

SIGMUND FUCKS , a witness sailed on behalf of the

defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 956 Intervale Avenue, Bronx.

Q. Now, Mr. Fucks talk up over here like as if you wanted an order and talk up loud.

What is your business, Mr. Fucks? A. Painter.

Q. You are not talking for an order now. A. Painting business.

Q. Where is your place of business Mr. Fucks? A. 302 West 118th Street.

Q. Do you know Harris and Blanck? A. Yes, sir.

Q. Did you ever do any work for them in their lofts at Washington Place? A. Yes,
sir.

Q. And what kind of work did you do for them? A. I did the ninth floor.

Q. What do you mean, you did the ninth floor? A. I fixed up the ninth floor.

Q. How did you fix up the ninth floor, what did you do on it? A. I do the ceilings, the
walls and the woodwork.

Q. The ceiling and the walls and the woodwork? A. Yes, sir.

Q. Did you de any work on the toilets? A. I did work on the toilets.

Q. Did you do any work for Harris and Blanck on the eighth floor? A. I did work on the
eighth floor too.

Q. Did you do any w«k for Harris and Blanck on the tenth floor? A. I did work on the
tenth floor too.

Q. Tell the Jury what work you did for Harris and Blanck on the eighth floor. A. I fixed
it --

MR. BOSTWICK: Let us have that last answer so we can hear it.

A. (Continuing) I fixed up the toilets on the eighth floor.

Q. Did you do any other work on the eighth floor? A. On the eighth floor I fixed up the loft.

Q. What do you mean you fixed it up? A. Kalsomined the ceiling and the walls.

Q. On the eighth floor? A. On the eighth floor.

Q. What work did you do on the tenth floor? A. On the tenth floor I fixed it up, the lofts, the ceilings and the walls.

Q. When you say you did work on the toilets, what did you mean by that Mr. Fucks, what did you do in the toilets? A. Washed out the ceilings and walls and kalsomined and varnished the woodwork.

Q. When did you do the work of fixing up the loft on the eighth floor, do you remember? A. On the eighth floor, that is two years ago I fixed the eighth floor.

Q. When did you fix the ninth floor? A. The ninth floor I fixed last year, last summer.

Q. When did you fix the tenth floor? A. The tenth floor I fixed up possibly about four years ago.

Q. You said you fixed up the ninth floor last summer. Last summer was after the fire. Did you do any work for them after the fire? A. After the fire was, no.

Q. You mean the summer before the fire? A. The summer before the fire.

Q. On what side of the building Mr. Fucks are the toilets? A. Or the Washington Place side are the toilets.

Q. Now during the time that you were working there on the ninth floor did you ever go to the eighth floor? A. Yes, sir to the eighth floor.

Q. And during the time that you were working on the ninth floor did you go to the tenth floor? A. Yes, sir.

Q. Will you tell the Jury please how you went from the ninth floor to the eighth floor. A. I went from the Washington side door, through the door out of the tenth and ninth and eighth floor.

Q. Why did you go by the Washington Place side? A. Well, because the toilets was on the Washington Place side and I would not go across the loft, it was easier for me, the toilets was on the Washington Place side.

Q. If you wanted to go from the ninth floor toilets to the eighth floor toilets, if you wanted to go by the Greene Street side you would have to walk all the way across the building A. All the way across the building.

Q. And then you would go down stairs and then you would have to go all the way across the building again? A. Yes. sir.

Q. If you went out by the Washington Place side, you were right alongside of the toilets? A. Yes, sir, right alongside of the toilets.

Q. How often did you go, Mr. Fucks, from the eighth to the ninth floors and from the ninth to the tenth floors in this building? A. Through the day I was about five or six or eight times.

Q. During the day? A. During the day.

Q. How long did you work on the ninth floor in the summer of 1910? A. I worked about three weeks.

Q. And during those three weeks, how many times a day would you go from the ninth floor to the eighth and to the tenth floor? A. Six or seven; I can't remember exactly.

Q. Did you ever find anyone of those Washington Place doors locked so that you could not go in? A. I never found the doors locked, they was always open.

Q. During the three weeks that you worked on the ninth floor were there any girls working on the floor? A. On the ninth floor nobody was working there.

Q. Now during the lunch hour, Mr. Fucks, were there any girls on the ninth floor? A. They used to come up during the lunch hour after they have their lunch, and then they used to fool around and dance and so forth.

Q. On the ninth floor? A. On the ninth floor.

Q. At that time which way did the girls come up there Mr. Fucks? A. They came up there both sides, from the Washington Place side and from the Greene Street side.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. This was while they were making repairs on the ninth floor, wasn't it? A. We was working there.

Q. They were making repairs all through that loft? A. Yes, sir, they were making repairs.

Q. You know Mr. Bernstein, don't you? A. Mr. Bernstein yes, sir, I know him.

Q. The manager? A. Yes, sir, I know Mr. Bernstein.

Q. You used to see Mr. Bernstein when you came there to work? A. Sometimes I did and sometimes not.

Q. And these doors were left open while you were doing the work? A. They were not open.

Q. They were left unlocked during the time or while you were making the repairs on the ninth floor? A. They had always been when I was there.

Q. When you were there? A. When I was there, working there, they were so.

Q. While you were working there there was no manufacturing going on? A. Not on the ninth floor, no.

Q. No manufacturing whatever? A. No, sir.

Q. Not on the ninth -- no operators at work on the ninth? A. No, nobody was working on the ninth floor.

Q. And you were last in that building when? A. I was last in that building about on the 1st of March or the 2nd of March I was last in that building.

Q. That is of this year? A. Of this year.

Q. What were you doing there? A. I was fixing up the sixth floor.

Q. When were you last on the ninth floor of that building?

A. On the ninth floor, I was about, after the first of March I was not.

Q. What were you doing there, to fix something? A. Mr. Blanck called me up there, pulled off a piece of plaster on top of the doors over the toilets and Mr. Blanck showed me it and wished me to fix it up.

Q. About what time of the day was that? A. In the middle of the day or in the afternoon of the day.

Q. Before that when were you last in the building? A. Before what?

Q. A. year ago last summer, wasn't it? A. No, I was there before the fire was about -- after the first of March I was there.

Q. You have just told us about that, haven't you? A. Yes, sir.

Q. Now before that when were you there. A. Before that I was in the building fixing up the ninth floor.

Q. When was that, a year ago last summer? A. That was in September.

Q. I didn't get you then. Didn't you say that you fixed up the ninth loft, that that was last summer? A. In September, in August and September I was working there.

Q. And wasn't that the summer before last? A. Last summer, yes.

Q. Last summer was after the fire. A. No, no, it was before the fire, the summer before the fire.

Q. I think you understand it now. It was a year ago

last summer that you made the repairs on the ninth floor? A. Before the fire was, the summer, the summer before.

Q. The summer before the fire? A. Yes.

MR. BOSTWICK: I think we are agreed about that.

MR. STEUER: Oh, absolutely.

Q. And that was the last time you were on the ninth floor other than the time you saw Mr. Blanck and had this conversation about the plaster? A. Yes, sir.

Q. You were not there on March 25th, 1911? A. No, sir.

Q. And you don't know anything about the conditions of the doors on that day of course? A. No.

BY THE COURT:

Q. You say you were on the ninth loft in the beginning of March, 1911? A. Yes, sir.

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

Q. And that you went there on one day during the beginning of March, 1911, was that so? A. Yes, sir.

Q. And what time of the day did you reach that loft on that occasion? A. On the — after the first of March --

THE COURT: About the first of March you say that you went in the ninth loft?

THE WITNESS: Yes, sir.

Q. What time of the day did you get there? A. In the afternoon.

Q. About what time? A. About two or three o'clock.

Q. What time of day did you leave the ninth loft on that

occasion? A. I always leave at five o'clock.

Q. When you were there about the beginning of March, 1911. What hour of the day did you leave the ninth left? A. I was there in the afternoon.

Q. About how long were you in the left in the beginning of March, 1911? A. I was only in there about two hours fixing up.

Q. In what part of the loft were you on that day? A. On the Washington Place side.

Q. How did you get to the loft on that day? A. From the Washington Place side -- through the Washington Place side.

Q. And when you say through the Washington Place side, what do you mean? A. I went up with the elevator to the tenth floor and then I went up and fixed up the ninth floor.

Q. You went up on the elevator to the tenth floor? A. Yes, sir.

Q. What elevator? A. From the Washington Place side.

Q. And when you got up to the tenth floor — A. I walked down to the Washington Place side, to the door down to the ninth floor.

Q. And when you walked down that time from the tenth floor to the ninth floor, what stairs did you go down? A. The stairs was from the Washington Place side stairway.

Q. Was there anybody with you at that time? A. Nobody was with me.

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Q. When you got to the door on the ninth floor, what did you do? A. I opened the door and I went out and I went down the stair way.

Q. And when you left the loft that day, how did you leave it? A. I left if by the Washington Place elevators.

RE DIRECT EXAMINATION BY MR. STEUER:

Q. Well now when you worked on the eighth loft at the toilets at the fixing up of the ceilings and all that, did you go to the ninth and tenth lofts?

MR. BOSTWICK: I object to that as not proper re-direct.

THE COURT: I think he was over that on direct.

MR. STEUER: That is entirely satisfactory.

SAMUEL BERNSTEIN, witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 103 West 117th Street.

Q. Mr. Bernstein, are you related to Mr. Harris or to Mr. Blanck? A. Yes, sir; I am.

Q. To which one are you related or are you to both? A. To both.

Q. How are you related to them, Mr. Bernstein? A. Mr. Blanck is a brother in law of mine; and Mr. Harris' wife is a cousin of mine.

Q. The two wives of these two men are sisters? A. The

two wives of these two men are cousins.

Q. Cousins is it? All right. Anyway you are related to both of them. A. Yes, sir.

Q. Prior to the fire, on the day of the fire, the 25th of March, 1911, did you work for Harris and Blanck? A. Yes.

Q. You will have to talk up loud. Are you the Mr. Bernstein that has been mentioned and referred to here as the superintendent and manager? A. Yes, sir.

Q. On which floors, Mr. Bernstein, did you do your work? A. On the eighth and ninth floors.

Q. And how many times a day, Mr. Bernstein, did you travel from the eighth to the ninth floor and from the ninth to the eighth floor? A. I cannot exactly state; might be two hundred different times.

Q. And Mr. Bernstein, how many years did you work for those people? A. Well, I have been with them for twelve years.

Q. Twelve years? A. Twelve years; during the time I have been away fro about one year.

Q. During those twelve years you were away from them for one year? A. Yes, sir.

Q. So you worked for them only eleven years? A. Yes, sir.

Q. Did you work for them all the time that they were at these premises in Washington Place?? A. One year I was away during the time.

Q. Did you work for them when they had the ninth loft only?

A. Yes, sir.

Q. Did you work for them when they had the ninth and eighth loft only? A. Yes, sir.

Q. And then when they got the tenth loft? A. Yes, sir.

Q. Won't you tell us in a general way Mr. Bernstein, tell the Jury what your duties were in that place? A. Yes, sir; I was taking --

THE COURT: A little louder Mr. Bernstein, it will be much easier for the Jury to understand you.

A. (Continuing) I was taking full charge of the floor, being manager and superintendent of the place; engaged all the help, showing them all the work; taking charge of the cutting room all told up to the pressing department.

Q. When you say the pressing department, where was that? A. That is located on the tenth floor.

Q. You mean you had nothing to do with the pressing department? A. Nothing to do with the pressing department or shipping department.

Q. You had nothing to do with the shipping department? A. No, sir.

Q. Mr. Bernstein in these very many times a day that you go from the ninth floor to the eighth floor, and from the eighth floor to the ninth floor; will you tell the Jury please how you would go from one floor to the other? A. I would go just where I was standing; if I was near to the Washington Place side I went up the Washington Place side; most of the time I went up

the Greene Street side.

Q. Now how often a day, give the Jury the lowest estimate every day, Mr. Bernstein, would you go up the Washington Place stairs from the eighth floor to the ninth floor; and down from the ninth floor to the eighth floor? A. It might have been ten different times.

Q. In each day? A. In each day.

Q. During the years you worked and had charge of this place? A. Yes, sir.

Q. Mr. Bernstein at any time when you went from the ninth floor to the eighth floor, or from the eighth floor to the ninth floor on the Washington Place side, did you use a key? A. Never used a key.

Q. Did you have any key? A. Yes, sir; there was a key sticking in the hole with a string.

Q. Sticking where? A. Sticking in the key-hole tied to the knob.

Q. I mean, did you personally, Mr. Bernstein, carry a key that you could use on the lock of the ninth floor or the eighth floor? A. No, sir.

Q. You were present at the time of the fire, weren't you? A. Yes, sir.

Q. Which floor were you on, Mr. Bernstein? A. I was on the eighth floor.

Q. Did you lose a brother in that fire? A. I did sir, yes.

Q. And you lost other relatives besides your brother? A. Yes, sir; I lost a good many relatives.

Q. Do you work for Harris and Blanck? A. I do not, no, sir, not now.

Q. Have you any relation with Harris and Blanck other than what you have described, being a brother in law of Mr. Blanck and being related as cousin on your wife's side to Mr. Harris? A. No other connections at all.

Q. No other connection of any kind? A. No, sir.

Q. Will you tell the Jury please where you were and what you were doing at the moment when you first heard that there was any trouble on the eighth floor? A. I was standing near a desk of a cousin of mine by the name of Dinah Lifschitz, she was a book-keeper that had charge of the accounts of the operators, carried their time; that was done on the eighth floor facing west, on the west side near the northwesterly side; and there was a new girl had been working for about two days, I don't recollect the name, and Dinah called me over to make a price for the girl; the bell had rung --

Q. Wait a moment. By making a price, what do you mean? I don't like to interrupt you? A. I mean a price for her, she was supposed to work week work and she didn't know the price; she worked for a few days and I usually made a price for them; and she asked me what she was going to get and asked me to make a price. And I made a price with her of \$14. and she was perfectly satisfied; and then when she walked away from me and I

heard a cry -- Mr. Harris' sister, I seen her running towards me and hollering "Fire; there is a fire Mr. Bernstein". When I turned around I seen a big blaze and some smoke. I ran towards the other side; I seen a couple of cutters around there and they were using some pails of water.

Q. Will you tell the Jury where that was now, Mr. Bernstein? A. This was on the Greene Street side, North Greene Street side.

Q. North Greene Street side? A. Yes, sir.

Q. Perhaps it would help you if I showed you a diagram that we have been using of the eighth floor? A. (Diagram laid before witness) This is the cutting table (Pointing).

Q. Could you get along just as well if we held the diagram around the other way? A. Yes (Diagram turned around.)

Q. Now the way this diagram is laid out is, that this here is Washington Place (Indicating); and that is Greene Street (Pointing). A. Yes.

Q. Now over here are the Greene Street elevators (Indicating) A. Yes, sir.

Q. And there is the Greene Street door from the stairs (Pointing). A. Yes.

Q. And here is your Greene Street door in the partition (Indicating). A. Yes, sir.

Q. Do you see that? A. Yes, sir.

Q. There is your fire escape (Pointing). A. Yes, sir.

Q. Over here are your cutting tables (Indicating). A. Yes, sir.

Q. And over here are your cutting tables which we will have you lay out in a little while (Indicating) and here are the machine tables (Indicating). A. Yes, sir .

Q. Then over here is what you have referred to as the west side of the building (Indicating) and that is Waverly Place I think or University Place. A. It is University Place — not exactly University Place.

Q. The University Building is on this side somewhere (Pointing). A. Yes, sir.

Q. Now over here are the passenger elevators (Indicating) you see the two? A. Yes, sir.

Q. And there is your Washington Place door (Indicating). A. Yes, sir.

Q. And here is the dressing room (Pointing). A. Yes, sir.

Q. And over here the toilet rooms (Indicating) A. Yes, sir,

Q. You see where they are? A. Yes, sir.

Q. This whole thing is the eighth floor (Indicating diagram); and this is the floor as I understand it that you were on at the time when you were talking to Dinah Lifschitz and this other girl? A. Yes, sir.

Q. And when you heard somebody say “Mr. Bernstein there is a fire.”? A. Yes, sir.

Q. Will you be good enough to point out to the Jury now where it was that you went to when you heard the word “Fire” and where you saw the cutters pouring water? A. I went towards

the Greene Street side near the elevators.

THE COURT: Suppose he indicates first where it was on that diagram that he was at the time.

Q. Over this way is the fire escape (Pointing) and you get the lay out now, don't you ? A. Yes, sir, over here is the Greene Street side (Indicating)?

Q. Yes, sir. A. Over here (Indicating) there was cutting tables.

Q. Here (Indicating). A. Over here (Indicating) there was cutting tables and over here (Indicating) were cutting tables; and here is one here (Indicating); and over here were cutting tables (Indicating); just about there (Pointing) I was. There is a little desk, and over here are some windows (Indicating).

Q. You are outside of the building there. A. I know, but over here was a little desk, a little desk standing right near the windows facing the University College.

Q. That was whose desk? A. Dinah Lifschitz' desk.

Q. And that was Dinah Lifschitz' desk? A. Yes, sir.

Q. Could you tell the Jury how far from the University wall, how far away from the University wall into the loft was Dinah Lifeohitz1 desk? A. Oh, about ten feet.

Q. About ten feet in? A. Away from the wall.

THE COURT: Towards Greene Street?

THE WITNESS: Towards Greene Street, ten feet from the wall.

Q. Into the loft? A. Into the loft.

Q. How far from the toilet rooms, that was close to Dinah Lifschitz' desk, wasn't it, how far was it from her desk? A. Oh, about twenty or twenty five feet.

Q. So that a point which would be ten feet from the wall in towards the loft and which would be twenty five feet --A. This way (Pointing).

Q. Towards the north of the building? A. Yes, sir.

Q. Towards the fire escape wall, would be the point where Dinah Lifschitz' desk was and where you stood? A. Yes. sir.

Q. And you said that at the time when you were talking you were facing west? A. Facing west.

Q. That means out of the building? A. Out of the building; yes, sir.

Q. All right. Now will you tell the Jury --

MR. STEUER: Would you let me have that ruler a minute Mr. Bostwick. (Ruler handed to Counsel) Two and one half inches Mr. Bostwick would be the ten feet, wouldn't it, four feet to the inch?

MR. BOSTWICK: Yes.

MR. STEUER: That would be two and one half inches then. It would be over here two and one half inches (Pointing).

Q. That was twenty or twenty five feet you said? A. About that.

Q. That would be between five and six inches from this toilet (Pointing) A. Six inches about.

Q. No, it would be between five and six because it is a quarter of an inch to the foot and from twenty to twenty five feet would be from five to six inches.

THE COURT: Divide twenty five by four, that would be six times and a little over six.

A. A little over six.

MR. STEUER: Put it six then; six and a quarter (Indicating on diagram).

Q. That point would bring us about here (Pointing) is that where you say that desk was, that would be right near one of the windows. A. It would not.

THE COURT: It is over in this corner (Indicating).

THE WITNESS: I said this corner (Pointing).

Q. Near the window where? A. Near the window on the westerly wall.

Q. Now will you tell the Jury what you did after you heard either Harris or Miss Harris or whoever it was say whatever she said. A. When I turned around I heard a cry of fire; and I turned around and seen a blaze and smoke; I ran towards where it was, where they were pouring water.

Q. Where did you see the smoke and blaze? A. Just about here (Indicating on diagram); just about the second window from the left on the Greene Street side near the freight elevator.

Q. The second window inside of the loft? A. The first window inside of the partition.

Q. The first window inside of the partition? A. Yes, sir.

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

Q. At first window would be here (Indicating)? A. Yes, sir.

Q. You notice somebody made a mark somewhere along there where they first saw the fire (Indicating) and that is about the place where you would locate it? A. Yes, sir.

Q. Now what did you then do, Mr. Bernstein? A. I cried out for pails of water; and just then Frank, an elevator boy just came up and he handed me some water; in the meantime that Frank, the elevator boy, he handed me some pails of water --

Q. Yes. A. And in the meantime the elevator door was open, it was a big draught, it was very windy that day and it blew right through you know awfully and it was impossible for me to put it out. Then I saw Louis Sandermann, the Assistant --

Q. Who is that? A. Louis Sandermann.

Q. Who was he? A. Assistant shipping clerk from the tenth floor I just then saw him and I said "Louis, get me the hose as quick as you can." He got down the hose from the eighth floor and handed it over to me and I said "Is it open wide"? But it didn't work, no pressure, no water.

Q. Did you try it? A. I tried it, I had it ready, I opened it, I can't turn it any more, I turn it one way and then the other and fire it away, it don't work.

Q. You fired it away? A. No use, I throw it away; a little fellow by the name of Utter, I don't know his first name, only worked in the factory a couple of months --

Q. Was that his last name, Utter? A. Yes, Utter; he was the assistant machinist and he handed me the hose from the ninth floor; that boy was lost in the fire; that didn't work. I fired that away.

Q. Will you tell the Jury what you did with the hose, Mr. Bernstein? A. As soon as I got the hose I said "Where is the water, where is the water?" He said "There is no pressure, nothing coming; no good; I would not hold on to it and keep turning it but no water; I fired it away and, got a few more pails of water; the fire was getting bigger, on the end, right on top of the table, the lawn was on fire, there was about 120 ply of lawn there, layers on top of the table, and I seen that on top of the table that the fire was running away from me; so when the boy was pulling me by the hand and hollering he was so frightened and I turned around and looked at him and the boy was burning, he ran away from me, he was a button-hole worker from the ninth floor; and then I started for the girls. I sent them back away, the girls you know, they were running for their coats. I said "For God's sake don't run for your coats get out of here as quick as you can" and I pulled them out. One of the girls I slapped in the face, she was fainting and I got her out. Brown came over there by me and I sent him to go over to the other side, I said for him to get away from me you can't put this fire out. I seen there was no way to put it out in that floor.

Q. Who was Mr. Brown? A. Brown is the machinist on the eighth floor; and he went towards the other side and I worked

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on the Greene Street side and we got them all out.

Q. He went over on the Washington Place side? A. Yes, I sent him there.

Q. Where did you go? A. I stayed at the Greene Street side getting the girls out; I would not let them go for their clothes, they had some new clothes, it was near spring and they were wearing their new clothes; I seen a girl going back after her pocket book; she said I have got my pocket book by ay machine and I just made her go along out without it, I just trove them out. It was getting all dark with smoke there and there sat my cousin Dinah Lifschitz, I was trying — she was trying to get up stairs an the telephone or that writing machine whatever it is called.

Q. It is not a telephone, what do you call the machine? You know what the name of it is? A. They call it a —

Q. It is a writing machine, a tetelegraph, or metagraph or something.

THE COURT: Telautograph, is that it?

Q. Telautograph? A. And she was working that and there was no answer. First she screamed out fire through the telephone and she screamed so loud I stopped her; she soared ~~ she scared that girl she said afterwards, admitted she scared her so that she dropped the receiver. Didn't get any answer from the tenth floor. We connected with the tenth floor if we wanted the ninth floor and had to be connected that way to the ninth.

MR. BOSTWICK: In order that I may keep the record

straight I ask that it be stricken out all that happened on the tenth floor, that has been described as happening on the tenth floor.

MR. STEUER: To that I consent that that be stricken out all except the admission that there had to be a connection with the tenth floor in order to get the ninth floor, that should stay in.

THE COURT: That stays in.

Q. What did you do Mr. Bernstein? A. When there was no answer I said "For God's sake these people don't know, how can we make them know" and then I turned around and seen how the flames were spreading and I said "Well we will all get lost here." She said "I can't get anyone." She was simply crying you know.

Q. You are now speaking of Dinah? A. Of Dinah Lifschitz, because I ordered her to do that so she dropped that. I said "Dinah, there is only one man here, and all the girls are out of the eighth floor; and I ran up I wanted to put my way up through the blaze and smoke. I wanted to get into the ninth floor; I remembered I had a number of relatives, a brother and I remember I had cousins and all these people were very dear to me.

Q. And they were on the ninth floor? A. They were all on the ninth floor. I could not get in to the ninth floor; it seemed that there was about, we will say about twenty feet away from the door there was cans of oil for the machine oiling [?]

motor oil that was all fixed around so that no fire or anything should catch in there or anything of this kind; I supposed that that was burning, I don't know, but the blaze was so strong or something, and I could not get in there, I could not get into the ninth floor.

Q. That is into the ninth floor, on the ninth floor the blaze was at the — A. On the Greene Street side.

Q. What did you do then. A. I then ran up on the tenth floor; when I got up to the tenth floor I found the fire was then upon even the tenth floor.

Q. It was then up in the tenth floor? A. Then on the tenth floor.

Q. And it was all burning up in there? A. It was burning at the time when I got up there; and I seen Mr. Blanck and Mr. Harris, and all the pressers and cutters running around like wildcats, they didn't know where they were, they were all crying of fire and they didn't know where they were. I told them the only way for you to get out is on the roof here, I says, the one way for you to get out, there is no other way. I knew where I was. I knew where I came from. So they followed my advice and they ran up that way. I seen a Mr. Silk, a salesman of Krauer & Tynburg standing on a table, I seen him, he was trying to knock out a skylight that was up there and was trying to do that and to get up through it.

Q. The skylight that you are speaking of now is the skylight is the loft itself? A. In the loft itself, in the middle of

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the loft over towards the Washington Place side.

Q. And this is on the tenth floor that you are now speaking of. A. The tenth floor I am now speaking of.

Q. Where were Mr. Blanck's children? A. Mr. Blanck's children were right in his arms, he was holding onto them.

Q. And about what part of the loft, where was Mr. Blanck at that time? A. He was about the middle of the loft just near the skylight I am speaking of; they were right there. And I came over and got on some goods -- I said the only way you can get out of here is over this way and I said you want to be quick about it. And the shipping clerk Addis Markowitz took away Mr. Blanck's child, one of them, the smaller one, and Mr. Blanck held the older girl and they fight their way out of there; and I was the last one to leave that floor too. There was a girl there, a forelady by the name of Lucy; she was the forelady of the presses and she fainted, and I slapped her in the face on the floor and woke her up and I carried her up the stairs to the roof. I felt as strong as a bull at that time; I don't know where I got it from; I carried her all the way on to the roof and there she was fainting again but I stuck to her also; and they were a few other girls around there; Mr. Alders' daughters, the old man, a relative of ours, an uncle of mine, him and my cousins they were there too.

Q. Is that the man that has got charge of the tenth floor? A. He had charge of the tenth floor, and I stood there, and I helped them, all, and I pushed the first man up, he was a cutter

and when he got up on the roof he began to run away instead of standing there and helping the rest of us. When we got up to that place we were all standing there and I seen Mr. Harris was there, and the other, the adjoining roof there must hare been eight or seven feet away and this first fellow that I pushed up was a Mr. Wolfson and immediately Mr. Harris and I helped him up he was going to ran away and I said "For God's sake stay here and give us help to push the other people up through; and he stayed there and we pushed them all up through until there was only another man and myself a Mr. Tichenor, a salesman and he was a large man, weighed 250 pounds and we had some trouble with him; I was the last one there and I seen the flames was coming up through, up through the roof on the up town side, the Greene Street up town side and nobody was there to push me up any more; so I ran across the roof all the way to the Washington Place side where the University College is and they rushed me over a step ladder and when I got up on top of the step ladder I saw as I was getting up on top of the step ladder five or six girls falling from the windows.

Q. Falling from the windows? A. Yes; falling from the windows, jumping from the windows.

Q. Mr. Bernstein during all the time that you worked for these defendants when you went to the eighth floor or to the ninth floor on the Washington Place side I think you said that you walked through the door without using any key? A. Yes, sir.

Q. Will you tell the Jury please, during all those years

where the keys were on the Washington Place side, Mr. Bernstein? A. They were sticking in the key hole tied with a string on the inside of the lock.

Q. Now, Mr. Bernstein for the completion of the diagram that was shown to you before, -- do you now distinctly remember how many cutting tables there were on the eighth floor? We will first start with this section that runs to the Greene Street side East of the machine tables (Diagram laid in front of witness). A. Five tables over here (Pointing.)

Q. Five tables. Will you tell the Jury Mr. Bernstein, starting with the Greene Street side what was the nearest point to the Washington Place side of the first table? Do you understand me? A. Yes, I understand, you mean the place in front of the table.

Q. Yes, sir, at the Washington Place windows? A. Oh, there was about seven feet, about ten, twelve; we had them all spaced, not even, they were not even there (Pointing).

Q. Now you see you are not doing us any good, because unless you confine yourself to one table we won't be able to do anything with it. A. The first table was about seven feet away.

Q. The purpose of this testimony is to have the gentleman who drew this diagram, after we get through with your testimony to draw these tables according to your testimony. A. yes, sir.

Q. It is necessary for you to be as accurate as you possibly can Mr. Bernstein, otherwise everything will be of no value. A. The first of the two tables is seven feet away,

seven feet distant.

Q. From the Washington Place side? A. From the Washington Place side.

Q. How wide were those tables? A. Forty inches wide.

Q. Forty inches? A. Forty inches.

Q. How long were they, if you know, extending towards the northern wall? A. How long they were?

Q. Yes, sir. A. They were about 45 to 50 feet long.

Q. Will you be good enough to tell us how near to the partition on the Greene Street side was the end of the table? A. The Greene Street side?

Q. Yes, sir. A. About nine or ten feet.

Q. Nine to ten feet? A. Yes, sir.

Q. The only other measurement I think we need of that first table is: If you will tell the distance from the Greene Street wall. A. About five feet.

Q. Five feet. Now I want to go over that with you so as to be sure that this is your best recollection and judgment. A. Yes, sir.

Q. You said about seven feet from the Washington Place side. A. These two tables.

Q. Two tables? A. Yes, sir.

Q. Let me talk of one. wont you please Mr. Bernstein. Seven feet from the Washington Place wall? A. Yes, sir.

Q. Five feet from the Greene Street wall? A. Yes, sir.

Q. And nine to ten feet from the partition? A. From the

partition.

THE COURT: And four feet wide?

THE WITNESS: Forty inches wide.

THE COURT: I beg your pardon, forty inches wide.

THE WITNESS: Forty inches.

Q. We will come to the second table.

THE COURT: First get the distance between the tables.

Q. What was the distance Mr. Bernstein between the first and second tables? A. About 32 inches, that is what we always –

Q. About 32 inches? A. Yes, sir.

Q. You don't think it was quite three feet? A. Not quite feet.

Q. You just said "That is what we always" and then what going to say? A. Room for two men to pass through.

Q. Then 32 inches west of the first table is table No. 2 ? A. Yes, sir.

Q. And we are counting from the Greene Street wall? A. Yes, sir.

Q. Now the size of the table, was that the same as the first table? A. The very same.

Q. So we do not need to take any measurement of table No. 2? A. No, sir.

Q. And the distance between table No. 2 and table No. 3? A. That was the same distance.

Q. The same distance 32 inches? A. About 32 inches.

Q. Now the distance from the end of the table to the Washington Place wall? A. That was about nine to ten feet.

Q. Nine to ten feet? A. Yes, sir.

Q. Are you sure that the distance of table No. 3 to the Washington Place wall was greater than it was on the first two tables? A. Positively.

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

Q. The distance from the other end of the table to the partition? A. The distances were all alike, they were all even.

Q. They ended exactly at the same point? A. Exactly the same point.

Q. How many tables did you say there was in that section? A. Five tables.

Q. Was table No. 4 32 inches from table No. 3? A. Yes, sir.

Q. The distance from table No. 4 to the Washington Place wall? A. It was about 12 or 13 feet, being there was a motor standing there running the machines.

Q. Does this (Indicating) do you know indicate the motor? A. Yes, sir, it should indicate it.

Q. And you say the distance was about — A. That is for the fourth table.

Q. You say it was from 12 to 14 feet or 13 feet from the Washington Place wall? A. Yes, sir.

Q. I think the end distance was the same? A. The same.

Q. I want to ask you whether all these tables were in front — that is the width of them, were they all the same width? A. All the same width.

Q. How many tables did you say there was? A. Five.

Q. Now table No. 5. A. Table No. 5 was used for — it was a cutting table but we used to put strips away, working strips.

Q. It had been a cutting table? A. It had been a cutting table but we put some strips aside and we put them on that table. It was about fifteen feet away from the Washington Place wall.

Q. And ended about the same point on this (Indicating) A. No, not exactly.

Q. How about the end. A. A little further, a little.

Q. The distance from the north nail was a little larger on the fifth table than it was on the fourth? A. Yes, sir.

Q. And the first four were exactly the same? A. Exactly the same.

THE COURT: How far was the side of the cutting table that was nearest the first row of machine tables away, what was the distance?

THE WITNESS: The first cutting table?

Q. You understand what the Judge means? A. I understand what the judge means. It was about six or seven feet.

Q. Now coming over to this side over here (Indicating); we are now speaking of the north wall or side cutting tables.

A. Yes, sir.

Q. How many cutting tables were there in this section of the room on that side? A.

On the north side?

Q. Yes. A. Two cutting tables.

Q. Will you place those cutting tables for us? A. Yes, sir.

Q. Commencing with the westerly wall, what was the nearest point to that westerly wall of the cutting tables in this section? A. It was about four feet from the wall.

Q. How wide was the cutting table? A. 40 inches wide.

Q. And how far was the most northerly point of the cutting table from the north wall ? A. About three and one half feet.

Q. Three and a half feet. A. About that, enough for a man to pass.

Q. And there was you say two tables? A. Two tables.

Q. What was the length of the tables, you have just given the position of them? A. About 36.

Q. About 36 feet? A. About 33 to 36 feet.

Q. 33 to 36 feet? A. Yes, sir.

Q. And each ran parallel with the north wall? A. Yes, sir.

Q. Where was the second table? A. The second table was about 32 inches apart.

Q. 32 inches apart? A. The same distance apart.

Q. And running nearer to the sewing machine tables?

A. Nearer the sewing machines.

Q. What about the size, was it the same as the others? A. Same all of them, same size.

Q. Have you described all the s cutting tables that there were on the 8th floor? A. Yes, sir.

BY THE COURT:

Q. Were there any tables on that 8th floor besides the cutting tables and machine tables? A. No, sir.

Q. Were there any partitions on that floor that are not shown on that diagram, People's Exhibit No. 1. A. No, sir.

THE COURT: Don't you want him to do the same thing with the 8th floor where the cutting tables were left out?

THE WITNESS (Interrupting) There were no cutting tables there.

MR. STEUER: No cutting tables on the 9th floor.

THE COURT: Examining tables.

BY MR. STEUER:

Q. Now in the westerly section of People's Exhibit No. 2 which is the diagram of the 9th floor and held exactly in the same position as you held the diagram on the 8th floor, do you understand the location thoroughly? A. Yes, sir,

Q. How many examining tables were there altogether? A. Four examining tables.

Q. How many examining tables were there that ran parallel with the westerly wall? A. Altogether four; we are talking of four examining tables.

Q. I say how many were there that ran parallel with the westerly wall? A. Two.

Q. And how many ran parallel with the northerly wall? A. Two.

Q. Will you describe the location of the two that ran parallel with the westerly wall. First tell us how far from the westerly wall was the nearest of those examining tables to that wall? A. The examining tables were about five feet from the wall.

Q. Into the loft? A. Into the loft.

Q. What was the width of those examining tables? A. About thirty six inches I should think, a yard wide.

Q. Thirty six inches wide. They were not as wide as the cutting tables, were they? A. No, sir.

Q. What was the distance of that same examining table, that is examining table No. 1 from the north wall? A. Same distance.

Q. Five feet from the north wall? A. Yes, sir.

Q. And five feet from the westerly wall? A. Yes, sir.

Q. How far was the nearest point of that same table from the toilet room, or did it extend in front of the toilet room? A. No, we had a filter here that was put there.

Q. Oh, not what I mean — we will get to that later. A. The tables ended just there and must have been from that place to the toilet about twelve feet.

Q. You mean that the Rapid Safety Filter Company had a filter

on each floor? A. On each floor.

Q. What do you say in relation to the filter, what had that to do with the table? A. So that nothing might get wet by the water, there was a few boards put up, just a few boards, just a partition put up so that the water would not damage the waists; and that is where the tables finished.

Q. A passageway of about four feet you call that? A. One table, and this is a second table in the centre of these two tables was a passageway of about four or five feet, just a passageway.

Q. I think I misled you.

BY THE COURT:

Q. There were two examining tables on the University Place side. A. On the University Place side too.

Q. Did they run in their length — A. They ran —

Q. In the direction of the fire escape, or did they run in their length towards the Washington Place side? A. They ran in their length towards the Washington Place side and two of them — that is two this way (Indicating) and two in one way (Indicating).

Q. When you say two of them in one length, you mean that the examining tables that were on the fire escape side touched the examining tables that ran in the other direction, is that what you mean? A. That is just what I mean.

Q. In other words there were two examining tables that ran lengthwise from the fire escape wall? A. Yes, sir.

Q. Towards the Washington Place wall? A. Yes, sir.

Q. There were two examining tables that ran -- A. Toward the University.

Q. Towards Greene Street? A. Towards Greene Street.

Q. And parallel with the fire escape wall? A. Running with the wall.

Q. Running in the same direction as the fire escape wall? A. Yes, sir.

Q. And those two tables joined the two tables that ran in the other direction? A. Yes, sir.

MR. STEUER: Making a right angle?

THE WITNESS: Yes, sir.

Q. At a right angle similar to the position of these two tables here (Indicating attorneys' tables) I mean in the sense that they make an angle. A. The only thing, there was a passageway of about four or five feet.

BY MR. STEUER:

Q. The Judge is quite right, isn't he? Suppose these were the two inside tables (Illustrating) You see they were joined this way (Illustrating) weren't they? A. Yes.

Q. Now the next table that ran parallel with this one (Indicating) so and there would be an aisle? A. No, sir.

Q. How then? A. We will say this is the north side (Indicating)

Q. Which? A. This table is the north side.

Q. Here (Indicating)? A. Yes, sir, we will say this is

the north side.

BY THE COURT:

Q. We will take the fire escape as on the side of the Jury (Indicating Jury rail) There is the examining table (Indicating) A. Yes, sir.

Q. And over in that direction (Pointing) is the University Place wall? A. Yes, sir, University Place wall; there was the two tables standing. This is the fire escape on this side (Indicating) and there was about five feet apart here where there was a passage (Indicating) and in the middle of the table you work at, is this passageway of about four or five feet or something on the other side.

MR. BOSTWICK: I don't get that.

THE WITNESS: This is a fire escape over here (Indicating).

MR. BOSTWICK: May I make a suggestion to the Court, don't you think that if he went to that piece of paper he could draw a picture of it.

BY MR. STEUER:

Q. Could you draw it? A. yes, sir.

THE COURT: You can draw it on a small piece of paper.

MR. STEUER: Then we can get the idea and furnish the dimensions.

THE COURT: Before he leaves, get from him any other tables there may have been is there or articles that there

may have been on that floor.

MR. STEUER: Go to that paper and draw it (Indicating paper on board.)

MR. BOSTWICK: I ask that this be marked for identification for the benefit of the engineers when they try to cut in the cutting tables on the other floor, if it is possible (Referring to paper taken from Board.)

THE COURT: The marks on that paper were made by the witness Rubin.

MR. STEUER: All right, if it will help it any, go ahead.

(Paper marked People's Exhibit 45 for identification.)

BY THE COURT:

Q. It would be very much easier for the witness to sit down with a small piece of paper in his hand. Let that piece of paper represent the walls of the loft (Handing paper to witness).

You can write there (Pointing) "Fire escape wall". A. Washington Place.

Q. Washington Place fire escape. A. Yes, sir, that is the north side.

Q. That is Washington Place (Indicating) A. Yes, sir.

Q. That is Greene Street (Indicating); that is a fire escape wall (Indicating); that is the University Place wall (Indicating). A. It is. (Witness drawing on paper.)

THE COURT: Never mind about the size, indicate the position of them.

The witness has done it and it can be marked as an exhibit for identification.

(The same marked Defendants' Exhibit I for identification.)

BY MR. STEUER:

Q. On the paper marked defendants' exhibit I for identification is what you now have on there, -- does that mean four tables? A. Four tables.

Q. And those were the four examining tables on the ninth floor? A. Yes, sir.

Q. Now I have marked those four tables, one, two, three and four, do you see that? A. Yes, sir.

Q. Now No. 1 and 2 run parallel with which wall? A. With University wall.

Q. And 3 and 4 run parallel with which wall? A. With the north side wall.

THE COURT: That is the fire escape wall.

THE WITNESS: Fire escape wall.

Q. Fire escape wall. I want you to tell the Jury how wide these tables were, if they were all the same width, and if not how wide each one of them was. A. They were all of the same width and they were about 36 inches wide.

Q. Now how long was table No. 1, you remember which one that is. A. I understand. Table No. 1 was about ten feet long.

Q. What was the distance between table No. 1 and table No. 2

A. About four to four and one half feet.

Q. How long was table No. 2? A. Table No. 2 was about 12 to 14 feet.

Q. What was the distance between tables No. 2 and -- tables 1 and 2 from the wall?

THE COURT: From the University Place wall.

Q. (Continuing) From the University Place wall? A. About four to five feet.

Q. What was the length of table No. 3? A. About 18 feet.

Q. What was the length of table No. 4? A. 15 to 16 feet.

Q. What was the distance between tables No. 3 and 4? A. Four to five feet.

Q. What was the distance from tables 3 and 4 to the north wall of the building?

A. About four feet.

THE COURT: Were there any other tables on that floor besides the machine tables and these four examining tables?

THE WITNESS: Yes, there was one more table that the girl used to give out the work to the operators.

Q. Where was that table? A. There was also on the north side some parallel with these tables, there was a space between those two tables where there was a clock standing for the girls to punch their time, the week workers, which there was a space of about six foot.

Q. Now where was the table you spoke of before you spoke of the clock? The table where you said the girl did the giving out of work. A. The table where they gave out the work was

parallel with the same two tables and they were six foot apart — from that table.

Q. Parallel with which two tables? A. Of the north side.

Q. That is tables 3 and 4 on this Exhibit I for identification? A. Yes, sir.

Q. Was it one table? A. One table.

Q. How long was that table? A. Oh, it is about seven foot.

Q. How wide was that table? A. The table was about 40 to 42 inches wide.

Q. And you say it was about 6 feet? A. Yes, sir.

Q. In front of each one of these tables, did they stand three or four? A. It did not stand in front of them, it stood right in the same way.

Q. Then it did not stand parallel with them, it stood along the same wall? A. Along the same wall.

Q. And about six feet from table No. 4 A. From table No. 4.

Q. Is that right? A. That is right.

BY THE COURT:

Q. A little closer to Greene Street, it was nearer to Greene Street wall? A. Yes, sir, nearest to Greene Street.

Q. Now were there any other tables on that floor besides those that you have mentioned? A. There was a desk where the book-keeper -- towards Greene Street side of that table, where they gives out the work, I am speaking of, there was a little

girl there by the name of Mary Lowenthal. She was sitting there marking the time down.

Q. Was there anything besides that desk and the tables you have already spoken of? A. No, sir.

Q. Were there any tables beside the machine tables over on the Washington Place side on the ninth floor? A. No, sir.

Q. Will you look at People's Exhibit No. 2 (Diagram placed before witness) and see if you can state what if anything stood where those marks are near the dressing room (Pointing) A. That is Washington Place side (Indicating)?

Q. That is Washington Place side; and here are the passenger elevators (Indicating); and there are the stairs; and there is the dressing room (Indicating). Now what stood there (Pointing)? A. Nothing stood there, no tables.

Q. No article at all? A. No articles at all.

Q. No tin on the floor there? A. No. sir.

Q. No basket? A. Yes, there were near the Washington Place door, we had two girls sewing insleeves on special machines.

Q. You say near the Washington Place door you had girls sewing on special machines? A. They were sitting back to the Washington Place door and elevators and stair case, facing the Greene Street side, the machines were.

Q. I know. A. It is the table I am talking of.

Q. You are talking now about a table that appears over here (Indicating)? A. Yes, sir.

Q. What, if anything, stood on those square places (Indicating)? A. There were two shelves fixed up there where they used to put their work in and sort their work; that was between the Washington Place elevator and the staircase door, just near the wall, just about two and one half feet, about thirty inches.

BY MR. STEUER:

Q. Now, Mr. Bernstein, during all the years that you worked there, were you always the manager and superintendent of the eighth and ninth floors? A. During the twelve years?

Q. How? A. When I came in with the Triangle Waist Company they were only at one floor, the ninth floor; then I was making patterns for them and was foreman in the operators; then when they took the eighth floor I was also working part time and taking charge of all the operators in the cutting room; and when the tenth floor was taken, the office from the eighth floor and the pressing department and shipping room went up on the tenth floor; naturally we put up more machines, so I gave up pattern making, I could not manage it and I only took charge of the entire place.

THE COURT: If you would only talk a little louder
you would make it so much easier for the jurors to hear you.

Q. You took charge of what? A. I took charge of the eighth and ninth floor.

Q. Now, Mr. Bernstein, was the door on the eighth or ninth floor ever looked just before the employees on the eighth and ninth floors were dismissed? A. No, sir.

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THE COURT: We will suspend now.

Gentlemen you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you.

(Adjournment was then taken until ten-thirty o'clock a.m., December 21st, 1911.)

LAST EXHIBITS:

People's Exhibit 45

Defendants' Exhibit I.

New York, Thursday, December 21, 1911.

TRIAL RESUMED.

THE COURT: The witness under examination may come forward and take the chair.

SAMUEL BERNSTEIN, resumes the stand and further testifies.

THE COURT: I notice on page 1302 a slight error in the record. A part of an answer as given by the witness appears in the record to have been part of the question. That is apparent by looking at the next page.

MR. STEUER: Well, any correction that your Honor thinks ought be made I am perfectly willing to consent to it.

THE COURT: It is just the beginning of the answer is made the end of the question.

MR. STEUER: I have not read any part of the testimony, so I could not follow it.

THE COURT: It appears really on the next page so it is not material.

Have you finished your direct examination Mr. Steuer, of this witness?

MR. STEUER: There is one matter I did want to take up, although I did say yesterday evening that I was finished with him.

THE COURT: You may proceed.

DIRECT EXAMINATION BY MR. STEUER: (Continued)

Q. On the eighth and ninth floors what was the manner in which the lofts were attended to in the way of cleaning? A. They were swept by porters — we had nigger porters.

Q. Speak louder. A. We had colored porters, and it was swept up nights and also in the day-time. At night it was swept under the machines, among the girls, and in the day-time it was swept among the aisles and cutting tables, and so forth.

Q. What was done with the cuttings from the cutting tables? A. The cutters would have a sort of a bin like underneath the table, where the cutters when they took off the clippings fired them right into the bin.

Q. Have you worked for other shirtwaist factories, besides the factory of Harris and Blanck? A. I did.

Q. You know the machine tables in the premises of Harris and Blanck, do you not? A. Yes, sir.

Q. What type of machine were they, Mr. Bernstein? A. All kinds, Singer make, Wilcox & Gibbs, the Union Special.

Q. Were those machines mounted on tables of the same kind and character as are generally in use in the shirtwaist factories throughout the City of New York? A. Yes, sir.

Q. Were the cutting tables that were in use at the premises of Harris and Blanck of the same kind and character that are in use in the shirtwaist factories throughout the City of New

York, the most perfect cutting room we had; I never seen one like it all over New York City in factories I was in.

MR. BOSTWICK: I move to strike out the answer.

THE COURT: I will strike it out.

Q. You have seen cutting tables in other factories, have you? A. Yes, sir, I did.

Q. Describe, please, to the jury how the cutting tables in other factories were constructed? A. Much closer together, very much closer together.

Q. What facilities did the cutting tables have in the other factories in which you have been for the purpose of keeping the cuttings from the floor? A. Keep them in lawn cases, cases of lawn, right under the table, on horses standing, you know — table put on horses and just fire them in their cases of lawn, and when the cutter is about, we will say, ten yards away from that case, he has got to go with a handful and fire it in, and naturally they will fire it on the floor. But we had the bin built all the way across the length of the table, and wherever he was standing he had to fire it in that bin, because it was right there all covered up, just about ten inches from the table, so it couldn't get out.

Q. Which method is the better for keeping the cuttings from the floor?

Objected to. Objection sustained. Exception.

Q. You say that before you became the manager of this firm you were a pattern maker? A. Pattern maker, yes, sir.

Q. And a pattern maker is the man who cuts the patters for the garments? A. Yes.

Q. And designs them? A. And designs them.

Q. And he works on a cutting table? A. Yes, sir.

Q. For how many years have you worked on cutting tables? A. I worked for the past fifteen years.

Q. I ask you in the light of your experience with cutting tables, which is the more practicable table for the purpose of keeping the cuttings and clippings from the floor, the table that was in use at Harris and Blanck, or the ones that did not have bins and where they used cases for the purpose of putting the cuttings in?

MR. BOSTWICK: I object to that.

THE COURT: I do not think it is a matter of special knowledge; I think it is one of those things, Mr. Steuer, the facts being laid before an ordinary jury, they are competent to determine for themselves.

MR. STEUER: All right, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You were a witness before the Coroner's Jury? A. Yes, sir, I was.

Q. The employees never went out the Washington place side, did they? A. The employees?

Q. Yes. A. Sometimes they did ~~ not all the way down, no. It was not necessary, but in the factory they used the

doors just as well as I did.

Q. At night when the girls went out to go home they never went down the Washington place stairs, did they? A. No, sir.

Q. The Washington place doors were kept closed? A. Kept closed? In winter, when it was cold; in summer they were open.

THE COURT: The doors referred to being on the eighth, ninth and tenth lofts.

Q. The Washington place doors, you are talking about? A. Yes.

Q. They were always kept closed in winter? A. Not always, no, sir.

Q. Well, do you remember this question being put to you and this answer being made by you before the Coroner on April 10th, 1911 (page 203): "The Washington place doors were kept closed? A. Yes." Did you hear that question put to you and did you make that answer? A. They were kept closed when it was cold, I said, that's all. When it was cold the girls would close it themselves ~ they wouldn't stand for a draft.

Q. Was this question put to you? A. Yes, sir, it was put to me.

Q. And did you make that answer? A. And I made the answer the same way as I as answering you to-day, just now.

Q. Did you make that answer? A. The same as I am answering you now.

Q. As I have stated? A. No, sir.

MR. STEUER: I don't think you read that answer. You

didn't read that answer correctly. And he did answer it as he says on the stand now.

Q. I will put the question again. Was this question put to you and did you make this answer: "The Washington place doors were kept closed? A. Yes" -- will you look at me? A. I am looking at you.

Q. Will you state in answer to my question whether that question was put to you and whether you made that answer? A. I answer the same way as I answered you. It was kept closed only at certain times, when it was cold the girls closed it.

Q. That is not an answer to my question.

THE COURT: Your attention is called now to a certain question which it is said was put to you while you were a witness in the Coroner's Court, and your attention is called to an answer which you are said to have made to that question, and you are now merely asked whether you recollect whether that question was put to you, and if so whether you recollect having made the answer which was read. Now, you will answer that question either yes or no or you don't remember.

A. I didn't say "yes".

Q. You didn't say "yes"? A. No, sir.

MR. STEUER: May I ask you to read the next question and answer?

THE COURT: No, you will have your opportunity on

redirect examination, Mr. Steuer.

MR. STEUER: So that if one forgets to ask the next question it is permitted to get an impression improperly before the jury in the course of the cross examination?

MR. BOSTWICK: I object to that statement.

THE COURT: That statement is objectionable. We will try and proceed now in an orderly way.

Q. Didn't you send Brown to the Washington place door? A. Did I send Brown; yes, sir, I did.

Q. What did you say to Brown, exactly, as near as you can remember? A. You mean Mr. Brown, you say?

Q. Yes? A. As soon as I seen it, I couldn't put the fire out —

Q. No, Mr. Bernstein — A. I sent Mr. Brown to the Washington —~

Q. No, that is not the question, the question will be put to you --

Q. (Question repeated by stenographer as follows:) Didn't you send Brown to the Washington place door? A. I said to Mr. Brown, "Go to the front way and try to get the girls out as quick as you can.

Q. Do you remember this question being put to you on April 10th in the examination before the Coroner, and your making this answer: "Didn't you send Brown to the Washington place door? A. I didn't say that exactly, I said, 'Go over on the other side and take care of the doors.'" (page 192), was that ques-

tion put to you and did you make that answer? A. No, sir.

Q. Mr. Bernstein, were you present when the examination was being had by the Grand Jury of this County into this case into this building? A. No, sir.

Q. I want you to be sure you understand me? A. I will remind you of something if you will permit me that happened.

Q. No, I want you to answer my question? A. No, I said no.

Q. You were not in this building? A. I was in the building.

Q. And were you not outside of the Grand Jury room? A. I was.

Q. Did you not talk with the witnesses that were taken in before the Grand Jury? A. I spoke to one.

Q. Did you continue to talk to any after that one? A. No, sir.

Q. Why did you leave the building? A. Because I was trapped in the building.

Q. No, I didn't ask you that? A. I was trapped in the building.

Q. I didn't ask you that.

MR. STEUER: I insist that he be permitted to finish, A. I have something to say, your Honor, about this here.

THE COURT: Do you want the answer to stand?

MR. STEUER: I want the answer to be completed. He asked him why, and when he asked him why, he has the right to give every reason he can think of.

THE COURT: Well, apparently he had stopped.

MR. STEUER: Not he hadn't stopped. Mr. Bostwick thought he had stopped and made sure he would stop, but the witness had not stopped, your Honor. When counsel asks him why he has got a right to state why.

THE COURT: That is not disputed.

MR. STEUER: Then I ask that he be given an opportunity to answer that question.

BY THE COURT:

Q. Have you finished your answer? A. No, sir.

Q. Finish it. A. This young man with the dark hair over there (indicating) subpoenaed me and Mr. Brown and another man by the name of Joe the Cutter to come over to the Grand Jury and we had subpoenaes and we came over there and Mr. Whitman came out and he said, "I will smash your face, get out of here. If you don't get out of this Court we will fire you out." Get a cop quick", and they chased us out of the building, after being subpoenaed there. Did you or did you not hand me over a subpoena (addressing dark haired young man before referred to)? He is smiling; he wouldn't answer that question.

THE COURT: For the purposes of the record it may appear that the witness refers to a young man sitting in the court room, by name Harry Kestenbaum.

BY MR. BOSTWICK:

Q. When was it you called on May Levantini? A. At their home.

Q. And when did you call on May Levantini? A. I don't exactly recollect the date; it must have been about two weeks after the fire, when I found out she was sick in bed.

Q. Will you name some other of the witnesses for the defendant that you called upon after the fire? A. Not any.

Q. You can't remember them? A. I haven't called on any, I said, at all.

Q. Have you had any conversation with Anna or Ida Mittleman? A. No, sir.

Q. Never have spoken to them since the date of the fire? A. Oh, yes, I have spoken to them certainly. I was too glad — when I saw them I was too glad to see them alive, certainly I spoke to the girls.

Q. Did you have orders or instructions that the employees were not to use — the operators were not to use the Washington place elevators at night going home? A. No, sir.

Q. Did you have instructions and orders that they should not be permitted to go down the Washington place stairway? A. No, sir.

Q. Weren't complaints made to you by various employees that they should be permitted to go down at night by the Washington place way on account of the crowd on the Greene street stairs? A. No, sir.

Q. Do you remember any man in the employ of Harris and Blanck asking to you and saying that they ought to be permitted to go out a way other than the Greene street way, and in

addition to the Greene street way? A. No, sir.

Q. There was considerable accumulation of finished stock at the time of the fire, was there not, in the factory? A. I don't know about the stock, that was on the tenth floor kept. I had nothing to do with the tenth floor.

Q. There was no finished stock on the eighth and ninth floors? A. Oh, yes, some, not pressed, you know.

Q. And where was that kept? A. It was kept in the place where they delivered the work.

Q. Now, Mr. Bernstein are you very positive that you had a subpoena to appear before the Grand Jury? A. Very positive.

Q. I presume that you have destroyed that subpoena, or thrown it away? A. I positively did. I came over and I handed it to the door, and I says, "They subpoenaed me to come over"--also Brown, the machinist, and this Joe the cutter, and they said, "Just wait a minute outside here." And one time a girl passed and said, "Hello, Mr. Bernstein", and naturally she spoke to me a few words — just said how I was, that is all.

Q. Are you not confusing the subpoena you had to appear before the Coroner with the subpoena before the Grand Jury? A. No, sir, it was given to me in the Coroner's jury.

Q. All I want to know is that you are positive that you got that subpoena? A. Positive that I had a subpoena, yes.

Q. Have you aided in the preparation of this case for the defendants? A. What did you say?

Q. Have you aided in the preparation of this case for

the defendants? A. I don't understand what it means. It will have to be translated.

Q. All right, never mind. Were you in the employ of Harris and Blanck after the fire? A. Yes, sir.

Q. And you remained in their employ for how long? A. For about three months or fourteen weeks.

Q. Your recollection of what happened on April 10th is good, is it?

THE COURT: Do you mean April 10th?

MR. BOSTWICK: Yes.

A. Oh, I don't know. It is according to what ~~

Q. And are you quite sure that the District Attorney, when he met you on the floor outside of the Grand Jury room told you that he would smash your face? A. Yes, sir.

Q. And that is the exact language used by the District Attorney? A. Exactly. He used worse, he swore at me. He said, "God damn you, get out of here." That is just what he said to me.

BY THE COURT: I will ask you in regard to the stock on the ninth loft, which was finished with the exception of pressing; where abouts was that stock on the ninth loft at the time of the fire? A. When the operators finish their work they bring it into the bookkeeper, a young lady sitting at the desk, a bookkeeper, and she checks off the work and puts it on the desk behind her, on the table — and from that table it goes to the examiners, that is where it is always kept.

When you say the examiners, you mean the examiners' tables? A. The examiners' tables, yes, sir.

Q. Was there some such stock on the examining tables on the ninth loft at the time that the fire began? A. It always was around in the ninth loft — it would be around about two hundred dozen waists at a time, and about one hundred dozen at the eighth floor.

Q. You are talking so low I think it is rather hard for the jury to hear. A. On the ninth floor there was always about two hundred dozen waists kept. Naturally they are getting out so many dozen waists to be examined, they had to be kept.

Q. And when you say waists do I understand you to refer to waists that were finished with the exception of pressing? A. With the exception of pressing, correct.

Q. And those waists which you approximate at about two hundred dozen were there upon the examiner's tables, or else on the tables next to the desk that you have spoken about on the ninth floor? A. And under the machines with the operators.

Q. And when you say under the machines you mean on the tables upon which the machines stood, is that so? A. Yes, sir.

Q. About what was the distance from one machine to the next machine at the tables on the ninth loft? A. Three and a half feet, and some four feet.

Q. The machines were so placed that they were not directly opposite each other, is that so? A. Not directly, no.

Q. That is to say, opposite the intervening space between

machines along a certain line there would be on the line facing, a machine? A. Yes, sir, exactly.

Q. The machines were permanently attached to the tables? That is to say, they were screwed or fastened to the tables? A. They were, yes, sir.

Q. At the time when you first learned of or saw the fire~~ at the time when you first saw the flames, were there any electric lights lighted in the loft on the eighth floor? A. None at all.

Q. Can you tell me how many persons were in the eighth loft at the moment when you saw the fire? A. About two hundred.

Q. And when you say about two hundred, how nearly exactly are you able to fix it? You would say positively, for example, not less than - A. Not less than one hundred and eighty.

Q. And not more than --- A. Two hundred.

Q. Are you able to tell me the average length of time after the sounding of the signal for the stopping of the machinery before the employees left the building? A. Before they left the building? A. About ten minutes.

BY MR. BOSTWICK:

Q. I show you People's Exhibit No. 25 in evidence, and ask you whether the tables upon which the machines are placed are fairly represented by the photograph which I now show you? A. Yes.

Q. And do you recall that that is a picture of the

corner of the loft on the ninth floor?

THE COURT: That is the Greene street and Washington plane corner? A. Yes, sir.

BY THE COURT:

Q. Was there anything immediately in front of the windows at which the fire-escape was on the ninth floor at the time of the fire? A. No, sir.

Q. How long before you saw flames in the eighth loft was it that you had been on the ninth loft? A. Five to six minutes.

Q. What was the distance between the nearest examiner's table on the ninth loft and the window nearest to it opposite to the fire-escape, or leading onto the fire-escape balcony? A. Five feet -- four to five feet.

Q. With respect to the windows in the ninth loft, leading onto the fire-escape balcony, where was the examiner's table that was nearest to those windows? A. Will you repeat it?

Q. Did the examiner's table that was nearest to the window extend from one of those windows at a distance of five feet to each of the windows? A. Yes, sir.

Q. What, if anything at the time of the fire was there between the side of the examiner's table that was nearest to those windows and those windows? Referring to the window leading onto the fire-escape balcony on the ninth loft? A. The nearest to the windows

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Q. Was there anything is that five foot space that you say

there was between the side of the examiner's tables, and those windows? A. No, sir.

Q. Do you know how much if any stock there was upon that examiner's table at the time when you left the ninth floor, as you say, six minutes, or about six minutes before you saw the flames? A. About thirty dozen waists.

Q. Were they tied up in bundles? A. Tied up in bundles, yes, sir.

Q. With paper wrappings? A. No, sir, just with a string.

BY MR. BOSTWICK:

Q. In order to get onto the fire-escape didn't you have to step on something?

THE COURT: Referring to the fire escape balcony at the ninth loft.

Q. At either the eighth or ninth floor? A. No, sir.

Q. Do I understand you that neither at the eighth nor the ninth floors did you have to step over or on something to get to the fire-escape? A. No, sir.

Q. Supposing you were standing on the floor in the ninth loft, and you wanted to get from that floor to one of the windows that was by the fire-escape balcony, on to the fire-escape balcony, what, if anything, would you have to step on before you reached the balcony? A. There was a passage about five feet betimes those two tables, just opposite that fire-escape window and then there was another one between the desk of the girl that received the work, to that also a fire-escape

window, which was nothing up in the way, unless you went just around to creep up on the table and jump over, otherwise I could just pass by the passage — there was a five foot space there.

BY MR. BOSTWICK:

Q. In other words, if an operator going to the fire-escape window stood on the examining table nearest to the fire-escape they would have to leap five feet in order to land on the window sill nearest the fire-escape? A. They didn't have to get on the table. There was two passages there right facing that fire-escape window.

Q. Follow me, Mr. Bernstein. A. Yes, sir.

Q. Assuming a person was standing on the examining table? A. Yes, sir.

Q. Nearest to the fire-escape? A. Yes, sir.

Q. They would have to leap over five feet in order to get to the sill? A. Yes, sir, surely, they would have to leap over five feet.

Q. And how wide was the examining table? A. Oh, about 36 to 40 inches, 36 inches.

Q. So that would make over eight feet from the northerly wall that the southerly end of the examining table stood, is that correct? A. Yes, sir, that is correct.

Q. (Showing witness People's Exhibit 2) This being on the quarter inch scale, the southerly end of the examining table would come there (indicating), would it? A. That is what

I said, yes, sir.

Q. Will you put your initials there? A. I said between four and five feet, don't forget that, Mr. Bostwick. I never said five feet correct. I said between four and five between the examining table to the fire-escape. I always said between four and five, and if it is between four and five which is correct, it would run about there (indicating) a quarter of an inch less, and I will put my initials there (witness marking his initials on diagram).

Q. Who was the person that gave the elevator men instructions as to their duties? A. Mr. Harris and Mr. Blanck.

Q. You never told the elevator men anything in regard to whom they should take down, and whom they should bring up? A. No, sir.

Q. Who gave the instructions to the watchman who stood at the Greene street end as the employees passed by at night — you or Mr. Harris or Mr. Blanck? A. The instructions about what?

Q. Any instructions that were given to this watchman? A. The instructions to watch the clock, and punch the cards -- that one girl should not punch three cards at a time.

Q. Who gave those instructions? A. I did.

Q. Did you give any other instructions to the watchman on the eighth and ninth floor? A. No, sir.

Q. And if they received any instructions from the firm it was not from you? A. No, sir.

Q. Do you remember the date when you called at my office?

A. I do not, sir.

Q. Do you remember calling at my office a few days after the fire? A. Yes, sir, you called for me, Mr. Bostwick.

Q. Didn't you call because Mr. Blanck asked you to come down? A. No, sir.

Q. Did you not make a statement to me that you said to Mr. Brown, "You go and let them out the front way" (referring to the girls)? A. Yes, sir.

Q. There was no person who was burned on the eighth floor, was them? A. No, sir, there was one boy wanted to jump the window, an Italian boy that I learned him cutting, and I held him back.

Q. But no person was burnt? A. No person was burnt.

Q. I want to be sure that I have made no mistake, and it is possible that I have asked you this question substantially in the same form; if there is no objection I am going to ask you again, so we shall be sure there is no mistake. Did you not state before the Coroner's Jury that you stated to Mr. Brown at the time of the fire these words, "Go over on the other side and take care of the doors"? A. No, sir.

Q. And you didn't make that statement before the Coroner? A. No, sir.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. On the contrary, is it the fact that Mr. Rubin asked you these questions, and that you made to Mr. Rubin these

answers (page 191 of the testimony): "After you tried to put the fire out did you see Brown on the eighth floor? A. I saw him running towards me, and I saw the blaze coming towards me. Q. Did you see Brown go to the Washington place door? A. I told him to get away and there was no chance of putting the fire out. Q. Where did you tell him to go? A. To go to the other side of the building to take care of the girls." Is that what you said before the Coroner's jury? A. Yes, sir.

MR. BOSTWICK: I ask that the answer be stricken out.

THE COURT: I will strike it out.

MR. BOSTWICK: Now, I object to the question. The only possible relevancy of my question was impeachment and he having denied it there was no grounds for the rehabilitation of the witness.

THE COURT: I am inclined to think that that objection is technically right. If the witness said he did make the answer suggested by Mr. Bostwick then you would be doubtless right in showing what qualifying statements if any he made.

MR. STEUER: Am I to understand that the objection is sustained.

THE COURT: Yes.

MR. STEUER: I except.

THE COURT: Because I understand the witness denied having said that was brought to his attention.

MR. STEUER: Now, may it please your Honor, isn't it perfectly apparent that where a witness admits having

made a statement that then he is permitted to state the circumstances under which he made it, to qualify it and tell what led him to make it? Or, in fact, as your Honor used the language yesterday, in order to show in reality was the fact.

THE COURT: Yes, but when he denies having said that —

MR. STEUER: Now, I want to call your Honor's attention to the corollary to that rule, as I understand it. Where the witness is asked whether he did not say a certain thing at a certain time and he says no, that is not conclusive with the trier of the fact. The trier of the fact may nevertheless believe that he did say it. And over and beyond that, your Honor, the purpose of asking it is to lay the foundation for a contradiction so that the examiner might subsequently call a witness to show that it was said.

THE COURT: In the event that the prosecution attempts to produce or does produce any testimony in contradiction of this denial, then you will have the right to recall the witness and bring to his attention any qualifying statement that may appear upon the record.

MR. STEUER: With all due deference to your Honor, I do not understand that to be the rule.

THE COURT: Very well, that is the rule that I apply.

MR. STEUER: I respectfully except.

BY MR. STEUER: Q. Were you asked by Mr. Bostwick as he was

reading from page 203 this question: "The Washington place doors were kept closed? A. Yes"; and the next question: "Always closed? A. In winter; in summer we had that wide open." Was that the testimony which you gave before the Coroner? A. Yes.

BY THE COURT:

Q. What is your best estimate of the length of time from the moment when you first saw flames and the moment when the telephone operator on the eighth floor called out through the instrument the word "Fire" to the ninth floor? A. About two minutes.

MR. STEUER: Judge, haven't you got that wrong? Didn't he testify that you could not —

Q. The tenth floor? A. To the tenth floor, yes, sir.

BY MR. STEUER:

Q. You were asked whether you came to Mr. Bostwick's office to make a statement there. Is it a fact that you did go to Mr. Bostwick's office at his request? A. Yes, sir.

Q. And did you answer every question that Mr. Bostwick put to you? A. Yes, sir.

Q. At the time when you were before the Coroner's Jury who was it that asked you the questions that were put to you? A. I think Mr. Rubin.

Q. Did Harris and Blanck have any lawyer or anybody there to represent them at that hearing? A. No, sir.

Q. You were asked where the finished stock is kept. Is there at any time a waist that is completely finished kept

on either the eighth or the ninth floor? A. No, sir.

Q. After the waist leaves the operating table where does it then go? A. To the examiners.

Q. How were the waists gathered or collected from the operating tables? A. They come in bundles, tied up.

Q. And where did they come from the operating tables? A. From the operating tables they come to the bookkeeper.

Q. Why do they go to the bookkeeper? A. To check each off, and see if the amount is right.

Q. So as to see that that which had been given out came back as a finished article?
A. Yes, sir.

Q. From the bookkeeper where did it go? A. It goes to the sleeve setters, and then to the button makers and to the button sewers.

Q. And from the button makers and button sewers where does it go? A. To the examiners.

Q. And from the examiners — A. Upstairs on the tenth floor, to the pressers.

BY THE COURT:

Q. But the waist, with the exception of the pressing ~~ by which you mean ironing, don't you? A. Yes, sir.

Q. (Continuing) Are otherwise finished when they reach the examiners' tables? A. They are.

BY MR. STEUER:

Q. How often are the waists gathered from the examiners' tables? A. As soon as one bundle was examined it was carried

upstairs.

BY THE TENTH JUROR:

Q. Did the examiners have baskets? A. No, sir.

Q. So they had the goods just on the table? A. On the table.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. You were at the Coroner's inquest, were you not? The proceeding before the Coroner's Jury, you were there, were you not? A. Yes, sir, I was there.

Q. And was Mr. Fletcher there? A. I don't recollect.

Q. Do you recall whether Mr. Brown was there? A. Yes, sir; he was there.

Q. And do you recall conversations that you and Mr. Brown had with the witnesses before they went on the stand? A. No, sir. Mr. Bostwick, I called your attention to something in the Coroner's jury, you forgot about that.

THE COURT: No.

Q. Right next to the Passenger's elevators on the Washington place side there was a doorway about four feet wide, was there not, leading to the stairway? A. There was no door there leading to the stairway. The door, naturally there was a stairway door.

Q. I think you misunderstand me. There was a doorway next to the passenger elevators, which led to the Washington place stairway? A. There was, yes, sir.

Q. And that was about four feet wide, wasn't it? A. It was about six feet wide, about, I don't exactly remember.

Q. Do you remember this question being put to you before the Coroner and your making this answer, "There was a doorway about four feet wide? A. Yes, sir." A. I said about.

Q. I ask you, was that question put to you: "There was a doorway about four feet wide", and you answered "Yes"? A. I think I did.

Q. Is that correct? A. That is correct.

Q. I ask you this — in front of that were there boxes kept? A. No, sir.

Q. I ask you now whether this question was not put to you before the Coroner, and whether you did not make this answer (page 171): "In front of that were there any boxes kept, were there any boxes on the 25th day of March, 1911? A. There was boxes, there was always a space." — A. Not in front of the door; not in front of the door.

Q. No, that is not the question. We don't want to know now what the fact is, what we are asking now is whether that question was put to you on that date, and whether you made that answer? A. Yes, sir.

Q. And was this question put to you, and did you make this answer: "Were there any boxes there on the 25th day of March, 1911? A. Yes."? A. Yes, sir.

BY MR. STEUER:

Q. And was the next question asked you by Mr. Rubin to the

one that Mr. Bostwick just read, "Close to the partition of the dressing room the door could open freely? A. Yes. Q. There was nothing in the way of the door opening? A. No, sir." Do you remember those questions and those answers? A. Yes, sir.

BY MR. BOSTWICK:

Q. Now, I ask you to look at People's Exhibit 2 --

MR. STEUER: I object to this see-sawing in this way.

THE COURT: Yes, close the examination now. That is all with this witness.

EMILY L. PERRETT, called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

(The witness states that she resides at 244 Riverside Drive.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your employment? A. I am a buyer.

Q. For one firm or more than one? A. One firm.

Q. And the name of that firm is what? A. Litt Brothers.

Q. And their place of business is where? A. Philadelphia.

Q. And the character of the business is what? A. Merchants, do you mean?

Q. Yes, what character of merchandise, what kind of a place is it? A. General department store.

Q. What did you buy for Litt Brothers? A. I bought the cloaks and suits and dresses.

Q. And in your capacity as buyer for Litt Brothers did you come in contact with the defendants Harris and Blanck? A. Yes, sir.

Q. Did you visit that premises for the purpose of making purchases from them? A. Yes, sir.

Q. Did you have any other relations of any kind with Harris and Blanck, except that you purchased merchandise for Litt Brothers? A. No, sir.

Q. For what period of time back of the date of the fire had you purchased merchandise for the firm of Litt Brothers from these defendants? A. Two years.

Q. With what frequency during those two years did you visit that place of business? A. Three or four times a week occasionally, during the season, the busy season, - three or four times a week.

Q. What is the season during which you did visit that premises? A. Well, from January until September.

Q. Now, when you went to that premises how did you go up stairs? A. The Washington place elevator.

Q. To what floor did you go? A. Tenth.

Q. Whenever you went there you always sent by that elevator and always got off on the tenth floor? A. Always.

Q. Did you ever go to any other floor in those premises after you had gotten on the tenth floor? A. Yes, sir.

Q. And what other floors did you go to? A. I have been on the ninth and also the eighth.

Q. With what frequency have you been on the ninth and on the eighth floor of those premises? A. Why, perhaps two or three times on the ninth, and only once that I can remember on the eighth.

Q. And when you went down from the tenth to the ninth floor — no, I am asking you not whether you went by stairs or elevator? A. Yes.

Q. I am asking you all told how many times you were on the ninth floor or on the eighth floor? A. Two or three times, perhaps four times; I don't just distinctly remember.

Q. Which way did you go when you went down from the tenth floor to the ninth floor? A. I went downstairs.

Q. And where were the stairs and how did you get to them when you went down? A. I came up the Washington place elevator and walked over to the salesman's sample room, and turned, I think, to the left and went downstairs.

Q. Was the door that you went down on the same side of the building as the elevator on which you came up? A. Yes, sir.

Q. When you got down to the ninth floor how did you go into the loft on the ninth floor? A. Simply opened a door and entered.

Q. And was that equally true when you went to the eighth floor? A. The eighth floor I remember about, and think it must have been when I first commenced to buy goods. Mr. Blanck had taken me to the factories and I went down I think, the same way that I went down to the ninth, as afar as I can remember.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You have been buying other things besides waists? A. Yes, sir, I buy the cloaks, suits and dresses.

Q. And I suppose you number among your houses that you deal with quite a number? A. Hundreds.

Q. And it is your custom to go to the various firms or places where you buy the goods, or do they come to you? A. Well, frequently I go to the factories, many times I go to the sample rooms, and not finding the employers there, I go into the factory, especially houses that I do business with — a large business — I go into the factory frequently.

Q. And do you remember going to any of the other factories of any of the other people from you bought? A. Yes, sir, any number of them.

Q. Quite a number? A. Hundreds of them. Most of them I have been through, most all the factories.

Q. Do you go there as frequently as you went to the place of Harris and Blanck? A. Yes, during the season.

Q. In other words, you go there perhaps two or three or four times a week? A. Sometimes oftener. For instance, if I am buying a thing during the season -- coats, for instance, in the winter season, I might go in every day.

Q. So that in the course of a season you would visit an enormous number of places? A. Yes, sir.

Q. And your recollection of one place as opposite to another place is about the same? A. Just about the same, yes.

Q. And you didn't make any special note of how you went in and how you came out? A.

No.

Q. It is your general impression of your best recollection about going there? A.

Yes, sir.

Q. You have no vivid recollection of the ninth floor, have you? A. Well, I have a faint recollection, yes.

Q. You have got a general notion? A. Yes.

Q. You couldn't point out the specific places on the ninth floor where this was or that was? A. No, no, sir.

Q. And your recollection is just the recollection, your best recollection of seeing those places in connection with hundreds of other places? A. I think it is, yes.

Q. Could you tell us, if you stepped off the ninth floor elevator, what was in front of that elevator? A. I have never gone up to the ninth floor in the elevator.

Q. Well, you went from the tenth floor to the ninth floor and went in the door? A. Down the stairs, yes, sir. I never went to the ninth floor, by the elevator.

Q. You came up in the elevator to the tenth floor? A. That's it.

Q. And then for some reason you wanted to visit the ninth floor? A. That's the idea.

Q. And it seemed more convenient to use the Washington place stairs than going away over to the Greene street stairs -- A. I don't know anything about Greene street; I never have seen them.

Q. Then not being able to accomplish what you wanted on the tenth floor, and wanting to go to the ninth floor, you either took the elevator or the stairs? A. I have never gone with the elevator to the ninth floor, I always walked.

Q. Then not being able to accomplish your business on the tenth floor, you went from the tenth floor to the ninth floor by the stairs? A. Yes, sir.

Q. When you went in the door which leads from the ninth floor into the loft -- A. Yes, down the stairs to the ninth floor into the loft.

Q. Do you remember those stairs at all? A. I went down stairs, a few flights -- one flight of stairs, yes, I remember that.

Q. Do you know whether they were dark or light? A. I think as far as I can remember they were dark, that I am positive of. I think they were iron steps.

Q. Do you remember that they were very difficult to go down? A. No, I don't remember that. I remember it was not very well lighted.

Q. Do you remember that they were winding stairs? A. I don't remember this. As near as I can remember there were stairs -- you went down a sort of a little platform, you went down a few more stairs and a little platform that entered into the door, that is all I remember about the stairs.

Q. And when you went in the door, do you know what was on the right-hand and what was on the left-hand? A. You mean in

the factory?

Q. Yes. A. I know there were machines and men and that's all I noticed. I don't notice the other things.

Q. Have you any idea whether this was early morning or late at night, or the middle of the day? A. Yes, sir.

Q. What time? A. It was between three and four o'clock in the afternoon.

Q. And upon the occasion when Mr. Blanck took you through the factory, what time was that? A. I don't remember that. That must have been when I first commenced to buy goods, two years ago.

Q. Kindly tell me, just as well as you can recollect, about the last time that you went to the tenth floor of the factory, and had occasion to go down to the ninth floor before the fire?

A. Yes, it was two days before the fire, it was the 23rd.

Q. Whom did you see when you got to the ninth floor? A. To the tenth floor?

Q. To the tenth floor? A. Mr. Teschner, the salesman.

Q. Whom did you see when you got on the ninth floor? A. I asked for Mr. Blanck, and he said he was on the ninth floor, and I said, "We will walk down."

Q. And you have never been there later than four o'clock, have you? A. Yes, I have been in the building, but I don't know that I have been on the ninth or eighth floor later than that. It may have been later; I don't distinctly remember

that, but I know it was about three o'clock.

Q. The operators were all working at their tables? A. Yes, as far as I can remember they were.

Q. And of course you were not there on the day of the fire? A. No, I was in Philadelphia the day of the fire.

BY THE COURT:

Q. On the 23rd, when you went down those stairs, did you go down alone, or did you go down accompanied by any one? A. I went down with Mr. Teschner.

Q. When you got to the door to the ninth loft, who was it that opened that door, you or Mr. Teschner? A. Mr. Teschner.

BY THE TWELFTH JUROR:

Q. When you got down to the ninth floor with Mr. Teschner did he use a key to open that door? A. No, sir.

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

(The witness states that he resides at 12 East 97th street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. I am salesmen for the Singer Sewing Machine Company.

Q. How long have you been salesman for that concern? A. Since 1884.

Q. Do you know Harris and Blanck? A. I do.

Q. Did you install or did you sell the machines that were

installed at the premises of Harris and Blanck? A. Most of them.

Q. When they were at 23 to 29 Washington place? A. Most of them.

Q. Have you likewise sold similar tables and machines to other shirtwaist manufacturing concerns in the City of New York? A. I did.

Q. Were they of the same kind and character that you put in the place of business of Harris and Blanck? A. Yes, sir.

Q. And were those machines and tables in very large and frequent use in the City of New York and elsewhere in the manufacture of Shirtwaists? A. Yes.

Q. You have seen the place of business, both on the eighth and ninth lofts of Harris and Blanck, when they were at 23 to 29 Washington place? A. I did.

Q. So far as the arrangement of tables and the machines were concerned, was there any difference between their establishment and any other shirtwaist manufacturing establishment of large or equal size? A. No.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You supplied the machines in character and number as ordered by the defendants? A. Yes, sir.

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

(The witness states that he resides at 11 Cleveland

place, New York City.)

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your business? A. Removing dirt -- paper man.

Q. Did you have any contract or arrangement with Harris and Blanck while they were at 23 to 29 Washington place?

MR. BOSTWICK: I object. I think he should ask what arrangement, if any, did you have.

Q. Well, what arrangement, if any, did you have with Harris and Blanck while they were at 23 to 29 Washington place? A. Contract to remove his dirt away, every morning.

Q. Did you remove it every morning? A. Yes, sir.

Q. How was it done? A. Well, I go up there, I used to go up there and get it out in bags.

Q. Have you been to the District Attorney's office? A. Once.

Q. You were down here as a witness, weren't you, and they didn't call you? A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. The dirt that you removed was in what kind of things when you took it away? A. It was on Washington floors.

Q. Was it in bundles? A. No, sir, in boxes, big boxes, and a zink case on the ninth floor.

Q. Could you see in those boxes? A. Yes, sir.

Q. And you could see the kind of material that was in there? A. Yes, sir.

Q. Now, what you took away were the strippings, were they not? A. Yes, sir.

Q. Strippings that had been swept away from the floor? A. Paper and rags and dirt.

Q. Do you know the distinction between what are known as the cuttings and the sweepings? A. Yes, I do.

Q. You didn't take away the cuttings? A. No, sir.

Q. What you took were the daily sweepings? A. The gatherings.

Q. They were sweepings? A. Yes, sir.

Q. And you are still working for Harris and Blanck? A. No, sir.

Q. You have ceased to do business with them? A. Yes, sir.

Q. When did you stop doing business with them? A. At the time of the fire. My contract expired in May, and this happened in March.

Q. And you didn't make any new contract? A. No.

BT THE COURT:

Q. When last before the fire were you in the ninth loft of Harris and Blanck? A. The same day, your Honor.

Q. The day of the fire? A. Yes.

Q. And what time that day? A. About nine or ten of clock in the morning. I used to get out of the building about ten o'clock.

Q. And you were in the loft on that day, the ninth loft, were the operatives already at work? A. Yes, sir.

Q. Where did you find the sweepings on that day, what part of the loft? A. Near the elevator.

Q. Which elevator do you mean? A. Greene street side, freight elevators.

Q. Your custom was to take the sweepings down on the freight elevators? A.

Yes, sir.

BY MR. STEUER:

Q. You found them in the same place on the 25th of March that you found them every other day? A. Yes, sir.

Q. What kind of a case did you say that was that they had on each floor for the purpose of these sweepings?

MR. BOSTWICK: I object to that as not proper redirect examination.

THE COURT: I will allow the question.

A. On the eighth floor there was not much sweepings there; it was very small; on the 9th floor there was a big zink case, and so on the tenth floor a box near the windows, and I used to clean that up every morning — I was there personally myself.

GUSSIE RAPP, called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

(The witness states that she resides at 604 East 10th street)

DIRECT EXAMINATION BY MR. STEUER:

Q. You work for Harris and Blanck, don't you? A. I am.

Q. And other than working for them have you any other

relation with them? A. No other relation.

Q. You are not related to either one of them, or anything of that sort? A. No.

Q. What do you do for them? A. I am forelady there for the last two years.

Q. On what floor? A. I was always on the ninth floor.

Q. That was while you were at 23 to 29 Washington place? A. Yes, sir.

Q. As a forelady, did you have any special tables, or did you have any special tables?

A. I had. I had the first tables by the Washington side.

Q. On the Washington place side? A. Yes, the first two tables.

Q. When you say the first two tables you mean the first two machine tables that are nearest to the Washington place side, is that right? A. Yes.

Q. How many girls did you have charge of? A. Well, it is according -- sometimes I have forty and sometimes less.

Q. Were you in the place on the day of the fire? A. I was.

BY THE COURT:

Q. Do you remember how many you had charge of on the day of the fire? A. The day of the fire I was not on the floor at all. I was sitting at a machine working.

BY MR. STEUER:

Q. On the day of the fire you were at a machine working? A. Yes.

Q. Why was that? A. I had to make -- I just come back that day, and I was sitting making some samples for Mr. Bern-stein.

Q. When you say for Mr. Bernstein, you mean the manager, or superintendent? A. The manager of the place.

Q. Previous to that, the day before the fire, we will say, were you working as a forelady, or on a machine? A. No, that week I was more at the machine than on the floor.

Q. Just that week? A. That one week.

A. Tell the judge and the jury how many machines there were at those two tables? A. Well, the short table, probably, had one row up to eight or ten machines, I can't exactly remember, well, the next table was longer with about two machines longer, two or three machines longer -- two machines, I don't believe it was more than two machines longer.

Q. That would make at the short table from sixteen to twenty machines? A. Yes, sir.

Q. And at the large table from twenty to twenty-four? A. Twenty-two, yes, sir.

Q. So you probably had somewhere near forty girls under you all the time? A. Well, not all the machines were always filled.

BY THE COURT;

Q. Were the machines all numbered? I mean to say, did you have what I will call a shop number for the different machines? Were the girls designated by number? A. Not my

machines; there was numbers, every machine is numbered.

BY MR. STEUER:

Q. Every machine has a number? A. Yes.

Q. During the two years you were a forelady there on the ninth floor, will you tell the jury please what are the duties of a forelady? Or, rather, what did you do during those two years? A. I am supposed to give out the work to the people.

Q. Just what does that mean, supposed to give out the work to the people? A. I used to get the work. My charge that I get the finished work from the operators. That means I get the bundle of work — a dozen and a half, some times two or three dozen in a bundle, all finished work. I have to give them to the closers on the special machines ~ give to close and hand, and I used to get that work on the eighth floor and bring it up to the ninth.

Q. When you went to the ninth floor to the eighth floor to get the work, how did you go down stairs? A. Either way, wherever I was nearest, either Washington or Greene street side.

Q. How often a day would you go down those Washington place stairs from the ninth floor to the eighth floor? A. I can never recall that.

Q. Well, I want you to tell the jury the smallest number of times that it would be your necessity of a day to go down those Washington place stairs? A. Twice or three times, any time.

Q. Was there a day when you would go less than twice down

those stairs? A. Probably there was a day I didn't go down that way at all.

Q. But your average was at least twice a day? A. It was twice or three times a day.

Q. Down the Washington place stairs? A. Down the Washington place stairs.

Q. Did you go to the Washington place stairs from the eighth to the ninth floor? A. Just as well. Sometimes we foreladies stand and talk together, and we get caught by the boss, and we run through the other side to get out of their way and not have any questions to answer.

Q. When you went from the Washington place door on the ninth floor to the Washington place door on the eighth floor, did you carry a key with you? A. No, no keys necessary.

Q. Did you carry any key with you? A. What for?

Q. Won't you please answer whether you did or not? A. I did not.

Q. How did you open the door when you went out of the ninth floor door on the Washington place side? A. I turned the knob, and I walked in or walked out.

Q. How did you open the door on the eighth floor when you walked in and walked out?
A. The same way.

Q. Where was the key to the Washington place door on the ninth floor? A. In the keyhole, with a string attached to it.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Have you been talking to Mr. Teschner this morning

outside of the door here? A. I did not.

Q. Mr. Fletcher? A. No.

Q. You have been working for Harris and Blanck? A. Yes.

Q. What salary are you receiving? A. I was working ~~~

Q. No, no. A. Oh, \$18.

Q. What were you receiving at the time of the fire? A. \$15.

Q. And you were not in the building at the time of the fire, were you? A. I went down ten minutes before.

Q. You were not in the building at the time of the fire, were you? A. No.

Q. You went home about four of clock, didn't you? A. About that time.

Q. Did you ever go to the Washington place door on the ninth floor and find it looked? A. Probably I did.

Q. You say probably you did, don't you know you did? A. Nor I can't recall.

Q. You can't recall? A. No, I can't recall.

Q. All right. On the 29th day of March, four days after the fire did you make a statement to my in my office and sign it? A. I did.

Q. I show you that statement and ask you if that is your signature (indicating)? A. Yes, sir.

Q. Did you swear to that before a Commissioner of Deeds? A. I did.

THE COURT: You may read it over before you answer, Madam. You can read every page of it now.

THE WITNESS: Would you mind reading it for me?

BY THE COURT:

Q. Do you mean you find it difficult to read it? A. I do.

Q. Was the paper which you signed read over to you before you signed it? A. Yes.

Q. Do you remember its contents now? A. I will.

Q. What is that? A. I do.

THE COURT: You may proceed.

MR. BOSTWICK: I ask that the paper be marked in evidence.

MR. STEUER: Let me see it. (Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: I call your Honor's attention to the fact — I object to this paper in its present form.

THE COURT: Very well, I will look at it.

MR. STEUER: I call your Honor's attention to the fact that there has been lead pencil

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THE COURT: You may hand the paper to me and I will look at it.

MR. STEUER: May I not state the grounds of my objection so that they might appear upon the record?

THE COURT: Proceed.

MR. STEUER: It appears upon the face of the paper that words have been stricken out with lead pencil writing put in, with no initial or suggestion as to whether it was done before or after ~

THE COURT: I will look at the paper.

MR. STEUER: It appears that a negative answer was stricken out and an affirmative answer written here in ink and that there was a matter written in and indicates that it is added to that which originally appeared as an answer, and that in that one instance the initials of some one do appear – “G.R.”

THE COURT: I will look at the paper.

MR. STEUER: I have no objection to the paper. I consent to its going in evidence.

THE COURT: Will you hand the paper to me, please.

(Paper handed to Court.)

MR. BOSWICK: Before you make your ruling will your Honor hear me, having heard counsel for the defendants?

THE COURT: I will read it through. I will hear you now.

MR. BOSTWICK: I understand that under the ruling in the Hanlon case, if your Honor feels that the entire paper goes to an impeachment of the witness, the whole paper should go in, but if your Honor feels that it contains any matter which does not go to the direct impeachment of the question, the Court in its discretion should then determine whether it should be marked in evidence or for identification and thorn portions admitted in, with the right of the defendant to offer additional parts. That is, as I understand the rule of



law to be in 178 New York.

THE COURT: The first proposition in connection with this paper is this: this witness has not had a sufficient opportunity to pass upon the correctness of the contents of that paper, the witness apparently is unable to read it. I am indisposed to receive the paper in evidence in its present shape.

MR. STEUER: And the defendant excepts to its exclusion.

THE COURT: I have not excluded it, the matter is under advisement. This paper has been shown to a witness who apparently is unable to read it, but who has stated practically that she is able to recollect that which as matter of fact she is said to have said. The paper shown her is upon separate sheets of paper. Upon the last sheet there purports to be a mark made by this witness; apparently the witness is unable to write. I am loth to admit the paper for any purpose at the present time, until there is sufficient evidence to show that it does in point of fact embody that which this witness previously said.

MR. BOSTWICK: For the present I will withdraw the offer of the paper in evidence.

MR. STEUER: The defendants insist upon its being received and offer it as their own exhibit.

THE COURT: The Court will permit it to be marked as an exhibit for identification, but under the state of

the proof at present refuses to receive it as being wholly without probative value.

MR. STEUER: And the defendants respectfully except. (marked for identification People's Exhibit 46.)

BY MR. BOSTWICK:

Q. Did you ever go to the Washington place door on the ninth floor, and find it locked? A. Well, if I did, there was always a key in the door.

Q. No, I ask you to please answer my question? A. I can't remember that.

Q. You are sure that if you did go there there was a key? A. There was always a key with a white string attached to it. I can just picture it in front of my eyes now.

Q. Didn't you state to me that you had gone to the Washington place door and found it locked? A. I said in case I would.

Q. No, answer my question. A. I don't quite understand.

Q. Didn't I ask you this question, and didn't you make this answer to me —

MR. STEUER: I would like to have the stenographer note that it is from the paper that is marked for identification that the counsel is now reading.

MR. BOSTWICK: There is no evidence of that fact.

MR. STEUER: Whether there is evidence of it or not let the District Attorney say whether that is what he going to do or not — if he did not lean over the paper

and pick it up and turn to the spot, what on earth did he do.

MR. BOSTWICK: Now, it may go on the record that the District Attorney reads from a paper.

MR. STEUER: The paper marked for identification — not from a paper, but the paper marked for identification.

MR. BOSTWICK: From a paper.

MR. STEUER: Isn't that the paper that was last marked for identification?

MR. BOSTWICK: There is a question about that, a conclusion.

MR. STEUER: There is a question about it.

MR. BOSTWICK: There is.

THE COURT: I don't know, Mr. Steuer, what paper the District Attorney holds.

MR. STEUER: Well, I do, sir. He holds the paper that was last marked for identification.

(Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: That is the paper, there isn't any question about it.

THE COURT: Allow me to look at it.

(Paper handed up to the Court.)

Q. Wasn't this question put to you, and didn't you make this answer, "Did you ever go to the Washington place door and find that door looked? A. Yes, sir."? A. I didn't

say no. I say if I did find it looked I unlocked it. I don't remember whether I did find it locked or unlocked.

THE COURT: Now, hand me the paper please.

(Paper handed to Mr. Steuer.)

MR. STEUER: In view of the fact that the District Attorney has made this witness appear to have said that I renew the offer of this paper in evidence.

THE COURT: Mr. Steuer, I will not receive the paper in evidence, but I will now apply to that paper the same rule which I applied to a preceding paper under similar circumstances. In other words, you have the right to examine this witness respecting any qualifying statements which he may have made as contained in that paper.

MR. BOSTWICK: Will your Honor hear me just a moment.

THE COURT: Yes.

MR. BOSTWICK: Under what theory of law can the defendant offer a paper of the statement of the witness?

THE COURT: I am not receiving the paper in evidence, but I am applying to this paper the rule that I applied in connection with Exhibit 41, which was marked for identification.

MR. STEUER: Which is the paper that the District Attorney said there was a question about as to whether that was so marked.

BY MR. STEUER:

Q. Now, I ask you if it is not the fact that when you were

in Mr. Bostwick's office that he asked you these questions: "Did you ever try the door leading to the Washington place stairway and find it locked?", and your answer was "No, sir"; isn't that the fact? A. I did.

Q. Now, isn't it the fact that they got you to the District Attorney's office quite some time afterwards, when they had stricken out the words "No, sir".

MR. BOSTWICK: I object at this point to the question on the ground that it is leading.

MR. STEUER: I have a right to lead on matter brought out by him entirely anew. And how else can you find the question to elicit the fact except that way?

THE COURT: You may ask her what she said additional to what she was asked by Mr. Bostwick and under what circumstances she said it.

Q. And is it the fact that later they got you to the District Attorney's office and in ink they wrote in the words after the question, "Did you ever try the door leading to the Washington place stairway and find it locked? A. Yes, sir, but there was a key attached and I used to open it with the key." Did you say that to Mr. Bostwick? A. That is what I say, yes.

Q. Is that what you have said here? A. That is what I meant.

Q. If in the morning when you started your work you did find the door on the Washington place side locked, tell the jury what you did? A. All I had to do —

MR. BOSTWICK: I object to that. The counsel for the defendants has said "If you went there in the morning and found the door locked." There is no testimony from this witness that that was the time or the place.

(Objection sustained. Exception.)

Q. Did you ever find that door locked, the Washington place door on the ninth floor except when you came to work in the morning?

Objected to. Objection overruled.

THE COURT: Yes or no.

A. That is what I said, that I don't remember what I say. Any time I would find the door locked I could always open it with a key attached to the door, whether I could find it in the morning or the afternoon.

BY MR. BOSTWICK:

Q. That was as true of the afternoon as it was of the morning, wasn't it? A. Whatever I say is true.

Q. Well, I say----- A. And whenever I did find that door locked or unlocked, I don't know whether I was there in the morning or afternoon, or toward the evening or whenever that was. I was on the floor all day long.

BY MR. STEUER:

Q. And as long as you worked there that key was always in that door, right in the way that you say?

MR. BOSTWICK: I object to that in the order which the Court ---