

New York, Wednesday, December 27, 1911.

TRIAL RESUMED.

MR. BOSTWICK: It is hereby conceded by the People that the defendants had posted in their factory in Yiddish, Italian and English a sign on each of the floors prohibiting smoking.

THE COURT: Now I will say to those in the body of the room after they have found seats, that there must be absolute quiet in the Court room during the summation of Counsel on both sides and any person now in the Court room desiring to leave before Mr. Steuer opens for the defense may do so. Those in the room not wanting to leave will remain until the completion of Mr. Steuer's address.

I will say to you gentlemen of the Jury that at the conclusion of Mr. Steuer's address the Court will take a recess for five minutes and you may come then again to your seats.

Mr. Steuer, if it is agreeable to you I will let you know five minutes before your time has actually expired.

MR. STEUER: All right, Your Honor.

THE COURT: It is now about quarter of ten. The understanding was that you should have two hours.

MR. STEUER: Yes, sir.

THE COURT: In other words until a quarter to twelve. You may open the summation.

MR. STEUER: With Your Honor's permission may it please

you Gentlemen of the Jury:

There has been sworn as I calculate 155 witnesses on this trial. There were sworn 103 on behalf of the People. Of the 103 that were sworn on behalf of the People there were 51 on matters that arose subsequent to the time of this fire. There were 52 who testified with relation to some matters that have in some way preponderance here under the indictment.

There were sworn on behalf of the defense 52 witnesses. Of the 52, 50 testified directly with relation to the matters covered by the indictment; and two only, one Horowitz a locksmith, and the other was a man who gathered debris every morning under a contract. The other 50 who were sworn on behalf of the defense all testified primarily with relation to the door that has been referred to as the Washington Place door in this case.

Now it must be obvious to you, therefore, gentlemen at once that where there are 140 odd witnesses to be reviewed that it cannot be done in two hours. I am going to content myself therefore as speedily and as far as I possibly can to call your attention to the testimony on behalf of the defense after I shall have in a very few words, outlined to you what I deem is the charge against these defendants:

They are accused as you will recall, of the crime of manslaughter in its first and in its second degree; and as I understand the claim of the Prosecution it is that this

manslaughter was committed in two ways:

First, that the business of the defendants was conducted in such a culpable negligent matter as to amount to criminal negligence, and that that criminal negligence was the direct cause of the death of Margaret Schwartz. You will bear in mind it does not make any difference how negligent the defendants might have been; if that negligence did not bring about the death of Margaret Schwartz, that is the end of that chapter in this case.

Next the People claim second: That there was a law passed by the Legislature of the State of New York, and to clarify that and to take no chance about it, I am going to read it from the People's memorandum. That section of the law reads as follows, it is Section 80 of the Labor Law:

“Proper and substantial hand rails shall be provided on all stairways in factories. The steps of such stairs shall be covered with rubber securely fastened thereon if in the opinion of the Commissioner of Labor the safety of employees would be protected thereby. The stairs shall be properly screened at the sides and bottom.”

We have nothing to do with screens in this case, but this is the thing that has application to this case and I therefore call your particular attention to it:

"All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable, and shall not be locked, bolted or fastened during working hours."

Now Gentlemen of the Jury, at the time when this Labor Law was passed there came into existence, by its very provision, a Commissioner of Labor, a State Officer who for the first time had such an office, -- prior to that time it did not exist. It became his duty to administer this law, and it became his duty to appoint inspectors for the purpose of seeing to it that this law was complied with.

Now you will notice the subdivision that I have read. "All doors leading in or to any such factory shall be so constructed as to open outwardly where practicable." I just want to say one word about that. Of course these defendants had absolutely nothing to do with the construction of the building, or the construction of these doors. These doors were there constructed so as to open inwardly.

I believe the witness Whiskeman testified that if these doors had been constructed so as to open outwardly, they would not have been able to open them at all, because the building was so constructed gentlemen, with the stairway being so close to the door itself that there was not room for the door to open outwardly.

Now when a person hires a building, -- hires lofts, and that building, and its construction has been approved by the Superintendent of Buildings of various Departments of the City of New York, and in addition thereto for years and years been found absolutely correct by the Commissioner of Labor, -- who is the man charged with the supervision thereof, -- and his inspectors report and it becomes a record of the State of New York that it was impracticable for these doors to open outwardly, it seems to me it would be strictly a waste of time and idle to waste any further time in commenting on that subject.

Now the second subdivision of this law, that has application to this case is what I have read and starts with the words: "All doors leading in or to any such factory shall be so constructed as to open outwardly when practicable and shall not be locked." That means as I read it "all doors" because it starts with "all doors". "All doors shall not be locked, bolted or fastened during working hours."

Now I do not understand that it has been claimed by anybody that the doors have been bolted, locked or fastened during working hours. But I want you to bear in mind that I am not here to state the law. I have nothing to do with the statement of the law, and the Judge who presides upon the bench has that peculiar province; and of course your

instructions with relation to the law must come exclusively from him. I have called your attention to this section and my reading of it solely and only Gentlemen of the Jury because I now ask just a patient hearing for the little time allotted me while I review before you as many of the witnesses who have been called in this case as I have time to refer to.

It became extraordinarily mete and proper it seems to me when there was a law which appointed a Commissioner of Labor and which required him upon his taking office, the duty to the State which he held, to appoint inspectors to go to this building to see if this factory loft was being properly conducted, to call him. It would seem to me that would have been the People's duty to call him to show that for the years that there has been a Commissioner of Labor,--a period of ten years, — while these people have had this loft, there has not been made proof before you that during those ten years of the inspectors -- and I want you to bear in mind that the Commissioner of Labor swore before you that no notice is given to the people whose factories are about to be inspected, for if that notice was given them that would defeat the very object of the law. And you must remember that these reports made by the inspectors are a matter of record of the State. These reports are made to

the Commissioner of Labor and the report books form a part of the records of the State as to whether or not these lofts are being conducted in conformity with the law, and those men who inspected these premises reported for the year 1910, and no reports previous to those of 1910 have been brought before you Gentlemen, and you can rely on it Gentlemen of the Jury that had there ever been a report in any of the reports that are in the custody of the State that these doors had been locked during working hours, that that report would have been produced before you and you would have seen it in evidence.

Here you have the authorized officer of the law, the man charged with the duty of seeing to it that these doors are kept as required by that law being as I say present, and called before you and swears that the inspectors who made their various inspections in these lofts always found that those doors were kept unlocked. You will see the force of that, bearing in mind that every witness that was called by the People testified that in all the years, year in and year out, day in and day out, these doors, -- or rather the Washington Place doors, ~~ were kept continuously locked. You must find for yourselves as to whether a disinterested person, persons who are working for the State of New York whose duty it is to see that the law is absolutely com-

plied with, told the truth upon the stand; and you must say whether the people who came here, -- most of them with law suits, many of them because they lost their dearest relatives, closest relatives in that fire, -- and I don't charge to them anything that I would expect would not be regularly done, -- and I say as compared with the others mentioned in this case, compared with the sworn officer of the law, disinterested on both sides to listen to what they had to say by their reports, whether they are telling the truth.

Now then, I pass to the witnesses in the case. The next witness we called after the Commissioner of Labor, Gentlemen of the Jury, was this girl May -- I forget the middle name -- Leventine.

Now May Leventine has a law suit against Harris and Blanck. May Leventine has never been in the place of Harris and Blanck since the time of this fire. May Leventine was called upon as she testified by three people in the employ at that time of Harris and Blanck. She had told not only to them, but to the newspapers the manner in which she made her escape and what had happened in this fire. We called upon her; when I was called in the case there was no Counsel for the defendants, on behalf of Harris and Blanck -- she was called in and asked questions. Then she

was called by the District Attorney and the stenographer took down the statement exactly the way in which she said that she got out of the building at the time of the fire and what she knew of the conditions there prevailing prior to that time. She declined to make any statement to us. She got a call from the District Attorney's office as I say. She immediately went down to the District Attorney's office. At the District Attorney's office she signed a statement. I asked the District Attorney to let me see that statement. Up to the present time I have never seen that statement. Up to the present time you have not been permitted to know what was in that statement. But May Leventine told you from the witness stand that she was working there and knowing the place -- because it is impossible I will show you if I get a chance to refer to it, that the witnesses called by the Prosecution all sat in places where it would have been absolutely impossible for them to see this door -- and May Leventine sat on the ninth floor at the first row of machines from the Washington Place door facing that door. And she told you that on the occasion of the fire she ran to the Washington Place elevators; that she didn't know there was a fire; that she had heard a tremendous noise; that she thought the elevator dropped; that she ran to the elevator to see;

that she knocked upon the elevator door and that the elevator man did not come up; that thereupon she went to the Washington Place door, — and she was not a witness for us. Bear in mind that she has still got a law suit, for if May Leventine swore that the door at that time was open that would be the end of May Leventine's law suit, so she does not stop there. May Leventine says that at that time the key was in the Washington Place door. She turned the key. She went out into the hall. She looked down and saw the smoke, and she turned back and shut the door. Who impeaches May Leventine? They did not bring the stenographer of the District Attorney's office to say that she had ever said anything different. On the contrary they bring yesterday a gentleman by the name of Franko, -- the other man that they brought here, his testimony was all stricken out so I will pay no heed to that. They bring Franko who lost a daughter in the fire. And what did he say? May Leventine was first recalled and she testified to what she had said at the office of the Consul, the Italian Consul. Now the Italian Consul lost no daughter in that fire. The Italian Consul must be a man of some intelligence. The Italian Consul has lost no relative as Mr. Franko has that is very near and dear to him. Why did not they bring the Italian Consul here

to testify to that, to what May Leventine said. They don't bring him here. He would have no possible motive for telling only what he heard. But they brought Mr. Franko who says what? That May Leventine did not tell him she had gone out through that door. Perhaps she didn't remember to tell him that; perhaps she didn't remember to tell him that she had three children as she testified here. She probably didn't tell him that. It is not a question of what she didn't tell him. What was the fact? She told him that the facts were that she went over to that door and opened the door and she herself unlocked it, went into the hall, looked over the bannisters and saw the smoke and turned back; and then went down by the Washington Street elevator; not in the car. When she got to that elevator the crowd was so great that she could not get in; and it was the last time the car went down she believed so she got hold of the cable, and on that cable slid all the way down bruising and burning her hands and for weeks was confined to her bed.

I ask you Gentlemen of the Jury bearing all those circumstances surrounding her in mind, and all of these injuries which she sustained, and still having pending a law suit against these people, what is the motive of May Leventine in coming here and telling you as she did that

the key was in the door; and that she herself turned that key and that she went out into the hallway?

Now the next two witnesses we called or rather the next witness that we called was a girl by the name of Annie Mittleman, It would of course be asking you gentlemen too much to remember each one of these various witnesses but I wish you could remember them. Annie Mittleman told you that her sister had a table on the first row of machines from the Washington Place side, which is in the same row of machines that May Leventine worked at. That she worked at the row of tables that was four or five from the Washington Place side. That she came over to her sister's table after the power had been shut off. That while they were there and one of the girls had gone to get the clothes from the dressing room, at that time the noise occurred; and then they went to the Washington Place elevator and the elevator man did not come up. At that time May Leventine came along and inquired what it was and they said they could not tell. That May Leventine said that we will go to the Washington Place elevator door -- that is the place that May Leventine testified she went, and she says that then she went to the Washington Place door; and Annie Mittleman said that she does not remember which of these two girls turned the key but that the door was opened and that she went out with May Leventine, and she looked

down over the bannisters and that the door was open and she saw the flame and she saw the smoke and she saw the girls going down stairs, and fearing that she could not get down safely she turned back through the open door and told her sister who was standing there also that there was a fire; and that they went then and stood in front of the Washington Place elevator door until the elevator came up and stopped on the ninth floor and took them down to safety.

Now it may be said of Annie Mittleman is working for these people and possibly that is her motive. Well Gentlemen of the Jury if that is her motive and that is a sufficient motive, what about all these other people who have got these law suits? Don't you think that they also have their motive? Is it really to be said in this case now that this is one case where a witness is still in the employe of the defendants and for that reason she must be a perjurer.

Annie Mittleman was sent for by the District Attorney. Annie Mittleman went down to the District Attorney's office and made a statement immediately after this fire. It was only a short time after the fire when there was not anything at that time pending against these defendants, -- there was not any indictment then; nobody apprehended any such

thing as an indictment; and Annie Mittleman went down and made a statement to Mr. Bostwick. I ask You Gentlemen of the Jury have they called any stenographer to contradict her statement?

Now the next witness whom we called was Ida Mittleman. Ida Mittleman you will recall testified substantially as her sister did.

I want to call your attention to one thing with relation to these two witnesses: When they were asked whether they had ever talked to anybody in the family about this case they said "Oh, yes, constantly." Had they talked it over with their sisters and with their friends? Of course they did. When the Prosecution's witnesses were on the stand and two sisters in one family were being examined --I think it was the two Singer girls -- they testified, they stated upon this stand that they had never spoken about it to anybody, never had spoken to their mother, never had spoken to a living soul about it. Mind that gentlemen. Now consider who is telling the truth there or not.

The next witness, the one I want your particular attention to, is a witness by the name of Williamson. Now Williamson testified he is not now working for the defendants. Williamson is the colored day porter. Williamson testified that he used to go to work at eight

o'clock in the morning; that he then attended to the toilets; that he then went to each girl to get the girls' luncheon orders. And you will remember that he testified and told you that it took three men to bring them in and he described the basket that he brought them in and the place from which they were brought. Williamson told you that when he got through doing that, his business was to sweep and to keep that place clean during the day.

Now I call to your attention the fact that Williamson said that time and again he passed through that Washington Place door going down stairs and going up stairs; and I call your attention to the fact that Williamson said that that key to the Washington Place door on the ninth floor was always in the lock of the door. And Williamson said that on one occasion the string by which it was tied to the knob had gotten short, either worn out or was too short or something was the matter with it in some way and that Mr. Blanck called to him and told him that it was not right, that its fastening was insufficient or something so that it could not be used readily and that he stopped down and picked up a piece of lawn and tied it anew to the key and around the knob, and that is the way it was kept all the time.

Did anybody impeach Williamson? Williamson did go to the District Attorney's office; and Williamson made a

statement to the District Attorney. Was anybody called to say that he said anything different at that time? What is his motive, gentlemen of the Jury in coming here to commit perjury before you?

And I wish to call your attention with relation to Williamson and his testimony, and that testimony given by the Prosecution:

Girl after girl went on the stand and testified that they had never seen Williamson and they told you that there was not any such a man. Not by name they did not say that, it was not a question of failing to remember the name; but they said there was not any such thing as a colored porter on the ninth floor, that is what they said. There was not any man that came around to them to take their orders for luncheon, that is what they said. Did they tell you the truth or didn't they? That is the way to test these people and to compare them Gentlemen of the Jury. I commend Williamson to you as an absolutely honest man. And if Williamson's testimony is true, he told you that he swept by that Washington Place door every day; and he told you that every day he saw the key in that door. Did he tell you the truth or didn't he?

The next witness that we called was a man. That man Gentlemen of the Jury was a man by the name of Harris, --

also a colored man. Harris does not work for these defendants. He worked for them up to and including the time of the trial. Harris told you that he was a night porter. That he came to work at about a quarter to six in the evening; and that every evening the night watchman would wait until the employees were discharged from each loft; that the key to the Washington Place door was always in the door; that the night watchman had the keys to the Washington Place elevators; that the Greene Street elevators were fastened by bolts up and belts down, and that he had the key to the Greene Street door; and he told you that in the evenings he got three keys from a Mr. Alter, and that in the morning he returned them to Mr. Alter; and he told you that he passed through that door. I ask you gentlemen of the Jury, what is that man's motive? Has anybody impeached him? They brought an affidavit forward that was signed by him and showed it to him. He said every statement in that affidavit that Mr. Bostwick showed him was correct except one, and that is that the very last statement in the affidavit which was to the effect that Mr. Blanck had sent him to the District Attorney's office, and he said that was not so. He said he had received a subpoena every time that he went down. Did anybody contradict him on that? He said he told the gentleman before he signed

the affidavit that that statement was not correct; and the man said that it was of no importance, -- and neither it was; and he signed it. Did they bring the man before whom he signed to contradict that? What Gentlemen of the Jury are you going to say to Harris' testimony? And why should you say that he did not tell the truth?

Now I call your attention to the testimony of the next witness, a man by the name of Rubin. I don't know whether you recall Rubin or not. Rubin was a cutter on the eighth floor. Rubin was discharged quite some time prior to the fire. Rubin told you that he was the head cutter on the eighth floor. That his business, by reason of the fact that he was head cutter required him to go to the ninth floor and to the tenth floor. Rubin said that his table was right near the Greene Street side and that whenever he went up to the ninth floor or the tenth floor he always went by the Greene Street stairs. That was not very favorable to the defense was it? But he told you that his business on the ninth floor was right near the Washington Place door; and that this work he had to do caused him to go to get the goods that he had to use; and just as he went up stairs by the Greene Street stairs because it was near to him, just so did he come down stairs always by the Washington Place stairs; and that on no occasion did he

ever have any occasion for trouble in getting through that door or using any key on it because the door was open.

Gentlemen of the Jury, as to Rubin, a discharged employee, and brought before you under subpoena, and having no business connection or association with these two men of any kind, why, why do you say that Rubin lied to you under oath? What motive can he possibly have, can you possibly discover? I wish you could recall Rubin's attitude on the stand, and Rubin's appearance and say from that whether he was the kind of man that impresses you as being a perjurer.

The next man was Hyman Silverman. Mr. Silverman was in the defendants' employ, these two men for nine years. Then he opened a little cigar and stationery store over in Newark, N. J. Nobody thought of Silverman, and nobody thought of bringing him here as a witness. Silverman read that there were people testifying upon this trial that that Washington Place door was always kept locked. Silverman knew that for nine years he stood in that place on the ninth floor immediately in front of that door, and that that door was open. Silverman knew that every day that the key of the Washington Place door was in that lock. Silverman left his cigar store and stationery

store ever in Newark, N. J. and came over here without subpoena and said that he wanted to testify to what was true and he went upon the stand and testified and you heard him. Gentlemen of the Jury what connection has Silverman with these defendants? Gratitude? Yes. Worked for them for nine years and he ought to be grateful. Made his living through their industry, of course by his work and effort. But if a man were to commit perjury, do you suppose he would leave his little cigar store and stationery store, without any reason or any subpoena? He came over here and lost his time and went upon that stand and testified that he stood in front of that door for nine years. That he saw the foreman come in and go out, the superintendent Bernstein; that he saw the forelady go down stairs and come up through that door; that he saw Blanck and Harris and others go in through that door. Gentlemen of the Jury, did Silverman look to you like a man that was committing deliberate perjury?

The next witness whom we called was Edmond E. Wolf. I wish you could recall Wolf. Wolf was a manufacturer's agent, Gentlemen of the Jury, carrying Harris and Blanck's line as well as that of other manufacturing concerns. Wolf said that whenever he came to Harris and Blanck's

place he went up by the passenger elevator to the tenth floor. Apparently the passenger elevator never stopped below the tenth floor for Harris and Blanck's people although they did stop below the tenth floor for other people, other tenants in the building; but apparently from the testimony that is in evidence here they didn't stop on the eighth and ninth floors. He said that whenever he was there and he was there very frequently to see either Mr. Harris or Mr. Blanck, you remember how he described that he had very frequent occasion to go downstairs to either the eighth or ninth floors. He is not now in their employ and has not been for months, he testified, by carrying their line, the line of goods sold by Harris and Blanck.

I do wish that you could recall Wolf's appearance on the stand and as to his manner of testifying. He told you with positive recollection he did not ever more than four or five times go down by the Washington Place stairs. He did remember the last time that he went down that there was a light on the Washington Place stairs; and that that was the first time that he had ever seen a light on the Washington Place stairs; and you will remember that the testimony in this case was that the light on the Washington Place side was only put in about ten days before the

fire. That is the testimony of Mr. Stern. Was Mr. Wolf lying? Is Wolf a perjurer? If Wolf said the truth then who else is telling the truth? Did he tell the truth or didn't he?

The next witness whom we called was Samuel Bernstein. Now as to the witness Bernstein, Gentlemen of the Jury, I want to call your particular attention to his testimony. Bernstein as he testified was the Superintendent. Bernstein's duties put him on both the eighth and the ninth floors and everybody testified to that, all of the other witnesses, even the People's witnesses, testified that he was the manager and was on both of those floors. He testified that he had constantly to go from the eighth to the ninth floor and from the ninth to the eighth floor; and that he had to do that is undisputed in this case. Bernstein told you that as he must naturally be all over both of those lofts, he could not have been the superintendent and manager without being.

Now he told you he could not begin to tell you the number of times every day that he went from the ninth to the eighth floor and from the eighth to the ninth floors; and he told you that it was by the Greene Street side and by the Washington Place side indiscriminately dependent upon where he was. Did Bernstein lie?

Bernstein lost a brother in that fire, gentlemen of the Jury and he lost other relatives. He is related to these two men by marriage. Their wives are cousins and he is their uncle. I ask you gentlemen of the jury if for their wives, would he come here and lie and say that that door on the Washington Place side was locked always or unlocked always; when he has claimed that by reason of that fact that that door was locked his brother was killed?

You know Jacob Bernstein his brother is the man who is supposed to have jumped around like a wildcat, Jacob Bernstein is the man supposed to have been seen dying in front of that door. Do you think there is any motive in the world that would have induced Samuel Bernstein to come here and testify before you, that every day including the day of the fire, he went up and down those steps innumerable times, and that the door was always open? You remember Bernstein's description of the fire itself. Is there any question that that moment was a solemn one with Bernstein?

Mr. Bernstein showed a little temper on cross examination, exhibited a little temper and Mr. Bostwick did too. This is what occurred: He was asked whether he didn't come down before the Grand Jury; and the insinuation was that when he got there, that he came there for the purpose

of influencing witnesses; and his answer to that was no, that he was trapped to come down. He said he was served with a subpoena, and he pointed out the man in this room who served him with the subpoena; and then he said while he was there a girl came over and he did have a little conversation with her but that conversation had nothing to do with the case; and Mr. Whitman came in and got angry at him and ordered him out and said he would punch him in the jaw and that is not all that Mr. Whitman said, you remember how that that question was bellowed at him by Mr. Bostwick -- yes bellowed is the word -- why you knew he said yes that he would fire him out of the building and he would do worse, he more than threatened to punch him in the jaw. Whitman is in this building, Has he been produced to deny what Bernstein said? The young man whom he pointed out as having served the subpoena up there before the Grand Jury was in this room day after day. Has he been called to deny what Bernstein says? Is there a doubt in the world but all these men were subpoenaed to come time and time again to the District Attorney's office, and after to the District Attorney's office to the Coroner's Jury and after the Coroner's Jury to the Grand Jury. Now gentlemen of the Jury with every motive for hating these people unto

death, this man Bernstein comes here and tells you that that door was always unlocked and that he used it even after the help was discharged in the evening. What are you going to say to the evidence and to the proof when you are considering whether or not that they proved beyond a reasonable doubt that that door was locked?

The next witness that we called was a girl by the name of Gussie Rapp. Gussie Rapp told you she was forelady on the ninth floor, of the first two tables by the Washington Place door. She said during the day time, time and again she had to go to the eighth floor to get materials. That was not contradicted. Gussie Rapp told you she used the Washington Place stairs, she used the Washington Place elevator, and she used the Greene Street stairs; and that the Washington Place door was always unlocked and that the key was in the door. I want to withdraw that statement, what she did say was she said that the door was always unlocked -- no that was not it. She said this: That there may have been, she has no positive recollection of it, that there may have been a time when that door was locked when she came to it, but if it was she simply had to turn the key and pass through. This was her testimony. But a great majority of the times she knew positively that she had passed through that door and used no key. Now gentlemen of the Jury

that was the statement of Gussie Rapp. They talked about bringing the stenographer to contradict Gussie Rapp. Gussie Rapp told Mr. Bostwick that she said the same things to him in his office, and that remains uncontradicted up to this time as they have not called any stenographer who took any statement and although that statement was called for by me. What are you going to do about the testimony of Gussie Rapp? I wish you could just recall her for a moment, it is too much to expect you gentlemen to recall every witness, but I do wish you could recall her and her manner of testifying and her behaviour upon the stand.

Now the next person that I called was a girl by the name of Ida Cohen -- Willinsky. Her name was Cohen then but now it is Willinsky. That girl worked on the eighth floor and not on the ninth floor. That girl has never been in Harris and Blanck's place since the day of the fire. She was brought down here by a subpoena. She told you gentlemen of the Jury that when she first saw that fire she was on the eighth floor; and she described the place where she saw it. She said she went to the Washington Place door and she said that a crowd of girls got up there by the Washington Place door and that she reached the door first and had her hand on the knob

and that the girls were pressing her so hard that she was afraid that her face would go through the glass and that she begged and begged and pleaded with those girls to give her an opportunity to open that door; but they would not. They screamed and crowded and pushed her up against that door. Mr. Brown came over, and Mr. Brown had to push the girls back and Brown told you how after pushing the girls back he got hold of that door and pulled at the door and that he had to keep crowding the girls back because even while he was opening the door in their great anxiety to get out, that they crowded, almost crowded the door shut again. What in the world would be Ida Willinsky's motive, Gentlemen of the Jury, to come here and lie? She is not working for these defendants and has never been in their place of business since the time of the fire. Is there any question, Gentlemen of the Jury that that girl told you the truth? Isn't it your experience that as everybody knows that not only with panic stricken girls, but with most grown up women or trained men those of careful thought, when in contemplation of death being visited upon them by the burning flame, is not that your experience? Why do you remember the testimony of Chief Worth. He said that flame and that smoke as I saw it approaching the windows on the eighth floor was the kind that creates

panic, deprives people of their reason and makes them insane. You ask these girls, pursued by these flames at that time to use reason. It is impossible. The panic drove them. The panic kept them at the door; and the panic prevented it being opened; and if Brown had not gotten there and crowded those girls away from that door, that door would not have been opened any more than the one up stairs after they had once gotten to it as they did in this case.

Now the next witness that we called was a girl by the name of Yetta Kreitzberg. Yetta Kreitzberg worked on the tenth floor in the shipping department. She said every day she had to go to the ninth and the eighth floor at least ten times a day. She said that she used the elevator going down, that she used the Greene Street stairs, and that she used the Washington Place stairs and that she did that every day for a number of years.

How Gentlemen of the Jury what is Yetta Kreitzberg's motive? Why should she come here and commit perjury? She told you she always found the door open or at least so that by turning the knob she could get in or out. You twelve men are here to say whether that door was that way, whether that was true, and whether it has been shown beyond a reasonable doubt that it was kept locked. You have to say that. Now there could be no mistake on the

part of Yetta Kreitzberg. Yetta Kreitzberg said that she went down these steps directly opening the door on the ninth and the eighth floors. She is either a deliberate perjurer or she is telling the absolute proof. Do you believe that Yetta Kreitzberg would come here and create a deliberate lie, and make herself a perjurer. I wish you would remember her also so that you could picture to yourself just whether you think she is a perjurer. I could not ask you to keep them all in mind, each witness. But I probably knowing that I would want to again refer to them was a little more careful in that regard, I knew that I was going to talk about these things and so perhaps in that my I was able to keep it before me better. But I wish you could remember her and her manner of testifying on the stand. Has she been contradicted? She went down to the District Attorney's office. She made a statement. Have they brought any stenographer to contradict her.

Now the next witness that we called was Lena Handschuh. She was the forelady. She worked several years on the eighth floor and worked several years on the ninth floor. She said that every day that she worked in these premises, by reason of the fact that she was the forelady she had to go up on the ninth floor, she said that she went from the eighth to the ninth and from the ninth to the tenth

and from the tenth to the ninth. She said she used the Washington Place door.

Now there was a terrible impeachment made of Lena Handschuh. She went down to the District Attorney's office and made a statement to the District Attorney, and the statement was signed the same as the others. It was made within four or five days or immediately after the fire anyway. Not that there is any great discrepancy in this case, but the District Attorney says that the statement that she made to him is different than the statement she made on the stand. She said on the witness stand that the key of the Washington Place door was in the lock. She said she passed in and out of that door. That is all conceded. But says the District Attorney, has your salary been raised since the time of the fire? Yes, two weeks ago. Now by God they kept pretty good track of Harris and Blanck. Yes, it was raised. How? Well, I left their employ; a man offered me \$25. a week and I worked and was getting only \$18. There is not one of those girls that would not leave in a minute for an advance of 50 cents, and I don't blame them for it either. I am not saying that by way of criticism at all. Every one of those dollars means a great deal to one of those girls and when it came to the question of between \$18, and \$25. she went, and then these people to get her back,

when she came for her salary and explained why she left which was the first knowledge that they had of it, they gave her the \$25.

With all the power of the District Attorney's office, that it has command of, she named the man who raised her salary to \$25. That man sat in the Court room yesterday with Mr. Bostwick. Was there anybody called to contradict Lena Handschuh that this man had offered to give her \$25. a week and for that reason she had quit us? Does that prove that Lena Hadnschuh lied? Where is the terrible impeachment of that girl, when you come to pass on whether or not those doors were opened or closed that you cannot believe her testimony.

The next person we called as a witness was Louis Sederman. Louis Sederman sprang upon us that the hose was rotten, he would have said that the hose was rotten if it was the last expression he ever uttered in his life; he was bound to get that in if he got nothing more in. But he testified that he was assistant shipping dark and that it was his duty to go down on each floor so many times that he could not begin to tell about it; that he went down both of these stairways and not by the elevators.

And he told you that on the occasion of the fire that he heard about it and then went to the eighth floor; that he

found Samuel Bernstein on a table and the people bringing the fire to him and he pouring water upon the fire. And that when they were not able to put it out that way that he ran to get the hose and he started to turn and there was no water; but he said the water wouldn't have done the least bit of good anyway because the hose was rotten. Now Gentlemen of the Jury he went to the District Attorney's office and he made a statement. Has he been impeached?

The next witness that was called was a witness by the name of Louis Brown. You will remember Brown the machinist; and you will remember that there was a reference made to his statement. Brown told you that every day he went up from one floor to the other and that it depended upon where he was as to whether he used the Washington Street stairs or the Greene Street stairs. That was apparent to you I am sure, Gentlemen of the Jury. He told you that the key was in the lock and then you will remember Brown's statement that at the time of the fire that Brown said that he was called over there to the door and he thought perhaps that the door might be locked because he had seen these crowds at the door and the door not being opened and you will remember his having said that when he had gotten through, when he had pushed his way through that crowd how he thought perhaps the door

had been looked and the first thing that he did was to turn the key, and it would not turn, because the door was not locked. He then took hold of the knob, pressing these girls back and pulled at the door until the door was opened and every girl got out.

Now Gentlemen of the Jury, I want to call your attention to two things particular about Brown's testimony. The first is this, that I wish to call your attention to: That one of the girls on the stand said that she saw Brown pull the whole door knob right through the door. You remember that testimony. But what I wish to call your particular attention to in Brown's testimony is this. You know that as part of our case and in order to make it appear that Annie Mittelman and that Mary Leventine were honest girls Brown should have sworn that at the time when the girls were passing down from the eighth floor that the smoke and flame were in the hall, because you remember that in the statement of Mary Leventine she said that the reason why she went back and did not with Anna Mittleman go down the stairs, she said the reason why she went back was because she saw smoke and flame in the hall. Now Brown is in our employ. That, perhaps, ought to give us control over Brown. Brown was the fellow, you know, who would not tell anybody what his salary was. Brown said when the girls were going down, that a girl

either fainted or did something like that on the seventh floor, and that he ran down and helped her, and then turned around and turned her over to a policeman; and that at that time that there was neither smoke nor flame. If we were cooking up testimony, and Brown testifying two days after the Mittleman girls and two days after the Levantine girl, if we were the kind that were making testimony, what would have been simpler than to suggest to Brown brown when you went down those stairs there must be smoke and there must be flame?" But No. What did Mr. Brown state? He said at that time there was neither smoke nor flame and that he turned back and ran into the loft. And Gentlemen of the Jury you will remember that everybody admits that the Washington Place door on the eighth floor at that time was wide open, don't they? And that every girl passed down through that door; that that door was wide open is the uncontradicted testimony in this case. And it is also the uncontradicted testimony in this case that two girls then started for the window and had actually gotten out of the window, and would have jumped in another second but that Brown got hold of one and a policeman got hold of the other and pulled them back into the lofts and saved them. Brown says further that at that time when he got that girl out, that the smoke and

the flame was so intense that he had to grope on the floor in order to find his way out. So Gentlemen of the Jury the pretence is that there was not any flame.

If you will just let me have that exhibit from the hand rails in front of the eighth floor door (Court Officer handing exhibit to Counsel.)

Well Gentlemen of the Jury if there was not any flame, where did that come from (Indicating). Now you know to burn it that way had to be some flame. That is hard wood; and you know how it rested on an iron and it was some, I think four or five feet from the door if there was not any flame, how did that get in this shape. There must have been some flame to have caused this to be burned this way. Do you believe that there was not any flame and that these girls were mistaken when they say that there was any flame outside at all and that when this door was opened that there was to be seen this flame down stairs, don't this kind of confirm that idea?

Gentlemen of the Jury, let me tell you this. During this trial a discussion arose as to whether my recollection of the evidence was correct, the claim being made by me that one of the witnesses had testified that in his effort, -- one of the fireman testified that in his effort to get from the eighth to the ninth floor he found the heat in-

tense, and that he had a struggle to get up from the eighth to the ninth floor and Counsel on the other side said that my recollection was wrong, and my objection was overruled on that ground, that that testimony was with relation to the Greene Street side. Since that time I have looked up the testimony and I find this to be the situation: That Capt. Worth testified that in getting up on the Greene Street side when he got to the eighth floor the flame was so intense that they could not pass it at all, that they had to come up on their bellies and to play the hose into the flame before they could themselves get up there. That at that time the Washington Place side flame was so hot that they were unable to get from the eighth floor, go up from the eighth floor and that in the endeavor to get up to the ninth floor that the heat was so intense that these firemen had a great struggle to get up there. Now Gentlemen of the Jury that will show you whether there was smoke and whether there was flame independent of this other testimony. That flame and smoke I would like to - I am now referring to the eighth floor and while I am speaking of the flame being in the hallway I want to call your attention and I will refer to the testimony of one or two witnesses.

Do you remember this young Alter girl, that is the stenographer? She said that she worked on the tenth

floor. She is related to both of these men, and her father is the man who has got charge of the tenth floor. She said that her typewriter was on an angle with the Washington Place door and she could see the people coming in and out on the tenth floor. She said that every day she used to go down from the tenth to the ninth and eighth floors.

Now Gentlemen of the Jury, there is a relative of both defendants. Her father and she make their living as a result of working for these defendants. You would naturally expect that in view of the fact that people were coming in and going out that she would say that they went down this Washington Place stairs altogether. Gentlemen of the Jury what does she say? She does not say that come in and go out only by the Washington Place stairs but that she saw them do that. Do you think that that testimony is truthful? She has been located there, working there every day in that same place every time she went down herself she said she went down by the Washington Place elevator. Why wouldn't she have said that she went down by the Washington Place door if she had wanted to tell anything but the truth during that whole period? But what she said was and it was important, and I think you will remember it and it

bore the imprint of truth and it was this: That when she heard of the fire and as she was on the Washington Place side and had gotten to the Washington Place door she opened the door and there was the flame and the smoke, a volume of smoke, and she said on her direct examination and she said the same thing on her cross examination, how she ran away from it. Did that girl lie? On cross examination Mr. Bostwick said to her "Are you sure it was flame?" I remember her attitude on the stand and she said "As I looked over the rail I saw a great volume of smoke and I saw a red streak." And he said "Do you know that it was not a reflection?" She said "I know it was a red streak, it might have been a reflection." Do you think that little girl told you the truth? Well now if it was a red streak from the tenth floor, how about May Levantine and Annie Mittleman seeing it from the ninth floor?

The next witness I called was a fellow by the name of Greenspan. Greenspan was the man that created quite some fuss and was going to be contradicted terribly by the man who swore him to his affidavit and who was brought into the Court room and that man did not become a witness upon this stand; I think his name is Sheridan. He was the man that claimed to have sworn Greenspan to the affidavit.

But aside from that Gentlemen of the Jury, Greenspan testified that he was a machinist on the ninth floor. Not now in our employ. Absolutely no motive for his testimony. Greenspan went down to the District Attorney's office and made a statement. Greenspan's statement is in evidence before you. You look at Mr. Greenspan's statement and see if an examination of it by you twelve men do not find that it is precisely what he told you here, and that what he said is absolutely correct.

Gentlemen of the Jury, two girls went on the stand who were the Prosecution's witnesses. I don't know whether that circumstance is clear to your memory or not but one of them, a girl by the name of Anna Guillo came in here and told you that she worked on the ninth floor and had a seat on the Greene Street side. She said she ran over to the Washington Place door. Why, I ask you, why did she go over to that door because she was right near the Greene Street entrance, why did she leave that? When she got to the Washington Place door, she left the Washington Place door and whom do you suppose she saw at that Washington Place door? She said the person whom she saw there was Willie Greenspan. Now Gentleman of the Jury so that there may be no question about that, and I consider it very important, would you loan me your first

volume of the testimony just a moment.

THE COURT: You can have my copy (Handing same to Counsel.)

MR. STEUER: Thank you very much, Judge.

THE COURT: Would you like to have the balance of the testimony?

MR. STEUER: I will call for it a little later if I have time for it. I want to read to you Gentlemen of the Jury: "Q. And you got to the Greene Street door so that you could get through safely and still went down the Greene Street steps? A. Yes. Q. When you saw Willie at the door -- the machinist -- didn't you follow Willie when he left the door? A No."

Willie the machinist was Mr. Greenspan.

"QV What did you see Willie do at the door (Referring to the machinist)? A Trying that door."

Now I will show you another witness of the Prosecution, Katie Weiner said that it was Willie at the door: "Did you see the machinist on the ninth floor near the Washington Place door? A. Yes, sir." I am reading from page 586. "Q. What is the machinist's name? A. Well, his first name is Willie, and I think his second name is Greenspan or Winstropf."

What did Willie Greenspan tell you? This that I

have read from Gentlemen of the Jury was from the testimony of two witnesses called by the Prosecution who hadn't mentioned on their direct examination that they ever saw Willie Greenspan at the door. Willie Greenspan said that he was at the sink on the ninth floor. When he heard the cry of fire he looked round and that afterwards he saw the flames; that he went to the Washington Place door, that he opened the Washington Place door, that he never got any further, that when the Washington Place door was opened he was struck in the face by the flame and smoke, and he saw the flames and he went away, and he got out by the Greene Street door. Has anybody contradicted Willie Greenspan? If Willie Greenspan told the truth, was that door open or was that door shut?

The next witness which we called was a girl by the name of Rose Rosenfeld. Rosie Rosenfeld was an operator on the ninth floor who sat near the Washington Place side. She said she had worked for the forelady and had assisted her by going down stairs and getting work and bringing it up and sometimes she worked afterwards for a couple of hours on the eighth floor. She said when she went with the forelady she went down by the Washington Place stairway, Mr. Bostwick asked her "Did you make a statement to Mr. Koenig" and she said "Yes" she did.

“Did you tell that to Mr. Koenig? A. Yes, I did.” Has Mr. Koenig been called to contradict her? What are you going to say about that, about her testimony when you come to consider her testimony, was she reasonable in her testimony, did it have the ring of truth?

The next witness that we called was Nathan Salub. Now Gentlemen of the Jury, I call your particular attention to the evidence of Nathan Salub for this reason, that an effort has been made to contradict him. Nathan Salub was the night watchman that worked two years as a presser and afterwards he became a night watchman up until the time of the fire and he has told you what his duties were as night watchman. He said that at night when he got to work he was stationed at the Greene Street door and would look at the girls wallets or pocket books as they have been called in this case as they passed by. After this he would go over to the Washington Place elevator doors; that he would lock those doors; that he went first and got the key up on the ninth floor, he got his keys from Mr. Alter; that he would then lock these Washington Place doors, he would lock those doors, that he would turn the key in the Washington Place door and leave it there; that he would lock the elevator doors at the Washington Place. That is was his invariable and uniform custom

to lock that Washington Place door every night after the help had gone. That he would then go over to the Greene Street side and lock up over there and you remember how he said he locked the elevator doors there. After that he and the colored man Harris would sweep up and clean up on the eighth floor, and then go up on the ninth floor and when finished they would wait for the morning for Mr. Alter to come; that they would turn over the keys after he had unlocked the elevator doors on the Washington Place side; that he would unlock the door on the Washington Place side and leave that key in the door; that he would unlock all the doors and that he then turned over to Mr. Alter the keys to the Washington Place elevators and to the Greene Street door.

Now he was asked whether he made a statement. "Yes, I did. Q. Where? A Two men called on me at St. Vincent's Hospital." At that time he was still confined to his bed. He had been there ten days or so or it might not have been as long as that. This job of night watchman is not the finest plum in the world; there are one or two jobs in this world that are better. He was still in the Hospital after he had been injured in this fire suffering with a severe injury because he too went down the cable and he was in the hospital for weeks; that was maybe ten days after the fire or it may not have been only three

or four. I don't recollect the exact time but he was still in St. Vincent's hospital and they came up there to see him at the hospital and took his statement. His statement was taken by a stenographer and by an Assistant District Attorney. The Assistant District Attorney was not called. Do you think if the stenographer, do you think that this stenographer could act as an interpreter (Pointing at the stenographer) Don't you think he is a pretty busy man when he is taking down question and answer? How many men do you think can take down question and answer in the City of New York in the way in which lawyers usually talk and examine witnesses?

But Nathan Salub's statement is absolutely true. If you don't think so take his answers to the questions put to him, go over them carefully, his statements here and what he testified in his previous statement, the statement of Nathan Salub, and you will find that the statement at the hospital was precisely the same as his statement was upon this trial. I ask you Gentlemen of the Jury, did Nathan Salub tell you the truth or didn't he? If he didn't tell you the truth about these doors, were they locked or open?

I want to call your attention to this statement from Mr. Bostwick's opening address when he was telling you

what he was going to introduce in evidence. I want to also call your attention to his change of tactics after he heard some of the evidence and I don't think you will have any more doubt that that door was open. There was a question asked of the witness, it was asked of all the witnesses as to how they went out at closing time. And the pretence now is not that these girls told the truth that the door was always locked, it is a clear and entire change of front now. It is this that they were locked just before the help was discharged. Well Gentlemen of the Jury, nobody has testified to that. On the contrary those girls all testified that they never saw a key, that the door never had a key and the door was always locked without a key; that there was neither a key in it nor had anybody applied a key to it, that is the testimony for the Prosecution. There is not any pretence that anybody locked that door just before the help was dismissed.

Now the next witness which I called was Frank Pasterneck. Since the time of the fire Pasterneck has never been near the place of the defendants, Harris and Blanck. He has been subpoenaed to come on the stand and he has testified that he worked at a machine two tables removed from the Washington Place door. He said that day after day he saw people come in that Washington Place

door: Mr. Bernstein, the foreladies, Mr. Blanck and Mr. Harris, He said there were not many people came that way and nobody went down so as to go to the street that way. And why would they choose to go on that side, through those doors and down those stairs? Gentlemen of the Jury, it is conceded that the Washington Place stairs had no artificial light. There was not a window on the stairs. There was no electric light until ten days before that fire. I ask you if you were choosing a stairway to go down in that building at a quarter to six from the eighth or the ninth or the tenth floors, would you choose the stairway that had no window, the stairway that had no electric light, would you choose the stairway that had both the windows and electric light? Who did walk down those stairs at all? Did the working girls, the working people, did they walk down those nine flights, would they choose to walk down those flights of stairs or did they use the elevators, which do you think? There was not a reason for using that Washington Place door going from the eighth or ninth or tenth floors to the street. The suggestion is absurd. It never has been claimed that these stairs or this doorway was used for the purpose of going down to the street on our behalf, the elevators are there for that purpose.

The next witness we called was a girl by the name of Eva Kaplan. Eva Kaplan stated that she never used the door in the winter time. She said she did use it in the summer time, she went both to the eighth and the ninth floor through that door in the summer time. She said in the summer time the door stood wide open.

Here let me call your attention to something about Mr. Bostwick's case. Mr. Bostwick knew what his testimony was going to be if ever a man did. I have not the testimony to refer to it but I have it in mind now that in his opening Mr. Bostwick said that in the summertime that door stood open, but when he called his witnesses every one of those girls say that even in the summertime that door was never open. And what is more remarkable still, one of the girls said that she worked for three years in front of the fire escape windows and that the windows were never opened; she never even tried to open it; she never saw whether it opened easy or hard; and she tried to pretend that there was a rule even against opening the windows in the summer time. And yet the evidence is here that in front of each of those elevators and of those entrance doors a partition was built there and that was done at the request of these girls in order to keep out the draught. I call your attention again to the testimony of

Williamson, that time and again the girls asked him to shut the door on the Washington Place side; and at the request of the girls he did shut the door. And do you remember that Eva Kaplan when she was on the stand said that she never saw the door -- never used the door in the winter time but that it stayed open in the summer time and that it was opened in the summer time. Well now I ask you who was telling you the truth in regard to that matter. What was her motive in this case?

The next witness was Louis Alter. Mr. Alter told you that these keys were always in his custody; that the keys to the Washington Place doors and the keys for the Greene Street doors, and that the Washington Place stairway doors were always in the lock. Did that man impress you as being a liar? Did he impress you as if he was bringing his daughter up in a God fearing way? Did he look to you like a man that was telling you the truth or not? You are to say that beyond a reasonable doubt it had been established that that door was always locked.

The next witness whom I called was Edward Markowitz. Markowitz was a shipping clerk. Markowitz told you that day after day he had to use these stairs and that the great majority of times he used the Greene Street stairs; that he also used the stairs at the Washington Place side and that he never had occasion to use a key and never

carried a key.

Now I wish to call your attention to a point in Markowitz' testimony and I would like it you would carry it with you. It is uncontradicted in this case, --and on the contrary I shall read to you if I get the chance from the testimony of Capt. Worth and show you that Capt. Worth said the same thing that Markowitz did. Capt. Worth's exact words were "That on the ninth floor the fire was raging fierce from the west to the east." I don't know whether you recall that instance or not. If there is any doubt about it I would be glad to have it looked up and read it to you that he said the fire was raging from the west to the east. You will remember that the east is the Greene Street side; and you will recall that the west was the Washington Place side where the door is. Now Markowitz said that after he had heard there was a fire he ran down to the ninth floor from the tenth floor. Markowitz told you that he stood, -- and he pointed out the spot, right inside of the Greene Street entrance where he stood. And while he was standing at the Greene Street entrance at that time Markowitz told you that the flames were coming from the west to the east and that he told the girls to go up and down as quickly as possible. Now the purpose of my calling your attention to that Gentlemen of the Jury is that it is not the fact as contended by Mr. Bostwick

that on the ninth floor the fire came first to the Greene Street side and from there to the Washington Place side; but on the contrary Chief Worth testified that he was standing on the sidewalk or in the middle of the street, and that he observed the directions, and that when he was looking at it a minute and a half after the alarm was sent in, that all of the windows on the Washington Place side, that at all of those windows the flames were pouring forth; that he had in mind the location of the Washington Place stairs and that the flames were going up, that the fire was travelling up these Washington Place stairs, and that is Chief Worth's testimony. Does it corroborate Annie Mittleman's testimony or doesn't it? Does it corroborate Mary Leventine or doesn't it? Does it corroborate Mary Alter? Chief Worth was called by the Prosecution. Do you think that he would lie for them. Worth testified also that the flame travelled from west to east on the ninth floor. Do you think he wanted to lie about that too? Markowitz testified that the flames were travelling from the west to the east and he stood in the Greene Street door and he even testified to the place where he stood, to the spot; and this witness Markowitz came down he said, and stood in the Greene Street door and passed the girls out.

Now Gentlemen of the Jury if he came from the tenth floor to the ninth floor and walked into the Greene Street door and he was standing right there by the door, where were the flames? Were they at the Greene Street Side or were they at the Washington Place side.

Now the next witness I called was Dora Tiger. Dora Tiger said that she was at the second table from the Washington Place side facing the Washington Place door. And Dora Tiger said that day after day she was called upon to go down stairs and bring up work; and that frequently she went several times from the eighth floor to the ninth; that she used the Washington Place stairs and that she used the Greene Street stairs; that the door was always open; and that she worked there three and one half years and that for those three and one half years that she worked in that place that that key was in that Washington Place door. Did Dora Tiger lie to you? She was down to the District Attorney's office and made a statement. Did you hear anybody called to contradict her? What is her motive in testifying falsely under oath?

The next witness whom I called was Theresa Elbaum. Theresa Elbaum is a girl who has never worked for the defendants since the time of the fire; she has never been in their place since the day of the fire. She told you she worked in that place as the forelady and that

frequently as the forelady -- that altogether she had worked for them about five years on the ninth floor and that frequently she went in and out of that Washington Place door. That she used that Washington Place door and went up and down through it from the ninth to the eighth and from the ninth to the tenth floor. Gentlemen of the Jury, that girl has not worked one minute for these defendants from the time of the fire. What is her motive in coming here from her work, coming here in answer to a subpoena, coming into this room and going upon that stand and giving the testimony which she gave. What is the motive for her to come here and deliberately commit perjury before you twelve men? You are to say from her testimony beyond a reasonable doubt, whether during those five years that door was opened or shut and that she went out through that door on that day of the fire. What would be her motive, her intent in coming here and testifying that way because really many of them think that they are trying their own case for damages. They think it is the foundation for their own case where they are suing for damages. It has not anything to do with that however. But they believe and you Gentlemen know by this time that Harris and Blanck are sued for a great many hundreds of thousands of dollars in these suits that are brought

against them. If they are acquitted so that charge is not to be laid up against them, it will make a great difference they think with their cases. If they are convicted of a crime it would show, when the conviction was introduced in evidence, it would have a bearing upon the weight of credence that would be given to their testimony in the civil suits. But as a matter of fact these civil suits and this trial are in no way connected. This girl who has been called here, in this particular instance has not been in their place since the day of the fire. Would she come here and tell you that that door was not locked and that the key was in the door for five years while she worked there if it was not true? What is her motive? Her salary has never been raised because she has not been working there; she has not been in the place since the date of the fire.

The next witness called upon behalf of the defendants was Peter Wortman. I have no doubt in a general way you remember Peter Wortman. Peter Wortman was the fellow that lost his voice when he come to the Court House. Now Peter worked on the tenth floor and he had business that called him down to the eighth floor and he had no business to go to the eighth floor, no business that the boss knew about. He said every now and then he used to slip in and see his girl. Gentlemen of the Jury when

that slip in came out do you think Peter Wortman was telling the truth or not? Did he slip in or didn't he? Now he worked right near the Washington Place side. You don't think he took much of a chance going all the way across from the Greene Street side to slip in, that would not be a case of slipping in, that would be a real march, and he would be seen by somebody no doubt. Now I ask you did Peter Wortman tell the truth or didn't he? It seems almost cruel to jest about this affair, and I am not jesting, I am doing the best I can, I am most serious and I am doing it seriously the best that I can and the best that I know how to call your attention to the great weight of the evidence and we have been bringing it to you here from the four corners of the earth in order that you may know the truth about that door.

The next witness that we called was Ida Okan. As regards the testimony of Ida Okan, that is the testimony about which there has been an attempted impeachment in which they called in the stenographer and every word that the stenographer of the District Attorney said that she said was corroborated. In this case the testimony was taken by the Assistant District Attorney Ellison. Assistant District Attorney Ellison was the man of all the Assistant District Attorney's Assistants that I have seen here the least. He has graced us with his presence only once. He was not called. What happened? Ida

Okan testified on the stand that she worked from the ninth floor and that she used both the stairways on the Greene Street side and on the Washington Place side; and time and again she went to the tenth floor to assist in the work there and also to the eighth floor. When the stenographer of the District Attorney was called to contradict Ida Okan, what did they tell her? Mr. Ellison had asked referring to the statement as taken by the stenographer, whether at the time of the fire she tried the Washington Place door and Ida Okan said no that she sat right near the Greene Street door and that she went out by the Greene Street door. There was nothing brought out in the testimony adduced by the stenographer that differed materially and you will remember that after he had got through reading his testimony of what she had said that I asked him if that all related to the day of the fire and he said yes, sir. Do you remember that? If you don't, it is your privilege to have it read and I tell you gentlemen that I do not make a statement to you that I do not absolutely think to be the fact; I have followed this pretty closely and I think that I have it pretty well in mind as you must have seen. And furthermore I have said to Mr. Bostwick that if I made any statement to you gentlemen that was not borne out by the fact that I begged of

him to interrupt me because it wont serve my purpose in this ease to make a false statement to you. I cannot hope, even if I wanted to, even if my motives were corrupt, I cannot expect to fool twelve men and to get away with it. I might try with one if I was that way disposed to, not with twelve intellects all belonging to bright intelligent men who have been following this case stage by stage as you have.

I think Miss Okan testified that she went up and down these stairs and that she used these Washington Place doors. What is her motive? What is she getting for this, for testifying this way and what are the several people who have taken this witness stand and testified as they have doing this for, what it their motive? If it is not true they are uniformly being charged with perjury.

Now the next witness that I have called was Michael Iacovella. Michael Iacovella worked on the tenth floor and he said that in all the time during all the time of the strike which was for five months did he go down to the ninth and eighth floors and it is one of the contentions, that at that time the doors were open. Do you think that he is telling the truth? I want to ask you whether you doubt in your mind that Williamson's testimony when he told you that they put a phonograph in at the time of the strike on the ninth floor and that the

girls used to come up from the eighth floor and listen to the playing that when he went to Mr. Blanck and complained to Mr. Blanck about it that the girls coming up that way was causing him extra work by their leaving of their orange peels and their banana peels and luncheon refuse on the stairs, and that all of that made him so much work that he complained to Mr. Blanck and that as a consequence Mr. Blanck put in a phonograph on the eighth floor, as to that do you think that he was telling the truth or not. Is it the truth that Blanck did put in a phonograph on the eighth floor. Why do all of these girls that went in through that door go on the stand and testify that they have not been through it, that they never saw the Washington Place door open? If they wanted to tell you the truth, why did they say that?

And while I am going along I might mention one circumstance that one girl went on the stand and thought that she could so far fool twelve men that she said that all the colored man did was to stand in front of Mary Lowenthal's desk and sweep and sweep and sweep right in front of Mary Lowenthal's desk. Do you think that that witness was a truthful witness, that that witness was telling the truth?

The next witness that I called was Dinah Lipschitz; and Dinah Lipschitz testified that she was related to these

defendants. Now Dinah Lipschitz testified that she worked on the eighth floor and she said that she was talking to Mr. Bernstein and talking about the price that she would mark the pay of one of the girls which had just come into their employ and had worked only a few days when somebody I think she said it was the sister of one of the defendants, Eva Harris came running forward and said to Mr. Bernstein that there was a fire. And Bernstein told her to use the -- that instrument the name of which I don't seem to be able to master, at any rate he told her to use that instrument, I think it was the telautograph at any rate that instrument that writes out the message and that no information came back, she could not get into communication with them, that she did not get any answer and that then he told her to try the telephone and to telephone to Mary Alter and tell her there was a fire. She told you that she used the Washington Place stairs but not as frequently as the Greene Street stairs but that she used them if she was nearer to the Washington Place stairs she used them instead of going clear across the loft. She told you that she worked both on the eighth and the ninth floors, for years she had been working in that room, I think she said for five years all told and she said that the keys in the Washington Place side were always in the lock. Did she lie? Dina Lipschitz went down to the

District Attorney's office two days after the fire when there was no indictment or anything of that sort and when there was no thought of any such thing as an indictment or anyone having to go on the stand and there has been no attempt to say that Dinah Lipschitz didn't tell the same story down there then as she said here. Did Dinah Lipschitz tell the truth?

The next witness whom I called was a man by the name of Sam Oranstein, Oranstein said that he was there five years and that he sat at the second table on the Washington Place side; and that during all the time he saw Bernstein the Manager, the foreladies and his employers, all of those go through that door.

I have no doubt that I am wearying some of you gentlemen but I have got a duty to perform and I am only performing it in the way that I see it; and I am going to ask you to indulge me until I get through. If I were in your place I presume I might feel as some of you gentlemen do. If this transaction does not go as I want it to I will not have it said that in the time that was allotted to me I did not do all that I could. And if I were in your places I presume that I would feel much as you do.

Mr. Bernstein was the next witness whom I called. He and the witness Eva Kaplan were the only employees. I call your attention to the testimony of Bernstein for

this reason, because that on the stand the District Attorney attempted to impeach him by culling, you will remember the case, the interpreter who said he would recognize him anywhere, and also calling the stenographer.

Now Bernstein testified to this: He said that he was a sleeve maker and that his table was to the right and is immediately in front of the Washington Place door; that you could not come by or through that door without his seeing you if he was looking, of course if his head was turned away why he might not be looking, if he happened to be looking in another direction but that he was sitting with his face so that no one could come in or go out without passing into the view of Bernstein providing he was looking.

He said he used that door on several occasions under these circumstances -- and he said, and by the way I will call your attention to that Gentlemen of the Jury that it has been stipulated in this case that it is a fact and I think it is only right that I should state it to you at this time that it was a fact on every floor in these various lofts there were signs posted in Yiddish, in English and in Italian Languages that smoking was prohibited. That is correct, isn't it Mr. Bostwick.

Now Bernstein said that during the lunch hour he would go out of the Washington Place door and sit on the stone

steps and there smoke. He said on one occasion he was called to the telephone, or received a message rather that was delivered to him, that his boy was sick. That he went up to Mr. Blanck and asked Mr. Blanck, whether Mr. Blanck could not send a physician. That Mr. Blanck did send a physician to his house and that after the boy got better he went up to the tenth floor to see Mr. Blanck and to tell him the boy was better. Do you think that story was manufactured for the purposes of this case? Do you think that Bernstein was induced by anybody to go on that stand in this case? If he has been what difference does it make? Is it possible that all of these witnesses to whom I have referred have also perjured themselves?

Now Gentlemen of the Jury, the people to whom I have thus far referred were all people who were in the employ some time of Harris and Blanck. I have referred to 34; of the 34, 18 of them were either employed up to the time of the fire and not been in their employ since the time of the fire and 16 have been in their employ since.

Now I call your attention to people who never have been in the employ of Harris and Blanck and I want to ask you what you think in respect to them? We called Isaac Stern. Stern is the man who supplies the steam heat to that building, and who is the Superintendent for Asch, the proprietor of that building. He said that he went to

our place of business frequently; three or four times some weeks, some times more and others less and that he often passed through the Washington Place door when he came onto that floor and that the door was open. Mr. Bostwick in some way said that this man Stern had got a motive. What is his motive? Why Stern works not for these defendants, he is working for somebody else. Has anybody suggested any possible theory upon which any such thing can be based. If the building was not properly constructed it was not up to Stern. Stern did not have the building built. Asch was the owner of the building. If the building is not properly constructed he is not answerable. For the resulting fire he is not in any wise answerable, then why is this man Stern shielding himself? Rotten hose! He has got nothing to do with that and yet if the rotten hose was responsible for the result of the fire then why are these two men on trial, it is conceded that they are not responsible for any hose. What is Stern's motive in coming here and committing perjury for these men when his boss has with these men a lawsuit, and they have refused to come back to that loft and litigation with his boss has ensued in consequence. What is Stern's motive in coming here on this stand and testifying?

The next man whom we called is Max Hirsch. Hirsch was the man whom used to work for the defendants and now works for the firm of Pulaski and Company on Broadway. Some of you may know of them; I think they're a very large house. And with Pulaski and Company Hirsch was a salesman and with Harris and Blanck they have a substantial account which account belongs to Hirsch. Hirsch has been working for them for eighteen years. He worked for them for one year and then went away and went to work for an embroidery concern and then he testified that he went back to work for them and he testified that he worked for them for eighteen years.

I am asking your especial attention with this man Hirsch on this account: Is it a fact that every man who sells goods to a concern is going to commit perjury? Now some of you men are salesman. I ask you is it a fair insinuation for anybody to make that because you sell a firm goods that you commit perjury for them?

Now this man Hirsch -- do you remember him on the witness stand? Clean cut. He told you that he had been on the eighth and ninth floors at least 150 times. Do you believe him? Is he lying too? Is Hirsch committing perjury? He said that he had been on the eighth and ninth floors as a salesman with Pulaski and Company at

least 150 times. He said of these 150 times in the seven or eight years that he has been selling these defendants Harris and Blanck, he believed he went down through the Washington Place stairs to put it conservatively he said 50 times. Each time he found the door open or so that it could be turned and anybody could pass in or out. He said during the year next preceeding the fire to put it as he says conservatively he was on the eighth and ninth floors half a dozen times. I again repeat it to you, do you believe that that man Hirsch committed perjury just because he sells these people goods? The next man whom I called was Thomas Horton. Thomas Horton was the porter of the Asch Building. Thomas Horton has also been contradicted by the stenographer. Why? Because Thomas Horton said "Usually locked." Well how did he seem anyway on the witness stand? You remember who Thomas Horton was, Thomas Horton did tell you that he did go down these stairs and he passed in and out of the Washington Place door. He told you that in sweeping down he bumped into the doors, that is the very words that he used in his statement to Mr. Bostwick. Do you remember his statement and how it corresponded exactly with his testimony here with that one expression which he used the identical expression in his testimony on the stand here meaning a question? Now I ask you

is there any conflict between Horton's testimony and Horton's statement? When Horten told you for all the years he had been working in the Asch Building that he went through that door, he went in it and he went out of it on the Washington Place side, you remember how he stated that. You remember who Horton was. He was the colored man not in our employ; we are in litigation with his boss. Do you think he would come here and commit perjury in our lawsuit?

The next witness we called was Henry C. Jacobs who swore that the person, the only one that he was acquainted with at the place of the defendants was Teschener, the salesman and he had met him on one occasion; and on that occasion Teschener took him through the factory and they went down the Washington Place stairs through the Washington place doors. Did Jacobs lie? Jacobs' testimony is of no great consequence. You recall this man Jacobs as he was testifying, his straightforward way of testifying and he come forward and says to these defendants he heard what was going against these defendants and he wanted to help them; and there was only the one time that he went through the door and he came here to say to us if you want me to I will be one to go upon the stand and testify to that. Now that is what sort of a man he was.

By just one look at that man I think you could tell what kind of a man he was, from the style of his face and the manner in which he testified. Jacobs comes up here to tell you about the only time that he went down those stairs and that that only time that he did go down those stairs that the door was open Teschner who was familiar with the place would not have taken them down those steps if he hadn't known when he got down there that he would have been able to get through those doors. So that one time is just as significant as a thousand times. And so you make take from the witnesses who have given their testimony in this case and test them each by the ring of truth and I am sure that your answer will be the correct one.

Now the next man called upon was Herman. Herman is the representative of a very large lace concern. His concern's name was Levy, Sondheim & Company. He sells goods to these people. What applies to my statement with respect to Hirsch applies equally to him. You remember hearing what he had to say, you remember him upon the stand; a clean cut man who sells these people a lot of goods. Does that make a perjurer of him necessarily?

The next one whom we called was John Casey. You remember Casey; Casey was the engineer of the building. They said they had a statement from Casey that was going

to contradict Casey; but they didn't put any statement in evidence or call any witnesses to contradict him. Casey was the engineer. He was the one called upon to fix the radiators; he was called upon at other times to fix other things. He said that whenever he was on the Washington Place side he went up on the Washington Place elevator to the tenth floor and walked down from the tenth floor through the Washington Place stairs and always found the door open. He said also that when he was on the Greene Street side of the building where the Greene Street elevators were that he took the Greene Street elevators to the tenth floor and always walked down the Greene Street side. Did Casey lie to you men? Why? What motive did Casey have I ask you to lie?

The next man that I called was a man by the name of Abraham Bacharach. He represents an embroidery concern. He told you that he was on the eighth and ninth floors in lots of different days, and that he walked down by both the Greene Street stairs and the Washington Place stairs but the majority of times by the Greene Street stairs; and that he always found the door open.

The next man that I called was Sigmund Fucks. Fucks was the man who did the painting on the three lofts and did it during all these years, three years I think he said and when he was working on the Washington Place side and his materials were on the Washington Place side

he used the Washington Place stairs; and when his materials were on the Greene Street side and he was working on the Greene Street side, he used the Greene Street stairs. Did that man Pucks lie to you?

The next witness that was called was Miss Emily Perrett. Miss Perrett is the buyer of Litt Brothers. I wish to call your attention and ask if salesmen who sell goods to people or buyers from other concerns are all perjurers? Miss Perrett told you that she went to that place of business and that if she didn't find Mr. Harris or Mr. Blanck on the tenth floor she went down to the ninth or eighth floor and that she did that a great many times. Now Miss Perrett told you of three or four times that she went down the Washington Place stairs and through the doorway by the Washington Place elevator. I ask you Gentlemen of the Jury did Miss Perrett also commit perjury? What is her motive? What does she hope to gain by coming here and swearing falsely in the interests of these defendants. Did Miss Perrett tell you the truth gentlemen? When this lady said that that door was not locked, but was open and she went through it into that loft, was she a perjurer or did she tell you the truth? And did these other people who had done the same thing tell you the truth?

The next witness that I called was Isaac Segal. Segal's testimony is unimportant as he testified that he was an agent for the sewing machines, a representative of the Singer Sewing Machine Company and that those are the standard machines that are used by all the large shirtwaist factories in America.

The next witness that I called was Tony Suramalli. Now Suramalli was the man who used to come there every morning, he had a contract to take away this waste; and he said that they kept it in metal cases and it was kept near the freight elevator doors; that he used to come over there and supervise the taking out of these cans and taking the dirt away. You remember that he testified that he came there every morning and he went to this place and emptied these cans, that he would go up to the tenth floor and he would walk from the tenth floor down to the ninth floor and the eighth floor and that he would come in by the Washington Place doors. He did this on the day of the fire too, if you will recollect. I don't know whether you recollect Suramalli's appearance or not. It has not made the impression upon me that he was a perjurer and I don't think it has upon you.

The next man whom we called was Bernard Censer. Censer is another embroidery man. You remember he said his business was this, he takes their material, their waists

over to his factory and does the embroidery work at his factory. Censer testified that time and again that he came to the tenth floor and that Harris was not there, that is the boss was not there, that is Harris and he would go down by the Washington Place stairs and see Mr. Harris on the ninth floor or on the eighth floor; that he also used the Greene Street stairway and used the elevator, frequently used the elevator but at times he went down by the Greene Street stairs; but that he did use the Washington Place stairs. Do you think that man was a perjurer also? What was his motive?

The next witness that we called was Teschner who is now employed by these defendants. Teschner is the travelling salesman. Teschner told you that frequently he went down to the ninth and eighth floors; that he used the Greene Street elevators, and that other times he would use the Washington Place elevators; and that other times he would use the Washington Place stairs and that he would go into the loft through the Washington Place door. Did Teschner impress you that he was lying? You recall that he was the one that went down with the representative of Levy, Sondheim and Company. And that the representative of Sondheim said that he went down by the Washington Place stairway accompanied by Mr. Teschner

and this statement of Mr. Teschner falls in line with the statement of the other man. Do you consider that this man, did he impress you as a perjurer in the manner of his giving his testimony or did you think that he was telling the truth? I ask you to remember that he said that he used to go down this stairway, he used to go down it and through into the ninth and eighth floors.

Then we have Eva Harris. Eva Harris was a sister of the defendant and I was very reluctant to call Eva Harris for this reason, that she is the sister of the defendant and I did not wish to conceal this circumstance from you. I am inclined to believe that the Jewish race is a clanish race and the love of each other is great in them; and if Harris was in great danger, I would not hesitate to believe that his sister would say something in his interest; I would not hesitate to believe it for a second, that if she thought her brother was in great danger, she would probably come forward in support of her brother's testimony.

What she said was that she came to the Washington Place door and the Washington Place door was open and that she passed out. Her testimony in this case was not of the least or slightest significance except for this: One of the girls testified that a girl by the name of

Eva Harris had called out on the eighth floor “My God, we are lost, the door is locked.” I called Eva Harris to contradict that. And gentlemen of the Jury, that girl lost her cue. That “My God, My God, the door is locked” gentlemen of the Jury was not on the eighth floor at all; she got mixed up in her location, if you will recollect. That “My God, My God” was intended for the door on the ninth floor and this girl made a mistake, she got on the wrong floor, she got the wrong person, in her instructions she placed it wrong and merely missed her cue. There is not any question about that at all. When this mass meeting was being held pursuant to instructions and everything was laid out, she missed her cue. So she picked out Eva Harris as the one who exclaimed they were lost on the eighth floor and everybody else said and everybody knows that the door on the eighth floor was wide open and that everybody on the eighth floor got out.

Now Gentlemen of the Jury, I called the defendant Mr. Harris to the stand next. Of course the defendant Harris has got every motive in the world for lying to you. This means everything to him. It means that these past years of his life have all been for naught, if you say that he is guilty of this crime. It means incarceration for him anywhere from ten to twenty years,

in the discretion of the Court. It means that his wife and his children are disgraced forevermore. It means the loss of that for which he has labored all his life. It means that when from a shop himself he worked and worked and worked and finally became an employer of labor and that same high degree of character that is obtained by his type of man, it means that all of that is to be brushed away by the occurrence of the 25th of March, 1911.

So I say to you twelve men: Harris has got every motive that a man can have for committing perjury. But did he? Did Harris impress you as a perjurer? Did he talk to you like a perjurer? Or did Harris go on the stand and tell you that he was a designer and a pattern maker and that he had to go, his duty took him any number of times as he said to you from the eighth floor to the ninth floor and from the ninth floor to the eighth floor; and that he had no time to wait for elevators. If he wanted to get to the eighth floor, why he walked down and if he was near the Washington Place stairs he went down those and if it was the Greene Street stairs he used the Greene Street stairs also.

Next I called Mr. Blanck. Mr. Blanck had every motive that Harris has got, every one he has got. Did Blanck commit perjury? Blanck went down to the District

Attorney's office, and the District Attorney absolutely square said to Blanck "If you make a statement" -- although they had called for him to come down -- "You have got to make it on the condition that we can use it against you if we ever want to." And Blanck said "Go right ahead and ask me."

Gentlemen of the Jury, is that the act of a guilty man? A guilty man refuses to answer. The guilty man skulks. The guilty man pulls down the blinds, but the innocent man he says "I want you to ask, I want you to open wide the flood gates of truth; search me as you can; search me as you will; I want to tell." He wants to tell because that is the way innocence behaves. And he did tell. And he told then what he told now, that he went down the Washington Place stairs, that he went up the Washington Place stairs; that he did use the Greene Street stairs very often; that he used the Washington Place stairs; that those doors were never looked and that it was his duty to see to it that they were not locked.

Now Gentlemen of the Jury the only other branch of this case is the question of how they kept their factory. Well now that is, the evidence is with relation to the situation of the tables, that the nearest tables one to the other was four feet eight inches. I would

like you to see these chairs and how they fit under those machines. When a girl sat at one of those machines all that there is outside of the machine is the back of the chair, the rest of it is under the machine. The testimony is that three quarters of it is under these tables and that the putting in of these machines was directed by Mr. Harris and it was done through his knowledge of actual conditions and his discretion as to the layout. The testimony in this case was that there was not a better run factory in New York and there never has been. The defendants built this. Harris himself is a mechanic and he is the man who laid out every stitch of it and because he has grown up from the beginning of the business he knows how it should go to be to the best advantage and he laid it out the best way to be the best both for the operators, the employees and himself. When draughts came in one side they put partitions up to ward it off. Now, gentlemen of the Jury there has been some pretence here that these partitions that were built were for the interests of the defendants. You remember the testimony of the carpenter was that the partition on the Washington Place side was from six to eight feet from the elevator doors. Wasn't that it Mr. Juror, six or eight feet? That was just taking that much space away from their use in this building. What good did it do them, any?

They put it up because having had the complaints of the girls, they wanted to keep their employees and they did this for their benefit.

On the Greene Street side -- this is really very interesting -- on the Greene Street side the suggestion of the Prosecution is why the partition was put in. Why? Because that partition there, that was to enable a person to go out only one at a time; and it enabled them thereby to look at the pocket books. Why that thing is ridiculous. That man stood on the inside in the first place. In the second place we could have ordered them all in line for that purpose if we had seen fit to. Now that partition was there, simply put there for the convenience of the employees to help their health, and to repel draughts and to make the place comfortable and pleasant for them. Now Gentlemen of the Jury I am not talking to you about this in any way or sense as a point of criticism.

Do you remember a man by the name of Louis Levy who testified that he took away on the 15th day of January, 1911, 2,250 pounds of cuttings. 2,250 pounds of cuttings was not anything in that factory. What was there extraordinary about that I asked him in that factory of that size and was it at all unusual to have more than such amounts and he said no, not at all.

I offered to show what they had taken away on previous occasions from the Harris and Blanck factory to the effect that it was more than that and I offered to show what it was. What you have is that in this case on the 20th of February they came and took away in cases what they chose to call "remnants" because they were embroideries; but the witness testified as to size of the material that it was exactly the same as the cuttings that he had taken on the 15th of January, but because it was higher priced material he styled it remnants.

It seems that the girls produced on behalf of the Prosecution testified that they went away from their machines at night dirty, that is in the evening and that they found them clean in the morning. We surely did not hire the porter Harris for the purpose of dirtying the place did we? We certainly did not hire Harris the porter and the porter Williamson for the purpose of keeping the place dirty, did we? We hired the men to clean the place of course; and we hired a woman to take care of the dressing rooms on this floor. And gentlemen of the Jury that brings me to the testimony of the woman Christina Lang. You have got to explain to yourselves the occurrence of Miss Lang, Christina Lang who came here on the stand and said that she was hired to take care

of that cloak room and did take care of that cloak room; and that she saw people coming in and going out through that Washington Place door. That was very much of a surprise to Mr. Bostwick and he was greatly astonished and much put out because one person had really come forward and told the truth about the thing. So Christina Lang was examined and finally Mr. Ryan suggested that possibly she didn't understand. So a diagram was shown to her and then she was asked further whether the door which she saw the people come in and go out were metal doors, the elevator doors, or wooden doors; and she said "wooden doors"; and that examination satisfied Mr. Ryan and satisfied myself and it was perfectly clear and the witness was dismissed. But I tell you when you have got to deal with the District Attorney, when you sit in the Jury Box you may think it is absolutely all right; but when the District Attorney takes this bunch of reporters out with him in the evening and they go up stairs for the headlines for the next morning and the head line comes out and the head line says "Witness in the Triangle case to be investigated", that is enough. What does poor Christina Lang know? That there is a Constitution in this country? That there are really men and laws, and men to administer those laws? That they

have got rights that will be protected and preserved? When Christina Lang thinks of the great power that the District Attorney has got to investigate her, what does Christina Lang do? She comes here and humbly tells you twelve men she made a mistake the day before, a mistake. Why, she was asked the questions and she spoke as clearly and as distinctly, and she was asked "Do you understand these question"? And in each instance she said she did. Now she comes forward before you twelve man the next day. No chance of Christina Lang going wrong about the door. She knows as much about that loft as Mr. Bostwick does or Mr. Rubin or anybody else connected with the District Attorney's office does. She sees the doors, she is sitting by them, she is cleaning the doors; she is intelligent enough to know the difference between metal and wooden doors and she could not possibly go wrong, possibly make a mistake about that. She said that she saw the people come in and go out through that door, both men and women went in through and came out through that door; she comes here the next day herself and says that all of that is a mistake, that she made a mistake. You cannot get a defendants' witness that will ever do that, oh, no. The defendant will never change a witness, one they put it into the defendant it sticks.

What power has the poor defendant got?

Now gentlemen of the Jury with relation to all the witnesses that were called by the Prosecution, and I have only got 15 minutes left and I will have to hurry along and do the best that I can. I don't want to call your attention to the witnesses on the eighth floor; because it is useless; we are dealing here with the ninth floor.

The testimony with relation to the eighth floor was that the girls came from the Greene Street side because they saw the fire in the Washington Place side and ran to the Washington Place door, and then came Machinist Brown and opened this door, the girls could not have opened it seems in the way they were crowding up against it and there was no key used upon the door and every one of these girls knows it. There is not one of them that has said that he had a key in his hand when he went to that door or that Brown used a key to open the door. No one said that Brown brought a key and put it into the door. How did Brown open that door? We have already gone into that.

On the ninth floor the first important witness that was called by the Prosecution was Sam Bernstein, a relative of these two men. Sam Bernstein said that he

worked at the last table on the Greene Street side. Now gentlemen of the Jury, you remember the location. On the eighth floor there are five rows of machine tables that is five tables that have machines on each side, and then there are the cutting tables over on the east, -- over to the Greene Street side.

On the ninth floor there are the machine tables on that side. Now Bernstein worked on the ninth floor, and he worked away over on the Greene Street side and when Bernstein heard a cry of fire, -- Bernstein who says that door was always locked, that he had never gone through that door in his life, never had used that door, never saw anybody use it, — Bernstein says he ran right for the Washington Place door. Now what motive did he have for saying that? Why didn't he run to the door that he was right near to? Why did Bernstein do that thing on the 25th day of March, 1911 that he did do instead of going to that other door?

Now Bernstein said after the fire he had gone to Mr. Blanck and asked for \$5000. He didn't want it for himself but he wanted it for his father because his brother was lost in the fire. I merely make reference to that, I refer to it simply as a circumstance. Later on the defendants have some commiseration about that and that subject matter is taken up further and a suit is

pending and I just won't go into that any more because that is a matter which is in litigation.

The next witness that was called was Annie Gullo. She sat on the ninth floor; and Anna Gullo sat alongside of Bernstein, nearer to the Greene Street side; and Anna Gullo made this remarkable exposition of her movements at the time of the fire. When she heard of the fire she had never known of the Greene -- I withdraw that. She had known of the Greene Street door I mean the Washington Place door but she had never used it and swore it was kept always locked but somehow there at the time of the fire knowing that it was always kept locked, that door, although she was over by the Greene Street floor she went right over to that door not seeing any reason for not going to the Greene Street door but on the contrary passing by the Greene Street elevator and standing as she testified on cross examination right by the Greene Street door, passing by the Greene Street door she said she turned to her left into the open space between the cutting tables and the machine tables and went over to the Washington Place elevators. She went from the Washington Place elevators to the Washington Place door, and found that that door was locked. This is Anna Gullo. She went to the centre of the room looked around momentarily

walked over to the Greene Street door from which she had come and passed down to the street. Why didn't Anna Gullo go down immediately to the street when she passed the door the first time? Why did she first have to jump over the tables and run in between the cutting tables and the machine tables and go to the Washington Place elevators and then to the Washington Place door from the Washington Place elevators, going and trying the Washington Place door and then back to the Greene Street door and through the Greene Street door to safety.

Ida Nelson is the next witness. The testimony that she gave is that as a witness for the People she sat on the Greene Street side. They all testified of course that they didn't see anybody going in and out of the Washington Place door. Why, that would have been a physical impossibility. Look at that diagram just a moment on the ninth floor. Take these tables of machines and put the girls at the last table on the Greene Street side, and see if it is possible for her to do that, to see what is going on around the Washington Place door? There were girls on each side of these tables, on the Greene Street side and they were near to the Greene Street door, and the tables were in front of them and the Washington Place door, and in order to get over to the Washington Place doors they had to walk all the way from the Greene

Street side over to the Washington Place doors. Wasn't it perfectly simple for them to say "No, they did not see anybody pass out of that doorway" for it was an impossibility for them to see it.

Now gentlemen there is a difference between negative and positive testimony. When a person gives positive testimony, that person commits perjury if they are not telling the truth, if they do it deliberately as for instance saying that people did pass through these doors. But when a person sits about a block away from a door and states that they do not see anybody go in or out that is not giving any positive testimony because they did not say that nobody did go in or nobody did go out that door absolutely. So you can see that is about all their testimony amounts to.

Now take Ida Nelson, I think she said that she sat the third machine on the third line on the Greene Street side. She said as soon as she heard fire being cried out on the Greene Street side, that she, Ida Nelson ran to the Washington Place side. The door that had always been locked, these people that were away over on the Greene Street side immediately rushed for, they ran to the Washington Place door and found it locked.

The next witness who testified was Yetta Lubitz. And Yetta Lubitz sat at the third table. She was clear

over on the Greene Street side and instead of going through the Greene Street door as was natural when she was over by the Greene Street door she went over to the elevator and she was one of the first witnesses that has testified as to their examining the pocket books when the operators left at night.

Then there was Esther Cushner. Her testimony was stricken out entirely by the Court.

Then there came Ethel Monick. Ethel Monick worked at the table right near the Greene Street entrance. Ethel Monick's story is a really remarkable one.

Ethel Monick sat at the table with three or four other girls right by the Greene Street door. She was also right near that Greene Street door and she was one of those that ran down to the Washington Place door to find that it was locked and for the same reason as the other girl, absolutely no reason at all, she went by or away from the Greene Street door and the Greene Street elevators and went to the Washington Place side. She absolutely disregarded the Greene Street doors and she ran over to the Washington Place elevators and she said she got out through the Washington Place elevators.

Of course testimony of this kind as most testimony that I have been reviewing is to constitute the evidence by

which you must say beyond a reasonable doubt that that door was locked; and you have got to find it was locked beyond a reasonable doubt.

The next witness that, they called was Becky Rothstein. Becky Rothstein worked on the first line of machines from the Greene Street side, the sixth machine. She was right at the Greene Street door and she started and climbed over to the Washington Street elevator. Why didn't she go down where she was she was asked. She saw Bernstein at the door and there were more than 50 girls between her and the door where Bernstein was but she saw him and she saw Bernstein's hand on the door knob. Now Gentlemen of the Jury you know that what these girls were telling you was what they imagined happened at that time, in their imagination they naturally thought or concluded very readily that that was what he was doing; and I can very easily picture to myself that they could have easily imagined this.

The next girl that they called was a girl by the name of Rose Mayers. She worked at the second table on the Greene Street side facing the Washington Place side. She was also the first one to get her hand on the door knob. It is remarkable how many girls there were that the first ones to get their hands on that door knob. You see we had one girl that was the first one to get her

hand on the door knob.

Then there was May Leventine, she was the first one; and when Greenspan got to the door he said that there wasn't --he didn't see anybody else around there and he had a clear coast, there was nobody between him and the door and he had his hand on the door first.

THE COURT: Mr. Steuer, you will have five minutes more.

MR. STEUER: Well Gentlemen, you of course are expected to recall all of this evidence. To my mind it is a human impossibility. When it comes to one of these long trials, with every confidence in the Jury system there ought to be some better way than there is of preserving the testimony. To my mind I think it would be a splendid idea if the Jury were furnished with transcripts of the testimony from day to day because then they might keep it green in their recollection; but whatever may be the deficiency of a human effort, I think as the testimony went along you gathered sufficient of it so that you may pass upon these two questions:

Beyond a reasonable doubt, did the People prove that Harris and Blanck killed Margaret Schwartz through the negligent way they conducted their business?

Beyond a reasonable doubt did the People prove not

only that that door was locked, because that is of no consequence, did they prove beyond a reasonable doubt that Margaret Schwartz died because that door was locked?

Did they prove that that door was locked. Did they prove anything against these defendants?

Gentlemen of the Jury 1911 is drawing to a close. 1911 was a bitter year for these two men. Thirty years ago were these men in a shop not equipped with electric lights, and electric power, with stairs made of wood and which we climbed together, I labored in one of those shops. The progress that has been made in that is wonderful. I admire the confidence that has been reposed in me by them to present this case to you. Never, never in all my life, and never again in the balance of it I hope will there be such a responsibility resting on me. I took their case; since the day they were indicted I have slept with it and I have pondered with it and labored with it. I do hope, I really hope that I have brought to you the conviction of their innocence.

THE COURT: Anyone in the room that wishes to leave may leave now providing they pass out quietly. Those in the room will be seated and the Officers at the door will close the door.

(An xx recess was announced for five minutes.)