



COURT OF GENERAL SESSION OF THE PEACE,

City and County of New York, Part V.

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

Judge

-against-

ISAAC HARRIS and MAX BLANCK.

New York, November 20th, 1911.

Indictment filed May 16th, 1911.

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

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

For Defendants: MAX D. STEUER, ESQ.

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

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

THE COURT: You may ask him a preliminary question.

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

BY MR. BOSTWICK:

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

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

THE CLERK: (Addressing the defendants) If you desire

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

MR. STEUER: Yes.

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

MB. STEUER: That is correct.

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

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

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

New York, December 4th, 1911.

TRIAL RESUMED.

The examination of talesmen by counsel consumed the entire day.

New York, December 5th, 1911.

The examination of talesmen by counsel consumed the entire day.

New York, December 6th, 1911.

The empaneling of a jury was completed.

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

THE COURT: Motion denied. You have an exception.

MR. STEUER: Defendants separately except.

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

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

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

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

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

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

Some of them were still at their machines and tables.

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

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

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

labor. An alarm of fire was given which sounded in the firehouses of this city at 4:48.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

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

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

MR. BOSTWICK: Yes.

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

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

THE COURT: It will shorten the case.

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

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

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

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

AFTER RECESS, Trial Resumed.

CHARLES B. MILLER resumes the stand and further testifies:

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

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

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

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

CROSS EXAMINATION BY MR. STEUER:

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

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

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

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

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

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

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

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

be July.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

MR. BOSTWICK: I offer the paper in evidence.

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

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

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

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

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

THE COURT: Read it.

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

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

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

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

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

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

JAMES P. WHISKEMAN, called as a witness on behalf

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

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

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

We were.

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

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

BY THE COURT:

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: Yes or no?

THE WITNESS: (Continuing) No.

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

BY THE COURT:

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

THE WITNESS: The wheels of the shafting.

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

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

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

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

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

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

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

BY THE COURT:

Q. Does that diagram indicate anywhere the elevation of

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

BY MR. BOSTWICK:

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

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

THE COURT: Yes.

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

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

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

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

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

BY THE COURT:

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

That's right, yes, sir.

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

BY MR. BOSTWICK:

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

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

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

BY MR. STEUER:

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

BY MR. BOSTWICK:

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

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

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

MR. STEUER: That is perfectly clear.

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

west? A. That is the same length.

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

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

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

BY THE COURT:

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

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

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

BY MR. BOSTWICK:

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

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

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

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

BY THE COURT:

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

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

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

BY MR. BOSTWICK:

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

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

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

BY THE COURT:

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

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

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

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

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

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

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

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

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

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

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

BY MR. BOSTWICK:

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

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

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

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

BY THE COURT:

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

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

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

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

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

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

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

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

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

BY THE TENTH JUROR:

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

BY MR. BOSTWICK:

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

BY THE TENTH JUROR:

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

BY MR. BOSTWICK:

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

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

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

MR. STEUER: No objection.

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

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

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

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

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

BY THE COURT:

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

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

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

BY MR. BOSTWICK:

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

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

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

MR. BOSTWICK: I offer it in evidence.

MR. STEUER: No objection.

Received in evidence and marked People's Exhibit 2.

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

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

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

MR. BOSTWICK: I offer it in evidence.

BY THE COURT:

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

sir, one-quarter inch, to the foot.

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

MR. BOSTWICK:

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

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

BY THE COURT:

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

Q. Not otherwise? A. No.

MR. BOSTWICK: I offer that in evidence.

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

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

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

BY THE COURT:

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

MR. BOSTWICK: I offer that in evidence.

Received in evidence and marked People's Exhibit 6.

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

MR. STEUER: I cannot do that.

MR. BOSTWICK: I thought you had seen them.

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

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

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

THE COURT: I understand.

BY MR. BOSTWICK:

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

been a civil engineer for over twenty years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yes, sir.

BY THE COURT:

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

BY MR. BOSTWICK:

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

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

THE COURT: Referring now particularly to which one?

MR. BOSTWICK: I will ask this question first:

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

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

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

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

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

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

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

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

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

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

BY THE SEVENTH JUROR:

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

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

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

BY THE COURT:

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

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

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

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

A. I don't think so.

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

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

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

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

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

THE COURT: Proceed.

BY MR. BOSTWICK:

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

Q. The same? A. The same.

Q. And opened inward? A. Opened inward.

BY THE COURT:

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

A. Yes, sir.

BY MR. BOSTWICK:

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

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

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

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

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

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

BY MR. STEUER:

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

BY MR. BOSTWICK: (Continuing)

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

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

MR. BOSTWICK: This witness, in addition to making

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

MR. STEUER: I shall make no objection.

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

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

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

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

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

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

CROSS EXAMINATION BY MR. STEUER:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. STEUER: A break in the stairs.

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

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

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

BY MR. STEUER:

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

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

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

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

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

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

BY THE COURT:

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

A. That's right.

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

A. That's right.

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

A. That's right.

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

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

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

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

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

BY THE COURT:

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

BY MR. STEUER:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE WITNESS: Yes, sir.

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

THE WITNESS: No, sir.

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

THE WITNESS: Oh, yes.

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

BY MR. STEUER:

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

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

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

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

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

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

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

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

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

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

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

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

six inches.

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

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

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

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

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

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

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

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

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

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

BY THE COURT:

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

BY MR. STEUER:

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

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

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

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

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

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

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

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

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

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

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

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

A. (No answer).

BY THE COURT:

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

BY MR. STEUER:

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

BY THE COURT:

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

BY MR. STEUER:

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

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

A. Yes, sir.

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

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

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

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

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

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

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

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

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

THE COURT: Yes or no.

A. I didn't find anything.

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

Q. As constructed? A. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. No.

THE COURT: Repeat the question, Mr. Stenographer.

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

BY THE COURT:

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

Q. Of iron? A. Of iron.

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

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

BY MR. STEUER:

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

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

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

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

THE COURT:

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

BY MR. STEUER:

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

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

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

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

RE-DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

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

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

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

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

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

Asphyxia by smoke. The body was almost completely charred.

THE COURT: Any cross examination?

MR. STEUER: No.

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

Q. What is your occupation? A. Photographer.

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

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

past eleven years.

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

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

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

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

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

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

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

MR. BOSTWICK: I offer them in evidence.

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

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

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

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

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

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

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

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

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

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

A. They are.

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

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

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

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

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

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

BY THE COURT:

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

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

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

BY MR. BOSTWICK:

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

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

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

the right~hand side of the picture.

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

BY MR. BOSTWICK:

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

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

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

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

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

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

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

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

looking up.

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

BT THE COURT:

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

BY MR. BOSTWICK:

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

A. Yes, sir.

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

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

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

CROSS EXAMINATION BY MR STEUER:

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

Q. That is, on the Washington place side, where did you get the light to make those?

A. They mostly all have a flash, a certain flash light as well as partly light that was there.

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

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

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

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

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

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

DIRECT EXAMINATION BY MR. BOSTWICK:

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

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

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

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

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

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

place and take photographs? A. Yes, sir.

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

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

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

MR. BOSTWICK: I offer that in evidence.

Received in evidence and marked People's Exhibit 18.

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

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

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

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

BY THE COURT:

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

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

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

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

BY MR. BOSTWICK:

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

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

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

BY THE COURT:

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

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

BY MR. BOSTWICK:

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

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

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

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

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

place and Greene street.

BY THE COURT:

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

MR. BOSTWICK: I offer that in evidence.

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

BY MR. BOSTWICK:

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

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

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

BY THE COURT:

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

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

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

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

A. On the westerly part of the building.

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

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

MR. BOSTWICK: I offer it in evidence.

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

BY MR. BOSTWICK:

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

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

Q. Same building? A. Yes, sir.

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

BY THE COURT:

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

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

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

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

MR. BOSWICK: I offer the photograph in evidence.

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

BY MR. BOSTWICK:

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

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

BY THE COURT:

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

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

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

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

into the floor. Do I make that clear?

THE FOURTH JUROR: It is a double door?

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

THE SEVENTH JUROR: What floor is this?

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

MR. BOSTWICK: That is understood.

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

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

BY MR. BOSTWICK:

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

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

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

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

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

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

THE COURT: Examination suspended.

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