by the Greene street side.

Q. When you went up from the eighth to the ninth floor on the Greene street side did you use the stairs or the elevator? A. The stairs, I couldn't wait for the elevator.

Q. When you went up from the eighth to the tenth, on the Greene street side, did you use the stairs or the elevator? A. [A]so the stairs.

Q. When you came from the tenth floor to the eighth floor how did you come downstairs? A. By the stairs of the Washington place side, because the stock room was on the Washington place side.

Q. Did you generally come down from the tenth floor to the eighth floor by the Washington place stairs? A. Always, pretty near always. It was more comfortable to walk right away down with the goods, and having the goods, through the Washington floors. I had to carry the bundles near to the pressers by Greene street. This way I used to come down on the Washington place side on the eighth floor, and then I was in the place already.

THE COURT: We will suspend now. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you. Recess till 2 p. m.

(Recess till 2 p. m.)

After Recess, Trial Resumed.

THE COURT: If there is no objection on either side Mr. Vetter, (Fifth Juror) will be allowed to go to the telephone. I believe there is a message for him.

(No objection.)

(Mr. Vetter, the Fifth Juror, absents himself from the Court room for a short space of time, and then returns.)

THE COURT: Proceed.

SAMUEL RUBIN, resumes the stand and further testifies:

DIRECT EXAMINATION BY MR. STEUER: (Continued)

Q. When you went from the eighth to the tenth floor you always went up by the Greene street stairs? A. Yes, sir.

Q. And when you came down from the tenth floor to the eighth floor you came down by the Washington place stairs? A. Yes, sir.

Q. When you came into the eighth floor by the Washington place stairs, how did you go in? A. I opened the door.

Q. You mean the door that leads from the Washington place stairs into the loft? A. Into the loft, yes, sir.

Q. And when you walked the stairs what door did you walk through on the tenth floor?  
A. When I walked through the stairs?

Q. When you walked from the tenth floor to the Washington place stairs, through what door did you walk on the tenth floor? A. The door that brings me down the stairs.

Q. What did you have to do to walk out of that door?

A. I had to pull the door into the place.

Q. The door opened into the place? A. Yes, sir.

Q. When you went from the eighth floor to the ninth floor how did you go? A. To the Greene street side.

Q. When you came from the ninth floor down to the eighth floor how did you go? A. Well, sometimes I used to go by the Greene street side, and sometimes by the Washington.

Q. Which way did you go down most of the time from the ninth to the eighth floor? A. Most of the time I used to go down through the Washington side, because Mr. Bernstein used to keep himself in the Washington place side, so I used to find him always there.

Q. You have told us that you didn't work for Harris and Blanck for three weeks before the fire? A. I was discharged two or three weeks before the fire.

Q. Are you connected with Harris and Blanck in any way?

A. No, sir.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. You were discharged, weren't you? A. Yes, sir.

Q. And why have you said four times in your testimony that you have been discharged? A. They have asked me if I worked there and when I left there, so I told them I was discharged two weeks before the fire, because that is the truth, I was discharged.

Q. You had no other reason in stating you were discharged when you were asked whether you were still working for them? A. I have no other reason, because I was really discharged, that is the only thing.

Q. Well, you would be willing to work for them again, would you? A. Well, I am working now at present, I am getting a good salary, why should I change?

Q. Would you like to work for them again? A. Well, I don't think I would. Because if they discharged me once, and I didn't see the reason why they should discharge me — it was only the matter of making a little mistake ~ I was the head man, and the head man can't find so quick a position.

Q. You didn't volunteer to be a witness in this case? A. I don't understand your question.

Q. You didn't offer to become a witness in this case? A. No, sir.

Q. How did you become a witness in this case? A. Well, I will tell you something, I was in business —

Q. Is what you are going to tell me in answer to my question? A. Yes, sir.

Q. Who came to you, or whom did you go to? A. I was in business before --

MR. STEUER: He has changed the question now.

A. Well, I was up at the place of Mr. Harris and Blanck.

Q. When were you then? A. Monday evening.

Q. Monday a week ago? A. No, Monday this week.

Q. And you had a conversation with either Mr. Harris or Mr. Blanck? A. I had no conversation, but Mr. Blanck called me.

Q. Did you have a conversation with Mr. Bernstein, Mr. Harris or Mr. Blanck? A. I didn't find Mr. Bernstein there when I came up.

Q. Did you have a talk with Mr. Harris or Mr. Blanck? A. Well, the only thing when I came in Mr. Blanck told me I should step into the office and they gave me a subpoena.

Q. You didn't know anything about this case? A. I knew what the case was.

Q. You didn't know anything about this case, - that is, in regard to your being a witness? A. No, sir.

Q. Until Mr. Blanck called you in and gave you a subpoena? A. Yes, sir.

Q. And you were in Mr. Blanck's place of business on other business, were you not?  
A. Other business?

Q. You went to Mr. Blanck's place of business on other matters, didn't you? A.  
Yes, sir.

Q. Other business matters? A. Yes, sir.

Q. And while there on Monday you were served with a subpoena? A. Yes, sir.

Q. And Mr. Blanck had nothing to say to you on that Monday whatever? A. Not a word.

Q. Had you seen Mr. Steuer? A. Mr. Steuer, yes, I did.

Q. Before Monday or after Monday? A. In the office of Mr. Blanck.

Q. Oh, he was there at the time? A. Yes, sir.

Q. Had you seen Mr. Steuer before that? A. I never seen him.

Q. And you had not told anybody what you were going to tell on the witness stand? A.

No, I did not ~-

Q. Had you or had you not? A. No.

Q. And they didn't know what you were going to testify to, so far as you knew? A. No.

Q. And they just gave you this subpoena and told you to come down here? A. Yes, sir.

Q. Not knowing anything about what you were going to testify to? A. Well, I didn't tell them.

Q. And you had been discharged from their employ? A. Yes, sir.

Q. And you had told no one else what you were going to say? A. No, sir.

Q. And you tell us that you would not care to work for them? A. Well, I can't tell this, if I would care; you know circumstances might bring me that I should have to care, for I have to work for big people, big concerns, because my salary is a high salary.

Q. How many factories have you worked in in New York? A. Well, I worked about five or six factories.

Q. Shirtwaist factories? A. Shirtwaist factories.

Q. Which is the largest of those shirtwaist factories? A. Well, I worked for the Knickerbocker, 38th street and First

avenue.

Q. Larger than Harris and Blanck? A. Well, better merchandise than Harris and Blanck.

Q. More employees? A. Well, I don't think there are more employees.

Q. The cutters' tables were on the ninth floor or the eighth floor? A. On the eighth and on the tenth.

Q. Near the Greene street side? A. On the Greene street side, and then I was on the side, the perpendicular line to the Greene street side.

Q. How many cutters' tables were there on the eighth floor, on the Greene street side?  
A. Three tables, three cutting tables, - four.

Q. Four? A. Yes, sir.

Q. Was there another table besides the cutters' table? A. There were two more tables; one table was for the forelady of the tucking and lace running machines, where they used to keep the goods after it was cut; and then there was another special table, sometimes if it was in a hurry to do some goods -- for cutting up separate sleeves, or parts of the waists -- a small table not used very much for cutting, because the wood of it was not good enough.

Q. Were the five tables about equal size? A. No.

Q. Were the four cutting tables about equal size, about the same size? A. It was this way: by the window was one table, then another table, there were two equal tables, then was the

table that I worked at that was attached — a little table for my special work.

(Mr. Bostwick draws on sheet of paper on blackboard resting on easel in court room.)

Q. Assuming that this is the Greene street side, and this is the Washington place side, and this is the first row of machines from Greene street, the cutting tables that you speak of were in here, were they not? They were between the first row of machines and the Greene street, were they not? A. They were between the first row of machines and Greene street.

Q. And when I say the first row of machines I mean the first row of machines from Greene street? A. From Greene street, yes.

Q. Between this first row of machines from Greene street and Greene street, in here were the cutters' tables, were they not (indicating)? A. Yes, sir.

Q. Would you be so kind as to indicate in that spot about the location of the cutters' tables? A. Well, here was one table from the Greene street side, there was another table right here, and starting up from, you know that Washington place side, and then there was a third table, and then there was my table — a special cutting table, a small table, a few yards — and then were the posts of the building, and attached was the four tables for cutting sleeves, and then there was a low table, a small one, standing up sort of this way (indicating) , and then in here by this table was a little closet

like this (indicating) to keep the laces.

Q. You have only made a line? A. Yes, sir.

Q. And each line indicates a table? A. Yes, sir.

Q. Will you draw in the table instead of the line, or can't you do that? A. I don't understand what you say. Should I have to draw it exactly level?

Q. For instance, you have drawn a line like that to indicate a table (indicating)? A. Yes, sir.

Q. Whereas, we have a shape like that up there to indicate a table? A. Well, you told me only to draw a line for a table.

Q. I didn't mean that, if you so understood me. A. I could have made the table exactly a table by drawing out these lines.

Q. No, I don't want a table looking at it as if it was standing up in the air, but as if somebody could stand on the ceiling and look down, and what they would see? A. Yes. (Witness drawing on sheet of paper on easel).

Q. You have numbered those 1, 2, 3, 4 and 5, making No. 5 nearest to Greene street? A. Yes, sir.

Q. About how many, the longest way would you say those tables were? A. I think between thirty-five and forty feet.

Q. Did they extend the whole width of the building? A. No.

Q. How much space would you say there was between the most southerly end of this table, and Washington place? A. About five feet I suppose.

Q. Then between the Washington place wall and the end of the table would be about five feet? A. Yes, sir.

Q. And then on the other end between the most northerly end of the table, and the most northerly wall of the loft, how many feet? A. It was this way: on the Greene street end there was a little partition ~

MR. BOSTWICK: I withdraw the question.

Q. What was the distance between the partition and the table? A. Three feet, or so.

Q. Then with the exception of the three feet on the northerly end and the three feet on the southerly end, it extended the full length of the room from the Washington place wall to the partition near the freight elevators? A. Yes.

Q. I show you a diagram of the eighth floor; this, (indicating on diagram) is the Washington place side, and this is the Greene street side, and you have just been describing the table which is nearest to Greene street? A. Yes, sir.

Q. You see the end of the most southerly end of the table would be five feet from that wall? A. Yes, sir.

Q. This diagram is drawn on a scale of a foot to a quarter of an inch, so that five feet from that wall would be five quarters of an inch, wouldn't it?

MR. STEUER: I object to this witness being made a draftsman or a mathematician.

MR. BOSTWICK: I am only trying my best to put in these cutters' table, and here is a cutter —

THE COURT: Will there be some in the course of the trial who can do it?

MR. STEUER: Yes, sir; I think so. I don't think there will be any question about it. It certainly should not be guessed at this way, your Honor.

THE COURT: Very well.

Q. So that the cutters' tables, according to your recollection, were situated the full length of the loft, excepting eight feet in all — five feet on the southerly side and three feet on the northerly side? A. Yes, sir, but I can't recollect exactly five and three — about.

Q. That is your best recollection? A. Yes, sir.

Q. At the time that you were at Mr. Blanckfs place, did you have any talk whatever with Mr. Steuer, or with Mr. Blanck as to what you should testify to here at the trial? A. When I worked?

Q. When you were at Mr. —

BY THE COURT:

Q. No, when you went there the other day? A. No.

BY MR. STEUER: (Re-Direct Examination)

Q. Not a word? A. Not a word

Q. In all your life, have you ever had anything to say to me, or have I ever had anything to say to you? A. Well, I have seen you the first time in my life.

Q. And at that time you were in the room where I was possibly a minute or a minute and a half? A. Yes, sir.

Q. Long enough to get a subpoena made out and handed to you and then you went out?

A. Yes, sir.

HYMAN SILVERMAN, called as a witness on behalf of the defendant, being first

duly sworn, testifies as follows:

(The witness states that he lives at 142 Charlton street, Newark, New Jersey.)

DIRECT EXAMINATION BY MR. STEUER:

Q. You say you want to talk in Yiddish? A. Better.

Q. Well, we will try in English, it will be so much quicker, it saves half the time. What is your business? A. I have a cigar store, stationery store.

Q. Where is your cigar and stationery store? A. 142 Charlton street, Newark.

Q. How long have you been in that business? A. One year.

Q. Before you went into that business what did you do for a living? A. I used to work for the Triangle Waist Company.

Q. How long did you work for the Triangle Waist Company? A. I worked nine years.

Q. Where did you work for them? A. On Washington place.

Q. On what floor did you work? A. On the ninth floor.

Q. What did you do for them? A. I was an operator at the machine.

Q. You worked on the machine? A. Operator on the machine.

Q. On the ninth floor, did you say? A. All the time on the ninth floor.

Q. The whole time you worked for them you worked on the ninth floor.

Q. There were a lot of machine tables on the ninth floor, weren't there? A. Yes, sir.

Q. Will you tell the jury which table -- do you know what "which" is? A. I know which table.

Q. Now, you tell the jury which table you sat at when you were at the machine? A. Which table from the first one, from the corner?

Q. Yes. A. It was about the fourth, about the fourth table from the corner, from Washington side.

Q. Do you mean the fourth table or the fourth machine? A. On the fourth table. I don't know the machine — maybe was in the middle or tenth or fifteenth machine; in the middle I was sitting.

Q. You were in the middle of the table? A. Middle.

Q. But it was the fourth table, is that right? A. Fourth table.

BY THE COURT:

Q. Starting to count from which side? A. (No answer)

BY MR. STEUER:

Q. Which side did you count from when you say the fourth? A. That is the Washington place door.

Q. To the Washington place door? A. Yes, I was sitting the front to Washington, and the fourth table I sit to the door.

Q. That is, for nine years you sat at the same machine?

A. On the same place, not the same machine; sometimes I was a different place, but all the time I was working on the ninth floor.

Q. Where else did you work on the ninth floor besides the fourth table? A. Before I was working on the other side down. Because there were two many at this end, maybe about ten tables or eight tables there — I was on different tables.

Q. You mean you worked further to the Greene street side? A. To Greene street further, and the last time I was working on that table, that was the fourth from the door from Washington place.

Q. How many years did you work at that machine, this last one? A. About three or four years I was on that place.

Q. You know the door, the Washington place side? A. The door to the Washington place side, yes, sir.

Q. I am not speaking of the elevator doors, I am speaking of the door that goes to the stairs? A. Yes.

Q. During the time that you worked there where was the key to that door? A. The key was right in the patent in the door. It was a long yellow patent, and the key was inside, because I was sitting inside in the front all the time.

Q. Well, the key was inside what? A. In the door.

Q. Tell it in Yiddish.

MR. BOSTWICK: Let us have it in English if we can. A. (Through Interpreter Rosenthal) In the lock.

Q. Now did you ever see any people on the ninth floor while you were working there go in or come out through that door?

Or did you see any people going out of that door? A. Yes, I saw sometimes Mr. Blanck at that door and sometimes salesmen used to be on that door coming up and down, because there was a tenth floor, an eighth floor, and I was working on the middle -- sometimes that was going there Mr. Bernstein -- used to be manager there — he was on that door sometimes.

Q. When you say "was on that door sometimes" will you please tell the jury what you mean? A. Sometimes, not everybody used to go on that door, but the people from — Mr. Bernstein, and they used to be salesmen, and forelady, I used to see that they were walking on that door.

Q. When you say Bernstein, you mean the manager? A. Yes.

Q. And you spoke of the forelady on the ninth floor? A. Forelady on the ninth floor.

Q. What did you see the forelady do with that door to the ninth floor? A. Used to go on the tenth floor to the office, and sometimes they used to go to the cutters, because the cutters' table used to be on the eighth floor, and they used to come and bring over some samples, some goods that time on that table.

Q. You saw her go through and come back through that door? A. Yes, sir.

Q. And you saw Mr. Bernstein go through that door, out and in? A. Yes, sir.

Q. Did you see Mr. Blanck at that door? A. Mr. Blanck used to go on that door from the tenth floor sometimes.

Q. When you spoke of sales, People coming through that door, did you mean people that worked for Harris and Blanck or people that came from other firms? A. Not from other firms; the sales people that used to work for that firm, they used to go on that floor on that door.

Q. It is over a year since you worked for Harris and Blanck, and you have been in business for yourself in Newark? A. Yes, myself.

Q. Are you connected with Harris and Blanck in any way? Are you a relation or anything of that sort? A. Nothing.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Were you employed there continuously for nine years? That is, were you there all the time for nine years? A. All the time for nine years.

Q. Do you remember when there was a fire on the ninth floor? A. Sometimes there was a fire on the ninth floor.

Q. Do you remember about when that was? A. I can't tell you exactly now, but I know when I worked, it was sometimes a fire.

Q. Do you know how many fires? A. I remember one fire.

Q. Only remember one? A. I remember one fire.

Q. Do you know what year that was? A. I can't tell you now what year, I didn't take it in my head this time, but I remember that there was a fire sometime.

Q. Well, now you first went to work there in what year?

A. In what year, I used to work for that people in another place, and then when they moved in that place I worked with them together in that place too.

Q. You worked for Harris and Blanck before you ever went to Washington place? A. Yes.

Q. Where did you work for Harris and Blanck before you went to Washington place? A. I worked in Wooster street, they used to have a place in Wooster street.

Q. That was before they had the place in Washington place? A. Yes, sir.

Q. So that you went with them at the very first that they opened the place? A. No.

BY THE COURT:

Q. In Washington place? A. In Washington place?

Q. You went there to that building as soon as they went there? You moved with them — when they went there you went there? A. When they moved? I didn't work the first time they moved in Washington place.

Q. In other words, there was a time when they were in Washington place when you were not working for them, is that so? A. I don't understand what you mean.

Q. (Last question repeated through Interpreter) A. (Through Interpreter) In Washington place I worked for them for nine years.

Q. (Without Interpreter) Well, did you go to work for them at the Washington place building on the day that they went

there did you go there to work there, starting right off? A. No.

Q. (Through Interpreter) How long had they been in that building before you began to work for them at that place? A. (Through Interpreter) Possibly may have been there about a year, perhaps a little more.

BY MR. BOSTWICK:

Q. During the first year, while Harris and Blanck were in Washington place where did you work? A. I used to work at another place there.

Q. What is that other place? A. I was working in a different place.

Q. Where? A. Where I used to work there, shirtwaists, another factory.

Q. Where?

MR. STEUER: The name of the people, he wants.

Q. No, where?

MR. STEUER: Oh, the location? Well, tell him.

BY THE COURT: (Through Interpreter)

Q. At what place? A. (Through Interpreter) I think it was in Greene street; it is a long time, I can't remember any more.

Q. And who did you work for, who was your boss? A. (Through Interpreter) They were two small contractors, I don't remember exactly any more. They were two small contractors, used to take work from other manufacturers, and I worked for

them, and then I left them and went to Harris and Blanck, the Triangle Waist Company.

BY MR. BOSTWICK:

Q. When you went to Harris and Blanck, you went back to Harris and Blanck, didn't you? A. Yes, I went back to them. Because I had worked for them before.

Q. When did you go back to them? A. That means this year, when I leave the place it was nine years before, since I leave the place and have my business I know I was working there nine years. I can't tell you what year.

BY THE COURT:

Q. You have been in business for yourself for one year? A. One year.

Q. Then as I understand you, for nine years before that you worked for Harris and Blanck, is that so? (No answer). Q. If you don't understand me, say so. A. (No answer)

Q. (Question repeated by Interpreter) A. (Through Interpreter) But the year before I had left them, in 1910, I had left them.

Q. When you left them in 1910, you had been working for them at that time nine years, is that so? A. Nine years to 1910; I used to work nine years.

BY MR. BOSTWICK:

Q. Were you working there at the time of the strike? A. The strike? Yes.

Q. When you went home at night, which way did you go out? A. On the Greene street door, sometimes the elevator.

Q. Sometimes you would take the freight elevator, and sometimes you would go down the Greene street stairs? A. Greene street stairs.

Q. How often would you go by the stairs and how often would you go by the elevator, just as it happened to be? A. (No answer).

Q. (Question repeated by Interpreter) A. (Through Interpreter) most of the time by the stairs.

Q. That is, the Greene street stairs? A. Greene street.

Q. Did the operators go out that way? A. Yes.

Q. You went out the Greene street way? A. Greene street door.

Q. Did you go out the Washington place stairs? A. Operators, I don't think going out this door.

Q. Did you? A. I? Sometimes, if I needed sometimes to go in the office and ask for something.

Q. No, but at night when you were going home? A. No.

Q. When you were going home you didn't go down the Washington place stairs? A. No, sir.

Q. You never went down the Washington place stairs at night when you were going home? A. It myself, no.

Q. Not during the nine years you worked there? A. Wo.

Q. The times that you saw Mr. Blanck or salesmen or Mr. Bernstein go in or out the Washington place door, that was

during the day time, during work, wasn't it? A. Day-time.

Q. And you mean while the operators were working lit the factory? A. Yes.

Q. Do you know what the word "unusual" means? A. (No answer).

Q. (Question repeated by Interpreter) Do you understand? A. (Through Interpreter) Yes.

Q. Now, you say that you have seen salesmen? A. Yes, sir.

Q. Harris and Blanck salesmen? A. Yes, sir.

Q. Go in or out the Washington place door? A. Sometimes and sometimes no.

Q. Didn't people usually go by the Greene street door up and down stairs? A. Yes.

Q. They used that most of the time, didn't they? A. I can't tell you most, because I was sitting all the time on Washington, and I can't see in the back who goes most on this door, because my face was toward the front, Washington door.

Q. Did you ever notice the key that was in the door on the Washington place side? A. Yes.

Q. What kind of a key was it? A. I think it was yellow, I didn't look just what kind of color, but I think it was a yellow key.

Q. A yellow key? Now, how long a key was it that you saw? A. How long?

Q. Yes. A. I can't tell you how long, but I know I used to saw that all the time.

Q. Show me on your hand how long, indicate in some way how long the key was? A. Outside (now indicating about three inches).

Q. (Through Interpreter) Did that stick outside of the door three inches, or was that the length of the key? A. I didn't measure the key. But I know I have seen the key when it was in the lock, it stuck out about the distance as I am showing (indicating about three inches).

Q. Was the lock on the inside of the door like that? (Indicating against side of jury box)? A. What do you mean?

Q. Was the lock on the inside of the door? A. Yes. It was like that, a long one, yellow.

Q. You didn't mean that the lock was there, did you? A. The lock on the door.

Q. (Question repeated by Interpreter) A. The lock was in the door, but outside was such a brass plate (Answer given through Interpreter).

Q. (Through Interpreter) Was the lock like that, fitting inside the door, in the middle of the door, so (holding in a vertical position People's Exhibit 36, with a hand outstretched placed each side and against the lock)? A. It was worked into the wood, and outside was a brass plate.

Q. Was the brass plate anything like this?

MR. BOSTWICK: Indicating the escutcheon on a model which I ask to be marked for identification.

Model marked for identification People's Exhibit 44.

Q. (Through Interpreter) when you came in the morning did you go in through the Washington place entrance or the Greene street entrance? A. Coming always up by the Greene street door.

Q. At night when the people went out did they all go by the Greene street door, the operators? A. Sometimes in summer-time, it was very warm —~

Q. No --

MR. STEUER: Not "No", but let him finish his answer

I submit.

A. (Witness continuing) Sometimes it was warm in the summer-time and the door used to be open, and the people go down on that door. In the winter-time they used to go on Greene street, and they used to go most down on Greene street door, the operators.

Q. (Through Interpreter) When you went out at night before you left Harris and Blanck was there a watchman stationed at the Greene street door? A. (Through Interpreter) Sometimes I saw a man standing there, and sometimes I didn't see any one standing there.

Q. (Through Interpreter) Did you see what he was doing there? A. I didn't see nothing. He was standing at the door looking at the people go down, that is what I see.

Q. During the nine years you were there you never saw them search the pocketbooks of any of the employees when they went out, did you? A. I never saw that.

Q. You never saw that?

MR. STEUER: Do you claim it was ever done?

Q. Did you see a watchman stand at the Greene street door, and as each person went out they had to open their pocketbook? A. Sometimes I saw them about the pocket books. If a girl used to go down sometimes they used to look inside, or used to touch part of the dress to see if anything is in there.

Q. Did you see that more than ten times while you were there in nine years? A.

Sometimes.

Q. How many times do you suppose you saw that? A. I can't tell you exactly how many times.

Q. Would you think it was ten times? A. Maybe.

Q. Maybe ten times? A. I couldn't tell you how many times. Sometimes I saw that.

Q. Do you know Rober Wolson? A. Woldon, - who is he?

Q. I don't know. Dd you know him? A. A cutter used to be Wolson, yes.

Q. Do you know Joe Wechsler? A. The most I know Wolson, because he was working most at that time, and the other cutters I can't tell you, because they were changing all the time, different cutters.

Q. Hadn't Robert Wolson worked there a long time? A. Who?

Q. Wolson? A. Wolson was working a long time, I think.

Q. Over six years? A. He was working more than the other cutters, and that is why I know him better than the others.

Q. (Through Interpreter) When this key that you saw in

the Washington place door was there was it attached to the handle? A. It was not tied to anything; I saw the key in the lock.

Q. During the nine years that you were there, did you ever see any body lock or unlock that door? That is, turn that key one way or the other? A. Yes. Mr. Blanck used to come sometimes and try the door, all the doors, and try that door too all the time. He used to like to do that, Mr. Blanck.

Q. Mr. Blanck liked to do that, did he? A. All the time on the doors to come and open the doors and try the doors, and he tried that door too; that is what I saw.

Q. And you have seen Mr. Blanck standing there trying that door? A. He used to come often and try all the doors, and that door too.

Q. Have you seen him trying that door some times than you ever saw the watchman watch the pocket books when they went out at night? A. I can't tell you exactly, I didn't take my eyes this time to ---

Q. Do you think you have seen Mr. Blanck standing trying that door knob more times than you saw the watchman standing at the Greene street entrance watching the poeketbooks? A. I saw that sometimes, and I saw that sometimes.

Q. About the sane number of times? A. I can't tell you, maybe that more was the pocketbook to look at, maybe sometime more the key to try, but I saw that.

Q. In other words you say maybe Mr. Blanck tried that

that door more times than the watchman looked at the pocket-books? A. I can't tell you exactly more, but maybe, I didn't count them.

Q. You say maybe more times.

THE COURT: You have got that, now; something else.

Q. (Through Interpreter) Can you state when you last saw a person go to the Washington place door before you left? A. (Through Interpreter) I can't say that, I can't remember that.

Q. Were you discharged, or did you leave? A. No, I leave myself the place.

Q. You were not discharged? A. No, I go myself. I leave in the place.

Q. How did you come to be a witness in this case? A. I am just living in Newark, and I know that where I worked in that firm nine years I am willing myself to go and say that what I know, and I wouldn't say nothing for no works, that is what I know.

Q. (Through Interpreter) Did you write to Mr. Harris and Mr. Blansk? A. No.

Q. Did you go and see Harris and Blanck? A. No.

Q. Did you send any word to Harris and Blanck? A. Never.

Q. Did you telephone to Harris and Blanck? A. Never.

Q. How did they know that you could be used as a witness? Do you know? A. I see the papers all the time, and I read every day the papers.

Q. (Through Interpreter) Then what did you do? A. (Through Interpreter) I saw it by the papers that people were wanted in the court who were able to say, after having worked a long time what they had seen there in the factory, and I came here to say what I knew.

Q. (Through Interpreter) And you just came here to-day. A. I came last night to my brother, and this morning I came here.

Q. (Through Interpreter) Did you get a subpoena? A. (Through Interpreter) No.

Q. When did you first speak to Mr. Harris or Blanck or Mr. Steuer? A. When?

THE COURT: About this case?

THE WITNESS: To-day.

BY MR. STEUER:

Q. What time? A. Before we went to dinner; it was half past twelve or one o'clock.

BY MR. BOSTWICK: (Through Interpreter)

Q. Had you been in this factory at any time for one year prior to this fire? A. No, I was not; since I left I didn't go back there any more.

Q. And you don't know whether the Washington place on the ninth floor was locked the day of the fire or not?

MR. STEUER: I object to that; the man wasn't there a year before.

THE COURT: Objection sustained.

A. In April, 1910, go away from the place.

Q. You said Mr. Blanck tried all the doors; what do you mean by all doors? A. He used to come to try the doors.

Q. Not how, but what doors. (Question now put through Interpreter) A. He used to come and take hold of the handle and try the key, turn it, the Washington place door as well as the Greene street door and then go to the other floor.

Q. And he would try the Greene street door in the same way as he did the Washington place door? A. Well, all the doors he used to examine, also the toilet doors.

Q. (Through Interpreter) Would he turn that key both ways, first one way and then the other way? A. I was sitting at my machine, and I couldn't see exactly what he did, but he used to come up and go to the door and turn the key, it seemed to one side and the other side, and try it.

MR. STEUER: And also the knob, Mr. Rosenthal (addressing Interpreter) .

A. (Continuing through Interpreter) He used to try with the key whether it locks, and then take hold of the handle to see whether it opens.

Q. (Through Interpreter) And at what time of the day this of which you are speaking? A. Through Interpreter) Some times nine o'clock in the morning, or some times four o'clock in the afternoon.

Q. Didn't you sit where you couldn't see the Greene street door? A. (Through Interpreter) I had occasion to go to that part of the loft near the Greene street door to take some work or some training.

Q. Are you quite sure you have seen Mr. Blanck try that street door that way? A. Yes.

EDWIN E. WOLF, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. No. 1 Ninety-Third Street.

Q. Mr. Wolf at the time of the fire which occurred at the place of business of Harris and Blanck, were you in the employ of the company or firm? A. I was.

Q. Were you in the City of New York or the State of New York at the time the fire occurred? A. I was not.

Q. In what capacity were you employed with them Mr. Wolf? A. I was manufacturer's agent; employed by there as a salesman on commission.

Q. When you say manufacturers' agent, does that mean that you gave the whole of your time to Harris and Blanck or that you represented other firms in the same line of business? A. That I represented other firms in the same way.

Q. But they were one of the firms you represented at that time? A. Yes, sir.

Q. Have you any present connection of any kind with Harris and Blanck, Mr. Wolf? A. None at all, sir.

Q. When were your relations with Harris and Blanck terminated, Mr. Wolf? A. About the 1st of July.

Q. About that time? A. Yes, about that time.

Q. At that time you ceased to represent the shirtwaist industry? A. Yes, sir.

Q. For how long, Mr. Wolf, had you been employed with Harris and Blanck? A. About two years or a little less. Q. Was that continuous, Mr. Wolf? A. Yes, sir.

Q. During the time that you were employed with Harris and Blanck, did you have any special place where you might be found in their establishment? A. Usually in the sample room, after a little ante room this side of the sample room.

Q. How? A. A little ante room by the sample room.

Q. Either in the sample room or in a little room to one side of the sample room? A. Yes; just before you come to it.

Q. Where was it, on which side of the place kept by Harris and Blanck was this sample room or the ante room near to the sample room? A. On the tenth floor.

Q. When you went to see -- when you went to the place of business of Harris and Blanck, Mr. Wolf, how did you go there? A. I took the elevator on the Washington Street side.

Q. That is the passenger elevators? A. Passenger elevators, yes.

Q. When you left the building, that is when you went to go out of the building, Mr. Wolf, how did you generally leave? A. The same way.

Q. Did you ever have occasion, Mr. Wolf, during the two years you were employed there to go to either of the other lofts occupied by Harris and Blanck? A. Yes, sir.

Q. Am when I say the other, I mean the ninth and the eighth lofts, and did you so understand my question? A. Yes, sir.

Q. Will you tell us please, Mr. Wolf, with what frequency you were, when you were in New York, you went either to the ninth or to the eighth floors; and also if you will what would take you to the ninth or eighth floors? .A. I was not very frequently required to go on the different floors except I wanted to see Mr. Blanck or Mr. Harris and they would be on either one of those floors, and then only unless they were down there and I would go down there to see them; or it might be that I was showing somebody through the factory and I would take them down just that way, but that was not so very often.

Q. In addition to seeing Harris or Blanck on any occasion, and in addition to showing people through the factory, did you go down with relation to merchandise of which you had made a sale, or for which you had procured the order? A. Well I sometimes would go into the shipping department with the shipping clerk in watching to see the orders would go out; occasionally some numbers that I was particularly interested to see shipped and it was not coming up as fast as I thought it ought I would go down to see what the trouble was.

THE COURT: What floor was that on?

THE WITNESS: That was usually -- I would go down to the eighth or the ninth, usually the eighth.

Q. I think His Honor has reference to which floor the shipping department is on. A. The shipping department was on the tenth floor outside the sample room about half way back to the Greene Street elevators.

Q. When you went to the ninth or the eighth floor lofts from the tenth floor lofts, Mr. Wolf, how did you go? A. Most usually down the Greene Street side.

Q. And when you say "Greene Street side" does that mean the staircase or the elevator? A. The staircase.

Q. Did you go, on occasions, to the ninth and eighth floor when you did not go by the Greene Street side? A. Yes, sir.

Q. How did you go when you did not go by the Greene Street side? A. Mostly the elevator when possible; on very few occasions that I have ever used the other side.

Q. That is the Washington Place stairs? A. The Washington Place stairs, I don't think there was possibly half a dozen times in the two years.

Q. A half a dozen times during the two years? A. Yes, sir

Q. Do you say to this Jury positively Mr. Wolf, that you did ever go down the Washington Place stairway from the tenth floor to the ninth floor? A. Yes, sir; I can say that truthfully.

Q. And do you say that you did positively, you did go down the Washington Place stairway from the tenth to the eighth floor? A. Yes, sir.

Q. On the occasions when you went by the Washington Place stairway from the tenth floor to the ninth floor, how did you get into the ninth floor loft? A. Well now the first time that I ever remember going down the stairway was when I first was there; that was around September or October or November, early in the

season and I think the door was open.

Q. You mean it stood open? A. It stood open, it was around the time of the strike.

Q. Yes. A. And I can't say that I ever tried to find -- and ever found that it did not open.

Q. Did you ever in going down from the tenth loft to the ninth loft by the Washington Place stairs ever have any difficulty in getting into the loft? A. No, none at all.

Q. Did you have to do anything more difficult to get in, into the loft than to turn the knob of the door? A. Never.

Q. Do those answers apply equally to your efforts to get into the eighth floor? A. I think so.

Q. Well now, we don't know what you mean by "I think so"; if you ever had any more trouble or not, did you? A. Never had any trouble at all getting in, never on the few times I used it.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Mr. Wolf, on March 25<sup>th</sup>, 1911, you were not at the place of business in the City of New York of the defendants? A. That was the date of the fire?

Q. Day of the fire? A. No, sir, I was not.

Q. And you do not know what the condition of the lock or the door was on the eighth, ninth or tenth floor on that day? A. Yes ~

**MR. STEUER:** Don't that follow as a matter of course.

**THE COURT:** He has answered and I will allow it to stand

Q. You state you went on very few occasions, perhaps half a dozen in two years to the lower floors from the tenth floor? A. Yes, sir.

Q. The two years that you speak of are the two years immediately preceding the fire, or immediately proceeding July 1st when you left? A. About July 1st when I left.

Q. Was that the two years immediately proceeding you went you say through there on a very few occasions? A. Very few occasions, yes, sir.

Q. Might not some of those occasions have been in the summer time? A. They might have been.

Q. And have you any recollection as to the time of day that you would be apt to go to the eighth or to the ninth floor? A. No special time of day; but I can recollect this much: that the stairway was always very dark and for that reason I never went down it.

Q. There was no natural light in the stairway? A. No, I do not believe there was; I do remember it was very dark compared with the other stairway.

Q. But there was no artificial light, no electric light? A. No electric light; I remember it was very dark and I had occasion to pass by there three or four weeks before the fire occurred, and I had occasion to go down to the eighth and ninth floors. But I don't know whether I took the Washington Street stairway that time or not; I remember the fact that I did notice a light in that hallway and that was the first time I ever saw a light

in there. Those occasions that I had to go down to the -- through the stairway, that I had to go down to the eighth and ninth floors were as follows:

Q. Now just a moment, you went down to those floors at the time of the strike, did you not? A. yes, sir.

Q. And the door you say you think was open at that time? A. Yes, sir.

Q. Now did you know that that was one of the very questions that caused the strike, the leaving of this door open -- unlocked?

MR. STEUER: I object to that on the ground that that is not the fact.

THE COURT: I will allow the question.

MR. STEUER: I except.

A. Why, no, I did not.

Q. You didn't know that? A. I will add further to that, if you want —

Q. No, thank you.

MR. STEUER: Wait a moment.

MR. BOSTWICK: Mr. Steuer will re-examine you.

MR. STEUER: Pardon me, will you read the last question?

(Last question repeated by the stenographer.)

Q. That I may make any question a little clearer to you Mr. Wolf: Did you know it was the contention of the employees, and one of the reasons that caused the strike, that they demanded that that door should be left unlocked? A. No, sir, I didn't

know that and I never did hear of it.

Q. Now Mr. Wolf, in answer to one of Mr. Steuer's questions you said "I cannot say I ever tried it and could not find it open. you have expressed there by those tense I think a certain doubt in your mind. There is a doubt in your mind as to whether you ever tried that door? A. Oh, no; there is no doubt in my mind that I ever went down this stairway and didn't get in.

THE COURT: Have you now any recollection as to when going down the stairs and finding the door ajar, that is to say actually open, going down the stairs and finding the door closed but not locked?

THE WITNESS: As I said before I have a faint recollection that the first time I went down there, I found it open and ajar; and on the tenth floor it was right beside the salesman's desk and was very often opened by mistake by customers, leading to the same stairway.

Q. Now, Mr. Wolf, you say that you cannot tell us exactly what time you would go to the eighth and ninth floors upon the few occasions you went there. Will you state how early in the morning it might have been. A. I couldn't state that very well because sometimes I didn't get down there until the afternoon and sometimes I was possibly there at eight-thirty in the morning; and sometimes I would not get there at all.

Q. But you know from the nature of your work that you would not have had occasion to go down stairs the very first thing upon your arrival to the salesroom? A. If you will let

me answer that truthfully and without anything at all: If my work took me down there at eight o'clock in the morning I would be down there; if I found some goods to be shipped and they were not shipped the evening before why I might possibly go down there and find out why those goods were not coming up to the purchase department.

Q. Upon these occasions too you naturally went down on the Greene Street side, through the Greene street door? A. It was that way most always because the entire factory work went up that stairway.

Q. I am trying to call your attention to the fact that when you went down stairs it was usually during the working hours, was it not? A. Yes, sir; certainly.

Q. And the operators were at their machines? A. Yes, sir.

Q. And when you went in there you saw the operators working at their machines? A. Yes, sir.

Q. You have no personal knowledge of the course of business that is when the people were leaving the factory at night, have you? A. I have been there very many days after they have gone, in the evening.

Q. After they have gone? A. Yes.

Q. I am speaking now of the time when they went out. A. Well, we used — when I first went with them the employees was going down the Washington Street elevator.

Q. That was stopped? A. That was stopped; I think it was; I am sure that it was stopped; I heard the elevator man

say so that the rest of the people kicked --

Q. What the elevator man said is not proper evidence to state here. A. I heard it, put it that way.

Q. And they ceased to use the Washington Place elevator and then they had to cross over and all go out the Greene Street way? A. I don't know anything more about it.

Q. That is what I say, you don't know about their method of going out at night? A. No, sir.

Q. You didn't see them search, if there was any searching? A. I don't know anything about that at all.

Q. You don't know anything about that at all? A. No, sir.

Q. You were not in those lofts at that time? A. I had no business down in that part of the place.

Q. And therefore you were not in the loft at that time? A. That was not any of my business.

Q. And that being none of your business, you were not in the lofts when they went out at night? A. I was in the building as late as half past six or seven o'clock.

Q. But you were not in the eighth and ninth lofts were you? A. That is none of my business, I don't know about that.

Q. If you had been there you would have seen the searching wouldn't you?

MR. STEUER: Seen what searching, there has not been any suggestion of searching here.

THE COURT: Proceed.

Q. Now, Mr. Wolf, you have no recollection as I understand

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it of ever having been on the eighth or ninth floors — no present recollection, when the operators left the building? A. No.

JOHN CASEY, a witness called on behalf of the defendant being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you reside? A. 67 Bedford Street.

Q. Mr. Casey, did you ever work at the premises 23 to 29 Washington Place? A. Yes, sir.

Q. Talk over this way please and out loud. A. Yes, sir.

Q. Whom did you work for Mr. Casey? A. Under Mr. Stern, Superintendent.

Q. Of the building? A. Of the Asche building.

Q. And what did you do Mr. Casey? A. Engineer.

Q. How long did you work in that building as the engineer? A. Going on five years.

Q. Did you work there up to the time of the fire? A. Yes, sir.

Q. And after the fire? A. Afterwards.

Q. During the time you were working there as engineer did you ever go up stairs to the eighth and ninth lofts with Mr. Stern? A. Yes, sir.

Q. And did you go into the eighth and ninth loft with Mr. Stern on the Washington Place side? A. Yes, sir.

Q. Did you erer yourself, go up to the eighth and ninth and tenth lofts on the Washington Place side?

MR. BOSTWICK: Mr. Casey, just a moment. I object to the form of the question and the several proceeding questions on the ground that I think they are leading the witness and I think the witness should be asked where he went and whether he went in one door or the other and not suggest which way he went in.

THE COURT: I will allow this question.

Q. (Repeated by the stenographer). A. Yes, sir.

Q. How often, Mr. Casey, would you go up to the different lofts in that building? A. Well, several times a day; sometimes three, four, five times.

Q. And that applied to every left in the building? A. Not every loft; probably the eighth, ninth and tenth, might be the second or third below.

Q. And the second and third below? A. Yes, sir.

Q. How often did you go up — how did you go up when you went up to the eighth, ninth and tenth lofts, Mr. Casey? A. I would go up in the freight elevator and probably get off at the tenth floor and walk down to the ninth.

Q. And what called you to the tenth or the ninth or the eighth lofts Mr. Casey? A. I would get a call that a radiator was leaking.

Q. What else? A. Some of the toilets or something was the matter up there.

Q. On the occasion when you went up by the freight elevators, how did you come down?  
A. Sometimes I walked across the

loft and went down the hall or I came down the passenger car.

Q. And did you use the freight elevators going down at any time? A. Often, yes.

Q. Did you use the passenger elevators going up at any time? A. Pretty near about the same thing.

Q. Now did you ever use the stairs on the Greene Street side going down from the tenth to the ninth? A. Yes, sir, I walked down the whole lot of them.

Q. Did you ever use the Washington Place stairs going down from the tenth to the ninth floor and from the ninth to the eighth floor? A. Yes, sir.

Q. Did you ever go into the ninth loft from the Washington Place stairs when you came down from the tenth loft? A. Yes, sir, I came in and crossed over and went down the freight elevator.

Q. Did you ever go into the eighth loft from the Washington Place side? A. Yes, sir.

Q. Now on the occasions when you went to the ninth or eighth loft by the Washington Place side door, how did you get in, what did you do to get in? A. Just opened -- turned the handle and walked in on the floor.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Mr. Casey, you have been how long, did you say, in the employ of Mr. Stern? A. Going on five years.

Q. You said that you had gone to the eighth and ninth loft with Mr. Stern? A. Yes, sir

Q. Did you ever go to the eighth or ninth loft without Mr. Stern? A. Yes, sir.

Q. Now wasn't it your common practice when you had a call to go up stairs, to go up on the Greene Street freight elevators? A. Well, that depends upon which side I was on; if I was on the passenger side I would go up that way.

Q. When you went up to the ninth floor and you got off the freight elevators, there was in enclosure there? A. No, sir.

Q. No enclosure there? A. No, sir.

Q. That opened right out into the loft? A. Right out into the loft.

Q. There was nothing in front there? A. Yes, sir.

Q. You have been in the habit of going to that place seven times or several times, as I understand your testimony, several times each day? A. Yes, sir.

Q. Now when you stepped out of — if you went up the Washington Place elevators and stepped out on the ninth floor, was there anything there in front of the elevators? A. There was a kind of a partition there coming in, but it had doors on it.

Q. And a partition there, was that on the ninth or the eighth floors? A. Either the eighth or the ninth.

Q. If you and Mr. Stern stepped out of the same elevator — A. Yes.

Q. -- you could both see the same thing, couldn't you? A. Yea, sir.

Q. Now I want to know whether you understand me. Understand what I have to say. I don't want you to misunderstand me or to be misled, you understand I am talking about the ninth floor? A. The ninth floor.

Q. And you understand when I say to you when you came up the Greene Street or freight elevators and you get out you were right in the loft weren't you? A. Right in the loft; yes, sir.

Q. And as you stepped out there was no partition around there A. Not what I know of.

Q. Not that you know of? A. No, sir.

Q. And you went there very frequently on the freight elevator side? A. On both sides.

Q. On both sides. There could not have been any partition unless you saw it, could there?  
A. No, sir.

Q. Now when you went to the Washington Place side of the building on the eighth floor or the ninth floor did you ever see a key in the lock? A. Yes, sir.

Q. Now what kind of a key was it, Mr. Casey? A. Well, one of those ordinary keys, small key, oh about six inches long.

Q. How much of the key -- you say it was six inches long. Do you realise how much six inches is? I don't want you to be misled, I want you to give a correct notion to the Jury. That is about six inches by this rule (Holding up ruler). A. Yes, sir.

Q. That pencil from tip to tip is just exactly six inches.

A. Yes, sir.

Q. Now did you see the key, six inches long in this door? A. Yes, sir, together in that door to the best of my knowledge.

Q. To the best of your knowledge? A. Yes, sir, to the best of my knowledge.

Q. Now long before the fire did you go to the ninth floor? A. Sometime in the afternoon, I could not tell you about it exactly, about three.

Q. About the same day? A. About the same day.

Q. On March 25<sup>th</sup>, 1911? A. 1911, yes, sir.

Q. On the same day, March 25<sup>th</sup>, you were on the ninth floor? A. I was on the ninth and tenth, same day; I could not exactly tell you the time.

Q. But in the loft? A. Yes, sir.

MR. STEUER: Mr. District Attorney, I will have to object to that kind of procedure; we will have one man examining, not this loud way of conducting the rest of it.

THE COURT: Proceed.

Q. You are speaking of the day of the fire, are you not, Mr. Casey? A. That is what you are asking me.

Q. That is what I was asking you. A. Yes, sir.

Q. And on the day of the fire on March 25<sup>th</sup>, 1911, you were in that loft? A. I have been in the loft, the ninth and tenth loft, I think.

Q. On the Washington Place side, did you see any key in that

door? A. Yes, sir.

Q. Now describe that key. A. The key was about like the general run of them, about six inches long, plain key.

Q. When you say the general run, I think you mean by that that the key was six inches long? A. That the key was about six inches long to my judgment; there was about an inch of it in the lock, not any more than that, about an inch or so, leaving about five inches extending out.

BY THE COURT:

Q. What is your trade, Mr. Casey, what is your occupation? A. Engineer, sir.

Q. And you are a mechanic? A. Yes, sir.

Q. A machinist? A. Not sir; not a machinist.

Q. What day of the week was the fire, do you remember? A. On a Saturday afternoon.

Q. About how long was it before you heard of the fire that you went to the ninth loft on that day? A. Well it must have been about a couple of hours afterwards Your Honor.

Q. That is to say you heard of the fire about two hours after you had been in the loft, is that it? A. Yes, Your Honor.

Q. You were in the ninth loft about two hours before you heard of the fire? A. Yes, sir, Your Honor.

Q. Were you in the building at the time that the fire started on the 25th? A. I was washing up, Your Honor, getting ready for to go home.

Q. Were you in the building? A. Yes, sir, Your Honor.

Q. At that time? A. Yes, Your Honor.

Q. And two hours before that time you had been in the ninth loft? A. Been up there doing something on the ninth and tenth.

Q. Had you been inside of the ninth loft about two hours before you heard of the fire? A. Yes, Your Honor.

BY MR. BOSTWICK:

Q. Now, Mr. Casey, was there anything that you saw about that key that you remember?

A. The only thing I can remember of there being some kind of a string attached to it fastened to the door, and it was sticking in the door.

Q. Now long was that string Mr. Casey? A. I could not really tell you how long; it might have been six or eight inches long.

Q. Do you think it may have been something like three inches? A. No, not quite, there was enough to let it hang.

BY THE COURT:

Q. What do you mean by long, what do you mean by the length of it? A. About eight inches long.

Q. How wide? A. Well it was a general string, regular common cord.

BY MR. BOSTWICK:

Q. Now you are friendly with the defendants, Harris and Blanck, are you not? A. I have always been friendly to everybody in that house.

Q. Aren't you specially friendly to them? A. No, sir.

Q. Now did you ever try the doors from the landing side? I think you testified you did, but I do not know. A. Yes, sir.

Q. Did you say whether you found them locked or unlocked? A. I found them unlocked; I got off probably at the eighth floor and walked up and got in on the ninth and tenth floor from the outside.

THE COURT: Did you have keys to those doors yourself?

THE WITNESS: No, Your Honor.

Q. Mr. Casey, do you remember on April 3rd, 1911 appearing at the District Attorney's office and this question being put to you and your making this answer: "Q. You never tried the doors from the landing side? A. No."? A. I don't remember it.

Q. Do you remember this question being put to you and this answer being given by you: "Q. And you don't know whether they were kept locked or unlocked? A. No, sir."? A. I don't remember it, sir.

Q. Do you remember this question being put to you and this answer being made by you at the same time in the District Attorney's office: "Q. You never thought of going up the Washington Place side to get into this factory, did you? A. No, sir; I always went on the freight elevator because that leads right up to the loft."? A. Yes, but then I came down the other way.

Q. That is not the question. Did you make those statements

and did you make those answers in the District Attorney's office? A. I made that answer, yes, sir; I did make that answer that I went across on the floor and went down the other way.

Q. Was this question put to you and did you make this answer –A. I don't know.

Q. Wait a moment until you hear the question. Was this question put to you and did you make this answer: “Q. Never have used those stairways? A. Nobody ever came down beyond the third floor; Bernstein and Meyer used it when they went up — they went two flights up?” A. I meant there was nobody —

Q. I don't mean whether that is so but what I mean is when you made that statement, did you hear that question and make that answer, in the District Attorney's office? A. I made that statement too and they came up in the loft —

MR. BOSTWICK: I move to strike that out if Your Honor please.

THE COURT: You will be given an opportunity to explain. Strike out all except his answer that he did.

Q. Did you or did you not make these answers in the District Attorney's office? A. That I disremember.

MR. STEUER: Will you let me see that statement made in the District Attorney's office.

MR. BOSTWICK: I respectfully decline to allow the statement to be inspected.

MR STEUER: And I except.

Now, I ask that the paper be marked for identification

and be furnished to the Defendant's Counsel for the purpose of enabling him to conduct his redirect examination; and also for the specific purpose of enabling the defendants' counsel to ascertain whether the alleged questions and answers appear upon that paper.

THE COURT: So far as the record shows there is nothing before the Court respecting a paper.

MR. STEUER: Your Honor then I understand that the paper is not to be furnished to the defendant?

THE COURT: I know nothing about any paper.

MR. STEUER: May it please Your Honor, it seems to me it is very strange that that state of the record should exist. It was perfectly apparent to everybody that the District Attorney held such a paper and read from it.

THE COURT: I know nothing regarding the existence of any paper, as far as the record is concerned; this witness has been merely asked whether on a certain occasion he was asked certain questions and made certain replies.

MR. STEUER: Your Honor I respectfully ask that the District Attorney produce to me now the paper which Mr. Rubin has in his hand.

MR. BOSTWICK: The District Attorney declines to do so most respectfully.

MR. STEUER: And I respectfully except; and I demand formally that the paper be furnished to me in order that I may be permitted therefrom to conduct the redirect examination

the paper which Mr. Rubin now has in his hand.

THE COURT: The Court knows nothing about any papers; and the request is declined.

MR. STEUER: I respectfully except.

Does the District Attorney deny that he held a paper in his hand reading the answer therefrom?

THE COURT: Mr. Steuer, proceed with your examination of this witness.

MR. STEUER: I respectfully except. That is all Mr. Casey.

ABRAHAM BACHARACH, a witness called on behalf of the defendant, being first duly sworn, testified as follows:

DIRICT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. No. 10 Elinor Place, Yonkers, New York.

Q. Mr. Bacharach, will you please try and talk loud so we can hear what you say. What is your business sir? A. Importer and manufacturer of embroideries.

Q. Are you in business for yourself or connected with any firm? A. I am in business for itself with a partner.

Q. What is the name of the firm? A. Bacharach, Newfer & Company.

Q. Where is your place of business? A. 3, 5 and 7 West 22nd Street.

Q. Mr. Bacharach, do you deal with the defendants, Harris

and Blanck? A. I do.

Q. And in what way do you purchase from their or sell to them? A. Sell them merchandise.

Q. How long, Mr. Bacharach, have you been selling merchandise to these defendants? A. I should judge about ten or eleven years.

Q. Have you been selling them merchandise during all the time that they have been tenants of the building at the corner of Washington Place and Greene Street? A. Yes.

Q. About how frequently Mr. Bacharach, did you call, if at all, at the premises of these defendants? A. Well I should judge on the average of once a day.

Q. Did you, Mr. Bacharach deal with any other tenant in that same building? A. I did not.

Q. So that whenever you went to that building it was to go to the premises occupied by Harris and Blanck? A. Yes, sir.

Q. With whom in the firm, Mr. Bacharach, did you transact your business? A. In the later years with Mr. Harris only.

Q. And in the former years? A. Once in a while Mr. Blanck.

Q. What floor, Mr. Bacharach, and by what means — what floor did you go to and by what means did you go when you went to the premises occupied by these defendants? A. I took the elevators to the tenth floor.

Q. There are several elevators as I understand it in that building. A. The Washington Place elevators, the passenger elevators.

Q. The passenger elevators? A. Yes, sir.

Q. Did you ever go up on the Greene Street side, Mr. Bacharach, by the freight elevators?

A. I went up there once with one of my boys; he could not get the packages up; and I went there to speak a word for him and I went up with him.

Q. That is when a delivery was actually being made? A. Yes, sir.

Q. When you got to the tenth floor — or will you tell the Jury please, where it was that you transacted your business with Mr. Harris and Mr. Blanck, Mr. Bacharach? A. I transacted it on the tenth, the ninth and the eighth floor, wherever I could find Mr. Harris.

Q. Where did you, mainly, transact the business with Mr. Harris, Mr. Bacharach? A. Mainly on the tenth floor.

Q. How frequently, would you say Mr. Bacharach that you have personally transacted business with the defendant Harris on the ninth and eighth floors? A. I could not say how many times, it is so many times; I have transacted business with him on the eighth and ninth floors, I would not want to say how many times.

Q. Mr. Bacharach, when you went to the ninth floor where did you go from? A. From the tenth to the ninth.

Q. When you went to the ninth did you always come from the tenth, or did you ever come to the ninth directly from the street? A. No; I always went to the tenth floor first.

Q. So that whenever you did business with Mr. Harris on the

ninth floor you had first been on the tenth floor and gone to the ninth? A. Certainly.

Q. And that was equally true when you did business with him on the eighth floor; you had first been with him on the tenth and then came to the ninth or eighth floor? A. Yes, sir.

Q. Will you tell the jury please how you went from the tenth to the ninth floor on the occasions when you did it? A. I occasionally did go down on the elevators, occasionally walked down through the Washington Place door and occasionally through the Greene Street door.

Q. When you went through the Washington Place door, by the Washington Place stairway and went into the ninth loft, tell the Jury what you did in order to get into the loft? A. I walked down and opened the door and went in.

Q. What did you do when you went to the eighth loft Mr. Bacharach? A. I did the same thing.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. Mr. Bacharach, if I understood your testimony correctly you transacted — went first to the tenth floor of the building. A. When.

Q. Upon your arrival at the tenth floor you would look for Mr. Harris, would you not? A. I would ask for him.

Q. You asked for Mr. Harris? A. Yes. sir.

Q. And if you found that Mr. Harris was not right there would you look for him on the Greene Street side of the building? A. I would ask the young lady to find out where he was and tell

him I was there.

Q. And if she told you he was in the back you would go in back? A. I asked first if he was in and for her to go and ask him if he wants to see me.

Q. You first would send to him to find out if he was down stairs and she would go and tell him that you were there and ask if he wanted to see you now? A. If he was on the tenth floor she would go and see him.

Q. If he was not on the tenth floor would she go to where he was or would you go to where he was in some other part of the building or send the young lady to find out first whether he was ready to receive you? A. Sometimes the young lady went for him first and sometimes I went for him myself.

Q. And sometimes on different occasions you would walk into the place and you would go directly and look for Mr. Harris? A. Yes, sir.

Q. This part of the store by the Greene Street side is not it the back of the store? That is what you mean when you say the back of the store? A. The back, yes.

Q. Towards the freight elevators? A. Yes, sir.

Q. If you found when you got there that Mr. Harris was down stairs, you would go down by the Greene Street stairs would not you? A. I certainly would.

Q. To the ninth floor? A. Yes, sir.

Q. And if you didn't see him on the ninth you would go down to the eighth? A. Yes, sir.

Q. Upon all those occasions, do you remember perfectly now if you used the Greene Street stairway? A. I used the one most convenient, always.

Q. If you having been told that Mr. Harris was down on the eighth floor or the ninth floor, the natural way for you to go down would be by the passenger elevator, wouldn't it? A. Some times I could not go down that way.

Q. I say that would be the natural method? A. Occasionally

Q. Very often you used that, more often than any other way? A. Quite often, yes.

Q. And it would be only when the passenger elevator either was delayed and you were in a hurry that you would go down by the stairway as you have testified? A. Sometimes, and then the young man sometimes would not take me down in the passenger elevator.

Q. And then he would sometimes object to taking you down or he would not take you down? A. He did not take me down.

Q. And at those times you would be forced to go down, you would have to talk down.  
A. Generally the Washington Place door was the way.

Q. In every one of those cases, Mr. Harris you had been told, that he was down stairs first?  
A. I don't know that he went down, I was told that he was down there.

Q. Told that he was down there? A. Yes, sir.

Q. So that you didn't know whether Mr. Harris unlocked any of the doors going down stairs or not? A. Unlocked which

door?

Q. You have been testifying about this door on the Washington Place side on the eighth and ninth floors, have you not? A. Yes, sir.

Q. Now, I say that having been advised that Mr. Harris was down stairs and you went down to find him, you didn't know whether Mr. Harris on the way down stairs had unlocked any of those doors or not? A. I don't know, I didn't see him.

Q. All you know was that upon those occasions you found it available to enter? A. Certainly.

Q. Now about what time would you call to see Mr. Harris? A. most any time of the day.

Q. Well did you have any usual time? A. No; I did not.

Q. Did you call more often in the morning than in the afternoon or was it equally divided or don't you remember? A. Equally divided; sometimes I was there in the morning and came back in the afternoon and on those occasions I went down without asking for him.

Q. About how early in the morning, Mr. Bacharach would you get there. I don't mean to pin you down to the exact minute. A. Oh, half past ten or eleven o'clock after I had been over to my office, through with my office work and mail.

Q. Barely get over there earlier than half past ten? A. may have been on some occasions.

Q. On some occasions, but would you say it would be very rare that you were there before ten o'clock? A. Yes, very rare.

Q. And still rarer when you get there before half past nine o'clock? A. Yes.

Q. And you have no recollection of ever having been there at half past eight o'clock? A. No.

Q. When in the afternoon would you ever appear there shortly after the lunch hour, more often at that hour than any other hour in the afternoon? A. No; I was there as late as five or six o'clock.

Q. As late as five or six o'clock? A. Yes, sir.

Q. And upon those occasions you were on the tenth floor, weren't you? A. Occasionally I went down stairs.

Q. Were you ever on the floor when the gong sounded and the people quit work and went out? A. Sometimes around noon time, if my time kept me there.

Q. That is not my question Mr. Bacharach. I asked you whether you were ever there at closing time at night when they quit work and the bell sounded and you saw them get their things and file out? A. Not as I can remember.

Q. You don't think you were ever there at that time? A. I can't remember whether I was or not.

Q. Now when you came up, with the exception of the time when you came with your boy with some goods to make an actual delivery and took the freight elevator, it was your custom to go up in the passenger elevator to the tenth floor? A. I have walked up too from the ninth to the tenth floor.

Q. Was not it your custom -- let me ask you this, with the

exception of the one occasion that you described in your last answer, I ask you whether it was not your custom to take the passenger elevator to the tenth floor? A. No, sir.

Q. What was your custom? A. A great many times to walk up or else —

Q. Walk the whole nine flight of stairs? A. You mean from down stairs?

Q. I don't think you and I understand each other Mr. Bacharach. A. I don't think so either.

Q. I say when you first arrived at the Washington Place building it was your custom, to enter the Washington Place door.

THE COURT: That is on the street level.

A. Certainly.

Q. And to take the passenger elevator? A. To take the elevator up, certainly.

Q. And you would take it to the tenth floor and that was your custom? A. Yes, sir.

Q. Now you say that upon some occasions you have gone from the tenth floor to the ninth floor? A. Yes, sir.

Q. And by the passenger elevator? A. Yes.

Q. And sometimes to the eighth floor by the passenger elevator? A. Yes, sir.

Q. And you know which those floors are, don't you? A. Yes, sir.

Q. And you have been there very often? A. Yes, sir.

Q. Now you were not there the day of the fire? A. I was

not.

Q. And you knew nothing about the condition of the Washington Place floor or the Washington Place door on the ninth floor at that time? A. No, sir.

Q. When you got out of the elevator, the passenger elevator on the ninth floor, was there any partition there? A. I never got out I don't believe on the ninth floor — you mean on the ninth floor from the passenger elevator?

Q. Several times you have testified you used to take it and go in and out of it. A. I thought you meant coming up, I have got mixed up. I don't remember very well whether there was or not

Q. You don't remember. Upon one occasion when you came up with the freight elevator with the boy, what floor did you come to? A. Went up to the tenth floor.

Q. And you have gone down the Greene Street way stairs to the ninth floor? A. Yes, sir.

Q. Now, was there any partition around there? A. I didn't notice any.

Q. And yet, as I understand it, it was your practice to go to those floors once a day? A. On an average; yes, sir.

MR. BOSTWICK: That is all.