

MAY CALIANDRO LEVANTINI, called as a witness on behalf of the defendants being first duly sworn, testifies as follows:

(The witness states that she resides at 98 Christopher street.)

DIRECT EXAMINATION BY MR. STEUER:

Q. Have you ever seen me in your life? A. Not that I remember.

Q. Where do you work? A. Where do I work now?

Q. Yes. A. On 26th street.

Q. Have you ever worked for Harris and Blanck since the fire? A. No, sir.

Q. Have you ever seen Harris and Blanck to speak to since the fire? A. No, sir.

Q. Have you ever been to the District Attorney's office? A. Yes, about three weeks after the fire.

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

Q. And what floor did you work on? A. The ninth floor. Q. What did you do while you were working for Harris and Blanck on the ninth floor? A. I was an operator on the machine.

Q. Whereabouts on the ninth floor was the machine at which you sat located? A. It was just on the Washington place side, the first machine on the lower part of the first row.

Q. When you speak of the lower part of the first row do you mean the part that was nearer to the Washington place win-

dows, or nearer to the cutting tables? A. Well, there was no cutting tables there, but it was nearer to the dressing room.

Q. There were examining tables, I think you call them? A. Yes.

Q. They were nearer which? A. To the examining tables?

Q. Which way did you sit at machine, where were you looking? A. Towards the Greene street side.

Q. So that you would have your back towards the passenger elevators and the dressing rooms? A. Yes, sir.

Q. Where were you at the time you first learned there was a fire? A. I was just in the dressing room, coming out of it, when a girl that was just right near the Washington place elevators called me, she says, "May, May, I think the elevator must have dropped, because I hear girls screaming." I ran to it.

Q. How many dressing rooms were there there? A. Well, there was one large dressing room, but it was divided in two entrances.

Q. Did it have a partition through it? Is that how it was? A. Yes.

Q. So that it was two separate rooms? A. Two separate rooms, yes.

Q. In which one of those two rooms were you when you first had somebody speak to you about a fire? A. In the dressing room that was on the Washington place side, the door that was right in back of my machine.

Q. The one that you had your clothes in, was that nearer to the passenger elevator or further away from the passenger elevator? A. Near to the passenger elevator.

Q. Tell the jury what you did, where you went, if any place, after this girl talked to you?

A. When this girl called me and said, "May, May", she says, "I think the elevator dropped."

Q. I didn't ask you what the girl said; I want to know where you went, and I want you to please answer the questions that I put, if you can. A. All right. I went to the elevator and I listened.

Q. Which elevator? A. The Washington place side — that is the passenger elevator; I listened, I didn't hear no screaming in the elevator, then I ran to the door and I opened the door. The key was right in the door tied to a string. I turned the key, I opened the door, I looked out and I seen the girls running down from the eighth floor, and as I looked over that way flames and smoke came right up and they made me turn in. I didn't look who was or was not there, I turned right in and ran to the elevators where I thought I could get down much quicker. Then girls coming --

Q. Now, wait a moment. When you went to a door which door was that that you went to?

A. To the Washington place side.

BY THE COURT:

Q. You mean the door going to the stairs? A. Yes, sir.

BY MR. STEUER:

Q. How far out of that door did you get? A. Right over

to the railing.

Q. And did you look over the railing? A. Yes, sir.

Q. Were there other girls with you at the time you went to look over the railing? A. Well, there must have been a lot of girls in the back of me, because I didn't look.

Q. I ask you do you know whether there were any girls with you when you looked over the railing? A. Well, I don't know who they were; there must have been girls in back of me because there was an old man standing there when I looked out and there was a girl named Tiny Frecko —

MR. ANSWER: I move that the answer be stricken out.

THE COURT: I will leave in that there was an old man standing there and a girl named Tiny Frecko. The fact that the witness says there must have been girls there is stricken out.

Q. What did you do after you looked over the rail? A. After I looked I seen the girls running and then of course the smoke and flames come up which prevented me to try to go back, and I turned back.

Q. Where did you go? A. Right to the passenger elevator.

Q. What happened then? A. Then that is the time that the excitement started on our floor, that the girls from the Greene street side rushed to this Washington place side and then of course the elevator didn't come and stop on that floor, it went up and down but never stopped there; they rushed back

again, then they come back again, back again they go to the Greene street side. Then they didn't come back any more. But a crowd did remain to the Washington place side.

Q. Then what happened? A. After a little time, I can't say how long, the elevator came up once. Well, that crowd rushed into the elevator.

Q. Which elevator? A. The Washington -- the passenger elevator, they rushed into it, it must have dropped, I don't know, it dropped, I guess; then the rest of the people they threw themselves down, or slid down, I don't know.

Q. What did you do? A. Well, when the whole crowd was there the crowd was so strong and they were pushing so that I held on to the two tubes that is between the two elevators, where you can see where the elevator is — I held onto them so they wouldn't throw me down; and another girl was holding on to my waist, Lena Barilli. So I seen there was no more around us, and I told the girl to take one rope, and I took the one closest to the wall. The cords was burning ~~ everything was burning when I was standing in that partition. Then I made that girl grab that rope and I grabbed the other cable which was close to the wall, and that is how I get down. Q. By the cable? A. Yes.

Q. What happened to you? A. My hands were all burned off, my hand on this side, and this other hand, my legs, I was cut here, my hair was pulled off, my glasses was off, hanging somewheres, I don't know -- I was an awful sight when

I got down.

Q. What was done with you when you got down? A. Well., I got down on top of the elevator cage. I hung on the cable, I guess about two minutes before I could get over to the other side. I seen a fireman going up with the hose, I says ~~ I didn't say anything, - he says, "You are all right, you are all right." I said, "Look, look!", that's all I could say, to the burning door above me. I went to put my foot down, and I don't know what it was — something soft — I think dead bodies, or I don't know what, and I made a grab for the railing, which leads over to the other side of the elevator, where I turned ay body and I was taken off by a fireman, and I think a man — yes, a man — Mr. Brown, I think it must have been — and I was taken out.

Q. Where were you taken to? A. Right around to the park, 4th street park.

Q. Where were you taken from there? A. Well, I don't know. I was home, I think two men took me home.

Q. And have you brought a suit against Harris and Blanck? A. Yes, sir.

Q. How much are you suing them for? A. \$10,000.

Q. Since the time of the happening of this accident have you ever seen anybody that came from Harris and Blanck? A. When I was home sick in bed of course I had to get another week's salary, and I sent my daughter up to the place for my wages. Well, my daughter brought me back my wages, and that was all.

After a couple of days Mr. Fletcher came to see me.

Q. Mr. Fletcher? A. Yes, sir.

Q. Who is Mr. Fletcher? A. I think he is cashier. He came to see me and asked me how I escaped, so I told him. Well, that was all right. Then of course another day another man came.

Q. Who was the other man? A. Mr. Levine, I think; a bookkeeper.

Q. How long after the fire was that? A. Well, I guess about two -- not quite three weeks.

Q. After the fire? A. Yes, sir.

Q. Did anybody else from Harris and Blanck ever come to see you? A. Mr. Bernstein came up to see me once.

Q. Which Mr. Bernstein? A. The superintendent that used to be in the triangle Waist Company.

Q. The superintendent of the triangle Waist Company? A. Yes.

Q. Did anybody else ever come to see you from Harris and Blanck? A. At the same time there was a young lady, a bookkeeper came up, that was all.

Q. Also visited you? A. Yes.

Q. Did Harris and Blanck ever come to see you, or either of them? A. No, sir.

Q. Did any lawyer on their behalf ever come to see you? A. No, sir.

Q. Have they made any settlement with you of any kind, given you one cent or anything else in any form, manner or

shape, for your claim against them? A. No, sir.

Q. When was the first time that anybody from the District Attorney's office came to see you? A. Well, I don't remember. It must have been about two weeks after too.

Q. When was the first time that you went to the District Attorney's office? A. About three weeks after the fire.

Q. Did you make a statement in the District Attorney's office? A. Yes, sir.

Q. And did you sign a statement in the District Attorney's office? A. I think so.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. Do you expect to settle your suit against Harris and Blanck? A. No, sir.

Q. You don't expect to get anything from them? A. No, sir.

Q. You would like to, wouldn't you? A. Well, —

Q. I don't know. Do you know? A. Well, I don't know, if I get something I will take it; if I don't get it I will stay without it.

Q. You would like to get it wouldn't you? A. Well, if it is coming to me, why not?

Q. You think it will come to you easier if you testify, don't you? A. I don't know. I have to tell the truth, so I can't —

Q. Can you tell me why you stated in the corridor of this building that nothing would shake you from saying that the door was open? Was that simply because that was your recollection?



A. What do you mean?

Objected to. Objection sustained.

Q. The key was in that Washington place door, wasn't it? A. Yes, sir.

Q. You saw it there? A. Yes, sir.

Q. And it was attached to the door by a string, wasn't it? A. A string, yes, sir.

Q. What color was the string? A. It was a colored piece of string -- a checked piece at that.

Q. A checked piece of string? A. Yes, sir.

Q. How wide was the piece of string that held that key to that door? A. A half inch wide, if not more.

Q. So that anybody going in there near to the door could see the key at some distance? A. Yes, sir.

MR. STEUER: I object to that and move to strike it out.

THE COURT: I will allow the answer to stand.

MR. STEUER: Exception. And I object to it on the ground that that calls for the witness's conclusion as to the capacity of a third person to see.

THE COURT: Well, she has answered it; I will let it stand.

Q. The flames that were coming up from the eighth floor to the ninth floor as you looked out were very great, were they not? A. Yes.

Q. And you would have been burned up if you had gone down

MR. STEUER: I object.

Q. That is what you thought? A. Yes.

Q. There would have been flame enough to burn a piece of wood like that, wouldn't there (indicating People's Exhibit 29)?

MR.. STEUER: I object to that as incompetent, immaterial and irrelevant, calling for a conclusion.

THE COURT: She may describe the extent of the flames.

A. Well, I guess it would.

Q. Did you see what was burning in that staircase? A. I didn't stay long enough to see what was burning, for I ran in.

Q. Where the girls were coming out there was no fire was there? A. Well, I couldn't say that.

Q. They weren't on fire, were they? A. I don't know.

Q. You saw them, didn't you? A. Yes, running out, screaming.

Q. Their dresses were not on fire were they? A. Well, I couldn't see that.

Q. In your opinion that handrail (People' Exhibit 41) could not have been where that flame was, could it?

MR. STEUER: I object to that.

MR. BOSTWICK: All right, I withdraw the question.

Q. Was the fire below where the girls were or above where they were? A. Well, it was coming through the shaft, I don't know whether it was under or on top of them, I am sure it was on top, positively.

Q. You are sure that the flame that you saw was on top of the girls? A. On top of the girls.

Q. And they were on the eighth floor and you were on the ninth floor? A. Yes, sir.

Q. How long were the checks that were on this half inch string that held the key to the door? A. Well, now, I can't exactly tell you.

Q. Well, as nearly as you can? A. A little checked.

THE COURT:

Q. What do you mean by a check? Do you mean it was a piece of goods that had a pattern in it? A. No, it was a piece of goods cut off, a figured piece.

Q. Cut off a checked piece of goods? A. Yes, sir.

BY MR. BOSTWICK:

Q. Was that a clean or a dirty piece? A. Well, it was tied onto the key and the knob of the door; I am sure it couldn't be very clean.

Q. How long a piece would you say it was? A. Well, about half a yard.

Q. About half a yard? A. Yes, sir.

Q. Did this piece of checked string that was a half a yard long, hang down from the knob of the door to the key? A. It was tied to the knob and the end of the key, and the key was in the door, so that was about half a yard altogether.

BY THE COURT:

Q. When you say the key was in the door, you mean the key was in the lock? A. Yes, sir.

Q. And this piece was tied around the knob and formed a loop for the key, is that what you mean? A. Yes, sir.

BY MR. BOSTWICK:

Q. You didn't stay there more than an instant, did you? A. I just looked over, and the only time that you looked over was when the girls were coming out from the eighth floor, just that instant? A. Just that instant.

Q. And that is the only time you looked down? A. That's all.

Q. Was that door usually kept locked? A. Well, it was closed, because we didn't use that door.

Q. Was it usually kept locked? A. Well, I don't know.

MR. STEUER: I object —

THE COURT: I will allow her answer to stand.

BY THE COURT:

Q. When you reached that door on the Washington place side, and up to the time when you say that you reached and were at that door, did you at any time put your hands on the key? A. You mean at that time?

Q. Yes. A. Yes, sir.

Q. And which hand did you put on the key? A. My right-hand.

Q. And having your hand on the key what, if any, did you make with your hand? Just turned the key? A. I have turned the knob with the same hand, and I opened the door

towards me and went out.

Q. What do you mean by turning the key? A. I opened the door because I turned the knob. The door was locked and I turned the key that was in the lock and I opened the door.

BY MR. BOSTWICK:

Q. Were there any persons around that door when you did this? A. No, sir, I was the first one at the door.

Q. You were the first one at the door? A. Yes, sir.

Q. Were there any girls around the Washington place elevators? A. Well, yes, sir, there was; there was a lot of girls.

Q. A large number? A. Not a large number, because there were only a few working on that side.

Q. How many would you say there were around the Washington place elevators at the time? A. Three or four of them at their machines.

Q. Around the Washington place elevators? A. Yes, sir.

Q. Wouldn't you say there were five or six? A. No, sir.

Q. Only three or four? A. That's all.

Q. Now, do you remember making the statement to me at my office on April 17th, 1911? A. Yes, sir.

Q. Do you remember this question being put to you, and your making this answer: "They were bunches up at the Washington place elevator door? A. The Washington place elevator door? Q. At this place were there any people around the Washington place door? A. About thirty or forty." A. I didn't say the door, I meant the Washington elevator, I never said the

door because I didn't see any at the door.

Q. Did you make that answer to my question? A. I don't know.

Q. Now, do you remember this question being put to you by me immediately thereafter, and your making this answer: "Around the Washington place door? A. Yes, sir."

A. I did, but I meant the Washington place side -- the Washington elevator, I didn't mean the door.

Q. What were these people doing at that time? A. Well, that is because the door that I seen --

Q. No, what were they doing at this time? A. I don't know what they were doing; they were banging on the elevator doors; I was doing the same thing myself.

Q. Weren't they banging on the Washington place door? A. Not that I seen anything.

BY THE COURT:

Q. After you had turned, as you say, the key, did you leave the key in the lock?

A. Yes, sir.

BY MR. BOSTWICK:

Q. Did you see anybody else touch that door? A. No, sir.

Q. Did you see anybody else come near that door? A. No, sir.

Q. Was that door always kept locked?

MR. STEUER: I object to that, calling for the conclusion of the witness, and as having been already answered.

THE COURT: Objection sustained.

Q. Was that piece of strike [sic] there will [sic] the key all the time? A. Always.

Q. Didn't you state to me in that statement of April 17th the following question and answer, "You are about the only one who gives us information that the door was open, and I want to know if you cannot by any possibility be mistaken about it? A. No, sir; the door is always locked, the door is always locked since I went there — it is two years. There was always a key with a little piece of string, so big (indicating), so that the door became — in summer we used to open it up, so that is how I knew the key was there." Did you hear that question and make that answer? A. Yes, sir.

Q. How do you reconcile that with the answer you made a few moments ago?

MR. STEUER: I object on the ground that there is nothing in conflict with her answer.

THE COURT: Objection sustained.

MR. BOSTWICK: When I say in answer to the question a few moments ago I refer to the one which Mr. Steuer asked that it be stricken out, and your Honor said you thought you would allow it to stand.

MR. STEUER: And I object on the ground that there isn't any question, that that is a misstatement on the part of the District Attorney, and, second, that it is incompetent and irrelevant, and because it is based on an

an answer to an inquiry which was originally incompetent.

THE COURT: Yes, I think I will sustain the objections, Mr. Bostwick.

Q. Did you ever see anybody while you worked there go in and out that door? A.

Yes, sir.

Q. Who? A. Well, the foreladies, Mr. Bernstein, the bosses themselves, and I went up and down these stairs.

Q. Did you make a statement to me on April 17th, 1911, when you appeared at the District Attorney's Office? A. I don't know, I can't remember everything that I said, but what I am saying is the truth.

Q. Would your recollection be better now or better then? A. Probably the same.

Q. Did you not hear this question put to you, and did you not make this answer: "Did you see anybody go in and out of that door? A. I may have."? A. I don't remember if I said "may", but I did.

Q. Did you state to me that you had ever seen anybody go in or out of that door? A. I don't know.

MR. STEUER: I object to that; he has just read an answer that shows she didn't state that.

Q. At any other part of the examination or at any other time? A. I don't know.

Q. Why didn't you make the statement then? A. The statement about what?

Q. Why didn't you state than that you had seen anybody



ever go in or out of that Washington place door, if it were a fact?

MR. STEUER: I object on the ground that it has not yet appeared that she did not make the statement.

THE COURT: You may ask her why she did not mention that she had seen the foreladies go through there.

A. I told you I seen Mr. Bernstein go through. I remember that.

Q. Didn't I put this question to you, and didn't you make this answer, "Did you ever see anybody except in the summer go in or out of that door? A. No, sir, nobody ever went in or out of that door"? A. No, none of the employees ever did.

Q. No, did you make that statement to me on April 17<sup>th</sup>, 1911? A. Well, sir, I don't remember everything.

Q. I don't want to know what you don't remember, or whether you remember everything, but I do want to know whether you made that statement to me in my office on April 17th, 1911? A. Well, I probably did.

Q. Is this your signature (indicating on paper)? A. Yes, sir.

Q. Did you swear to that affidavit? A. I did.

(Paper just identified by witness is now marked for identification People's Exhibit 42.)

Q. You have seen your signature to this affidavit? A. Yes.

Q. I ask you now to look at page 7 and read that question answer, the question which has just been put to you.

THE COURT: Read it to yourself.

A. Yes.

Q. And take a look at your signature? A. I seen it before.

Q. Now, I ask you if you want to change the answer to that question (referring to witness's answer "Well, I probably did. which is read by the stenographer)? A. No, I don't want to change, but the door was locked, but I opened it at the time of the fire, so I didn't care whether it was locked before or not, because there was never any danger to escape.

Q. Is it a fact that what you swore to on the 17th of April, 1911, is true or not true? A. It is true.

Q. And was it looked all of the time? A. Not that I know of.

MR. STEUER: I object —

A. It was locked then.

THE COURT: Do you want the answer out?

MR. STEUER: I do.

THE COURT: If she has personal knowledge she can swear.

MR. STEUER: I respectfully except. My objection to it is on the ground that it calls for a conclusion.

THE COURT: Oh, no. She went to the door and found it locked and she knew it was locked, so she can testify.

MR. STEUER: You mean on this occasion? I have no objection to the witness being interrogated as to everything she ever did with that door, but as to her statement or observation of the conditions I submit to your Honor

that you have —

THE COURT: We cannot tell what the evidence may disclose, but for the purpose of the ruling, it will be entirely conceivable, for example that she might have gone to the door locked the door, taken away the key, put it in her pocket, and come back an hour afterwards and unlocked the door; and she might very well testify it was locked during that time so far as she knew.

MR. STEUER: I have no objection, but she should not be asked for her conclusion, but should be asked what she did.

THE COURT: She may testify to her knowledge respecting whether the door was locked or not, not her opinion.

MR. STEUER: To the ruling as made I respectfully except.

THE COURT: You can confine yourself to the number of times that you went to that door.

BY THE COURT:

Q. Now, about how many times did you go to the door, during the year preceding March 25th, 1911? A. Well, on lunch hour, your Honor --

Q. Well, what is your best recollection as to the times during the year preceding March 25th, 1911, that you went to the Washington place stairway door on the ninth floor? A. A couple of times.

Q. About twice during that year? A. Yes, sir.

Q. On those too occasions do you recollect whether you found the door locked or unlocked? A. It was locked once and the other time it was open.

BY MR. BOSTWICK:

Q. In answer to this question didn't you make this answer: "Did they lock it just about the time the girls were going home? A. It was locked —"

MR. STEUER: Wait, please. I object to that as highly improper and incompetent. What knowledge have we of who "they" is? And can evidence be permitted of a statement made privately in the District Attorney's office in that way?

THE COURT: It is not necessary to argue it. I will sustain your objection. You may interrogate this witness, Mr. Bostwick, without reference to the paper that you hold in your hand, except in so far as it may appear from that paper that she has made some statement inconsistent with something testified to on her direct examination.

MR. STEUER: And I move that that answer be stricken out.

THE COURT: Yes. Now, you may go over the ground, interrogate her fully respecting everything that she knows.

MR. STEUER: The last answer, is that stricken out?

THE COURT: Yes, I will strike it out.

MR. BOSTWICK: The very last answer falls directly within your Honor's last ruling. And on the direct examination, if I remember correctly, she negated the idea that it was locked all the time, and I think that her statement made to me that it was locked all the time, negated that statement.

MR. STEUER: The fact is that there wasn't a question propounded to the witness on her direct examination on that subject; that has been entirely taken up by the District attorney.

THE COURT: Well, I don't think there was. If you can direct my attention to any query on the direct examination of this witness on that question, why then I may reconsider my ruling. My recollection is that she was not interrogated regarding it.

Q. Do you know Ida Middleman? A. Yes, sir.

Q. Did she go out in the hall with you at the time that you claim to have gone into the hall on the Washington place side of the building? A. I don't know, I didn't see her, but she works on the side where I worked, the same side, her and her sister.

MR. BOSTWICK: I don't see how we can lay the foundation for proper impeachment if we cannot recall to this witness the time and place that another statement was made inconsistent with her present testimony, before offering it. I may misunderstand your Honor's ruling.

COURT: My ruling is this: This witness was asked certain questions on the direct examination. Her responses to those questions constitute the subject matter of her direct examination. The limitations at cross examination as I understand it, and as I apply the rule now, relates to an examination respecting those matters brought out on the direct examination, plus any questions that may be asked the witness for the purpose of showing bias, or for the purpose of showing that she is other wise unworthy of belief. When you go beyond that you are making the witness really your own witness.

MR. BOSTWICK: I certainly understand that, but I did not suppose I was transgressing any of the rules

THE COURT: My recollection is that on her direct examination — I may be in error — she was interrogated as to her occupation, place where she worked, where she was at the time that she heard the fire, her movements after hearing of the fire, what she did, and so on. I don't think the direct examination went beyond that, that is my recollection.

Q. Did you see anybody else open that Washington place door? A. No, sir.

Q. Was anybody with you? A. No, sir.

Q. While you were at that Washington place door, did you hear any persons cry out, "The door is locked"? A. No, sir; how could they, I was out there?

Q. And you were the only person around that door? A. Well, I was right near the door, sure, I was the only one that did open the door.

Q. And you were the only person at that door? A. Yes, and the old man standing there inside of the door.

Q. And you were the only two persons there? A. And another girl standing up a little further from the man, the girl that called me, and there was other girls a little further over by the machines near the windows.

Q. But not near the door? A. No, sir.

Q. You were asked if you had ever seen Harris and Blanck, were you not? A. Yes, sir.

Q. Or the cashier or the bookkeeper -- were you asked about those? A. Yes, sir.

Q. Did anybody come to you and ask you to sign a piece of paper? A. Yes, sir.

Q. Who was that? A. Mr. Fletcher and Mr. Levine.

Q. And did you have a consultation with Mr. Fletcher and Mr. Levin.? A. Yes; they asked me how I escaped, so I told them and the same thing was written on the paper that they wanted me to sign.

Q. And you refuse to sign that paper? A. Yes, sir.

BY THE COURT:

Q. What was the first indication that you had that there was a fire? How did you first learn that there was a fire? A. When I opened the door, your Honor.

side door leading to the stairs.

Q. You mean to say that before you opened that door you had no intimation that there was a fire? A. No, sir.

Q. Do you understand what I mean? A. Yes, sir, I understand.

Q. The first that you knew that there was a fire was after you had opened, as you say, the Washington place door? A. Yes, sir.

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

Q. And then you ascertained that there was a fire how? By something that you heard, or by something that you saw? A. What I saw, the flames and smoke coming up the shaft -- the stair shaft.

BY MR. BOSTWICK:

Q. Did you refuse to sign that statement before you knew you were going to be a witness in this case for the defendants? A. Yes, sir.

Q. Who was it that first came to you about signing that paper? A. I think Mr. Fletcher or Mr. Levine, I don't remember which, but they both was up.

Q. It was the cashier, wasn't it? A. Yes, sir.

Q. Did you say you would not sign that paper? A. Yes, sir.

Q. What did they say to you in response to that?

MR. STEUER: I object to that.

MR. BOSTWICK: I withdraw the question.



They didn't say anything.

THE COURT: No.

BY THE COURT:

Q. Perhaps you have already answered, but if not I will ask you, how long had you been working for Harris and Blanck on the 25th of March, 1911? A. Two and a half years, your Honor.

Q. And during all that time on the ninth floor? A. Yes, sir, and worked about three months on the eighth floor, the time they were repairing the ninth floor.

BY MR. BOSTWICK:

Q. Had you told your friends what happened on March 25th 1911, before that paper was brought to you to sign? A. Well, I told it to my friends and to my daughter.

Q. Had you told it to Mr. Fletcher? A. Not before then.

Q. So the paper you were asked to sign ~ A. I told him that the day he came to see me — I told him just how I escaped.

Q. And then it was after that that he brought the paper to you? A. Yes.

MR. BOSTWICK: I understand your Honor's ruling to be that I am bound by the witness's answers to the questions which are collateral to the main issue brought out by Mr. Steuer.

Q. You testified on your direct examination that when you went to the door, you could not open it, is that correct? A. Yes, because it was locked.

Q. So that when you went to the Washington place door at the time of the fire you found the door locked? A. Yes.

Q. You worked on the ninth floor for how long? A. Two and a half years, with the exception of three months that we worked on the eighth floor.

Q. Do you know where the passenger elevators were? A. Yes.

Q. Was there a partition in front of the passenger elevators? A. Yes, sir.

Q. Next to them came the stairway? A. The stairway.

Q. Then what came next? A. The dressing room.

Q. Then two dressing rooms? A. Yes.

Q. There were no cutters tables on the ninth floor, were there? A. No, sir, they were examining tables.

Q. The cutters tables were on the eighth floor? A. Yes.

Q. No cutters tables over by the Greene street side? A. Yes.

Q. None of those on the ninth floor? A. No, sir.

Q. Nothing but machines on the ninth floor? A. The machines and the examining tables and desk.

Q. Did you have a conversation with Mrs. Goldstein? A. Mrs. Goldstein? I don't know; I don't know who she is.

Q. The mother of Mary or Lena Goldstein? A. No, sir, I don't know who she is.

Q. Do you remember having a conversation with a woman you don't know, who is dressed in mourning, the lost a girl at the fire?

MR. STEUER: I object to that.

THE COURT: I will allow her to answer, yes or no.

MR. STEUER: I except on the ground of the character of the description.

A. There are so many in mourning — yes I had a conversation with a young lady that lost her sister in the fire.

Q. No, I mean that lost a daughter? A. Yes, I do remember.

Q. Do you know whether any of those persons that you had that conversation with — does it recall to your mind whether it was a Mrs. Goldstein or not? A. No, sir, it was an Italian lady came to my home.

Q. Do you know anybody who lost a sister there? A. Yes.

Q. By the name of Mrs. Goldstein? A. No, sir, I don't know; I know an Italian girl that lost her sister there and that's all.

Q. During that two years and a half that you worked there did you ever go up or down the Washington place stairway? A. Yes, about a year before this accident, something happened to the cable, and we had to walk up stairs to the ninth floor.

Q. That was the one time, was it? A. That was one, then other times during the strike we went up and down the stairs.

BY THE COURT: When you say up and down the stairs, you mean from the street up? A. Yes.

Q. To the ninth floor? A. Yes, sir.

Q. On which side of the building? A. Washington place.

Q. Barring the time that the strike took place, and leaving out the time when the elevator didn't run, did you ever go up and down the Washington place stairway? A. In the summertime.

Q. Now, barring the summer time and the strike and the one time when; the elevator didn't run, did you ever go up or down the Washington place stairway? A. No, sir.

Q. Did you ever see anybody else go up or down? A. No, sir.

Q. Did you ever see the employees go out that way at night? A. No, sir.

Q. Well, there was a watchman employed at the Greene street side, was there not? A. Yes.

Q. And the people had to pass by the watchman? A. I don't know. I didn't pass by him, I always went down the Washington elevators.

Q. You didn't see these people go to Greene street and show their pocketbooks at Greene street? A. No, sir, I passed there several times myself.

Q. But you didn't show your pocketbook? A. Yes, sir, I did.

Q. I thought you said you didn't? A. Well, I didn't go down often from there, but I went down the Washington place side because I wanted to get down quick.

Q. You were not an operator, were you? A. Yes, I was an operator.

Q. Is that so? A. Oh, yes.

Q. Weren't you the head fancy button sewer-on on waists? A. Well, ain't that an operator?

Q. You didn't work at a machine, did you? A. Yes, at the machine.

Q. How many head fancy button sewers on waists do they have? A. I and another girl.

Q. You and another girl? A. Yes.

Q. You were in a class by yourselves, weren't you? A. Oh, no, we weren't by ourselves, we were all together.

Q. Whom do you work for now? A. I work for the Asky Waist Company.

Q. When was it you brought this suit against the defendants? A. Well, about four weeks after the fire — no, I tell a lie, about a month or two after.

Q. Did you have any conversation in regard to the question of giving testimony here as bearing upon your suit with anybody? A. No, sir.

Q. Didn't you have a conversation this morning about this suit against Harris and Blanck? A. No, sir, - with the girls in there, so I wasn't going to talk about the suit business.

Q. Didn't you say "What is the use of saying the door was locked.? A. No, sir, I said "I wouldn't lie for nobody on the honor of my children", that was the only word I said there.

Q. You didn't lose any children, did you? A. No, sir, but I have three children, so I wouldn't lie on their honor, I wouldn't lie for nobody.

MR. BOSTWICK: I move that that be stricken out as not responsive.

THE COURT: I will leave in "I have three children." The balance is out.

MR. STEUER: Exception. It was brought out by the District Attorney and after it was in instead of moving them to strike it out, as he had a perfect right to do, he based a question on it, and he couldn't base a question on the assumption that it was properly in, and then when he didn't like the answer, move to strike it out.

THE COURT: I have ruled, Mr. Steuer.

MR. STEUER: I respectfully except.

Q. On your direct examination you said that the flame and smoke came in right over the railing, is that correct? A. Yes, sir.

Q. How large a volume of flame came in over the railing? A. Well, it was in between the smoke — I couldn't see how large, I know it was a big one, that's all I can say.

Q. If you will just turn this way for a minute (proceeding to a blackboard on an easel in court room); assuming that to be the stairwell, and this to be the door, did the flame come up the stair-well and go in the direction of the door? A. No, sir, it went right through that square there.

Q. Right straight through the square in the stair-well? A. Yes, sir.

Q. So that if I am now in the stair-well, the portion of the banister nearest to me would be the portion nearest the flames, is that correct? A. Yes.

BY THE THIRD JUROR:

Q. After you had been out of the Washington place door and looked over the stairway, what did you do to the door after you came back in? A. I ran in and pushed it back, pushed it in back to me and ran to the elevator.

Q. You closed it? A. Yes, sir.

Q. Did you lock the door after you came back in? A. No, sir, I would never think of turning that key again.

MR. STEUER: Let me see that statement, please (referring to the paper purporting to contain statement given by the present witness to Mr. Bostwick in his office.)

MR. BOSTWICK: I will if you will permit the jury to see it.

MR. STEUER: I ask your Honor to instruct Mr. Bostwick not to do that again during this trial.

THE COURT: What do you want, Mr. Steuer?

MR. STEUER: I asked Mr. Bostwick for the statement that was marked for identification (People's Exhibit 42 for identification.)

THE COURT: Yes, and Mr. Bostwick offers it to you conditionally?

MR. STEUER: Provided I show it to the jury.

THE COURT: Mr. Bostwick has a right to attach any

any conditions that he sees fit for the reason that the matter is merely marked for identification.

MR. STEUER: I wish to call your Honor's attention to the fact that that is not the law.

THE COURT: Isn't that so?

MR. STEUER: No, the law is that when a paper is interrogated from and marked for identification, it is the property of the adversary. I don't want to take advantage of a ruling that might be made without consideration.

THE COURT: I don't know but what you are right.

MR. STEUER: That is the law, and of that I am absolutely certain, and I have had the exact question reviewed on appeal, and I don't want to take advantage of any ruling that your Honor may have made without giving it the thought to which it is entitled.

THE COURT: I think I do recall that you are right.

MR. STEUER: But under no circumstances can either counsel try to make a bargain with another. Lawyers have a right to consult their client's interest. If I make a request of Mr. Bostwick he has the right to either decline it or concede it, but he must not make these bargains with me, because I have intimated before that I decline to make bargains where my client's liberty is at stake.

MR. BOSTWICK: I ask that the jury be directed to dis-



regard this irrelevant statement of counsel.

MR. STEUER: It is Mr. Bostwick's attempt to bargain which should be disregarded by them, because it is bartering the liberty of these defendants in an improper method, and it is not proper on the part of the prosecuting officer to do it, and I have asked him before not to do it, your Honor.

THE COURT: Gentlemen, we will work in an orderly manner with the trial. I need hardly say, Gentlemen of the jury that if this case is submitted to you, you will consider the evidence and the evidence alone.

I am inclined to think, Mr. Bostwick, recollecting now the law, my attention having been directed to it, that Mr. Steuer is entitled to see a paper that has been used in the examination of a witness, although merely marked for identification. Do you dispute that?

MR. BOSTWICK: I do, sir; particularly the use which was made of this paper and the limitations placed upon it by the Court.

THE COURT: Very well, now, proceed.

MR. BOSTWICK: And I should like to see an authority if the Court will be good enough to advise me upon it.

THE COURT: The rule stated in Article 132 [of Law?] on Evidence, as follows: "A witness under cross examination, or a witness whom a judge under the provisions of Article 131 has permitted to be examined by a party who claims his previous statements inconsistent with his present testimony, may be questioned as to previous statements made by him in writing (reading).

Mr. Steuer, you say there is a case that holds that you have a right to see that paper?

MR. STEUER: Yes, your Honor.

THE COURT: Will you give me the reference, - what case is it?

MR. STEUER: I do not know, but I will give it to you in the morning.

THE COURT: Very well. I will reserve ay decision.

MR. STEUER: I will give it to you and give you several other cases, possibly, in fifteen or twenty minutes.

THE COURT: Just one case.

MR. BOSTWICK: Under that very section which I called your Honor's attention to, I ask the right to ask this question as to previous statements inconsistent with the present testimony, and your Honor restricted me to only such matters as were brought out on direct examination.

MR. STEUER: Will we call another witness?

THE COURT: Yes; this witness may be withdrawn, and I will examine that question, Mr. Steuer.

(Witness withdrawn.)

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

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 199 West 134th street.

Q. Mr. Horton, what is your business? A. Well, my business doing the porter work at  
the Asch building; seeing that the place was kept clean.

Q. Is that where you work now? A. Yes, sir.

Q. Who did you work for, Mr. Horton? A. Mr. J. J. Asch.

Q. And how long have you worked for him, Mr. Horton? A. Eight or nine years.

Q. In connection — during all that period — is this the building at 23 and 29  
Washington place? A. Yes, sir.

Q. Were you the only porter there? A. The onliest porter there for that house.

Q. Did you work for Harris and Blanck at all in any way? A. No, sir, I only did a little  
cleaning of the signs, or something like that.

Q. That is downstairs? A. Downstairs.

Q. One of the sort that appear on plate — plate signs? A. Yes, sir; that is the onliest  
work that I did.

Q. Mr. Horton, was it part of your business to sweep the stairs? A. Yes, sir.

Q. How often did you do that? A. Well, About two or three

times a week, I had to sweep the stairs.

Q. How many sets of stairs were there in that building, Mr. Horton? A. Two sets.

Q. What did you call them? A. What?

Q. What did you, or do you call them? A. We call one side the Greene street side, and the other the Washington place side stairway.

Q. Did you sweep the Washington place side? A. Yes, sir, sure.

Q. How did you get upstairs, where did you start sweeping, from the bottom of the building or the top, from the bottom up, or from the top down? A. From the top down.

Q. How did you come up to start, Mr. Horton? A. Take the front elevator, the passenger car, and ride up to the tenth floor and get out and walk down the stairs, well, I opened the door and go out, and I swept the stairway down.

Q. What door did you open up to get out onto the Washington place stairway? A. The Washington place stairway on the tenth floor.

Q. At any time when you came to the stairway door, did go through that door, did you have to unlock it, or how did get through? A. I turned the knob, and go right out.

Q. Now, during the time ~ then did you sweep down the stairs? A. Why, certainly.

Q. Now, during the time that you swept down those stairs, did you ever see the door from the Washington stairway on the

ninth floor? A. Open?

Q. I am not asking you open or shut, did you see the door? A. Why, yes.

Q. So you knew there was a door there? A. Oh, yes.

Q. Did you see it on every floor on your way down? A. Yes, sir.

Q. During the time that you swept those stairs down, did you ever open the door, that is, from the outside into the ninth floor into the Washington place side? A. Yes, I opened it several times on the ninth floor, because when I swept the stairways, well my back was turned towards the stairway, and I would trip up against the door and sometimes it would open.

Q. Did you ever go into that stairway or go into the loft from that stairway with Mr. Stern, your superintendent or boss, or whatever it was? A. Yes, used to go there several times with Mr. Stern.

Q. Did you ever come to that door on the Washington place stairway so you could not get in on the ninth or the floor? A. No, I never did.

Q. Did you go into the eighth floor from the Washington place stairway with Mr. Stern while you were working there? A. Yes, sir, I did.

Q. And while Harris & Blanck had that loft? A. Why, certainly.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. You said you were the employee of Mr. Asch? A. Yes.

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Q. Now, isn't it a matter of fact that you never were employed by Mr. Asch at all? A. I am employed by Mr. Asch.

Q. You are employed by Mr. Asch? A. I am working for Mr. Asch.

Q. You are certain that you are working for Mr. Asch? A. Certainly I am working for Mr. Asch.

Q. When did you see Mr. Asch? A. Well, I ain't seen him ~~ well, I guess about a week, or something like that.

Q. When did you first go to work at this place? A. About eight or nine years, I don't know exactly the date.

Q. Well, that is Mr. Asch hires you? A. Mr. Stern hired me.

Q. Now, don't you work for Mr. Stern as a matter of fact? A. Well, he employed me.

Q. And you worked for Mr. Stern? A. Yes.

Q. Mr. Asch never said anything to you, did he? A. I don't know; xxxxx.

Q. Did Mr. Asch ever pay you? A. No, Mr. Asch never paid me, not as I knows of.

Q. Mr. Stern paid you? A. Yes, sir.

Q. Mr. Stern is the person that hired you? A. Yes, sir.

Q. Mr. Stern has been on the stand here to-day, hasn't he? A. I cannot tell you, I guess he has.

Q. You haven't seen him in the building here, have you? A. Me?

Q. Yes. A. No.

Q. And you haven't seen him here to-day? A. No.

Q. What time did you come here to-day? A. I get here about half past ten or eleven o'clock.

Q. Haven't seen Mr. Stern in this building to-day? A. I weren't looking for Mr. Stern.

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

THE COURT: Strike it out. Answer the question. A No.

Q. Didn't see Mr. Stern here to-day? A. No.

Q. Didn't have any conversation with Mr. Stern? A. He.

MR. STEUER: That is the sixth time, at least, that he has answered that in regard to Mr. Stern.

MR. BOSTWICK: That is only about half enough.

THE COURT: Proceed, now.

Q. Mr. Horton, do you remember making a statement to me on April 3rd, 1911?

A. Making a statement to you — I made some statement, - I don't know if I made it to you, or not.

Q. Did you say statement or misstatement? A. I did not say — well, I made a statement.

Q. Did you say statement or misstatement, is my question? Did you say misstatement? I want to know what you said? A. I want to know what you asked me, then I tell you what I said.

Q. Do you remember appearing in my office on April 1st, 1911, when there was a stenographer and other persons present, before the trial ever began? A. Yes, sir.

Q. Do you remember this question being put to you and you

making this answer: "Did you ever go through the door on the Washington place stairway on the eighth, ninth and tenth floors? A. No, sir."? A. I don't remember that.

Q. Have you forgotten it? A. No, I never forgotten it.

Q. Did you -- do you say you didn't say it? A. Yes, sir.

Q. You did not say that? A. No.

Q. Was this question put to you and did you make this answer: "Q. Did you ever try any one of those doors? A. No, I did not really try them, because I didn't have no business up there, and I didn't try those doors, only as I go up to sweep the stairs when it was necessary". A. I didn't make that statement exactly, and what I said, you asked me ---

Q. Did you ---

MR. STEUER: Wait a moment.

Q. Did you make that statement? A. No. You ain't said it like I said it there. You didn't speak about at all like I said down to your place of business.

Q. Did you hear this question put to you, and did you make this answer: "Were the doors on the eighth, ninth or tenth floors ever locked? A. I am afraid to say either, because they generally lock those doors because they didn't pass down that way." Was that question put to you and did you make that answer? A. Not that way. I told you ---

Q. It is a different way? A. All right. I know what I said.

Q. Is it is a different way from the way you said it? A. Yes.



it is a little different from the way I said.

Q. Was this question put to you and did you make this answer: "They generally kept those doors locked on the Washington place side? A. Yes, sir."? A. No, sir.

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

Q. Was this question put to you, and did you make this answer: "Q. But on the Washington street side? A. I could not say whether they were open all the time, but I know on the eighth floor I tried there once and that door was open on the eighth floor, but I could not tell you whether it was open on Saturday." A. I said that.

Q. You said that? A. Yes, sir.

Q. So then as a matter of fact you never tried the eighth floor door but once, is that true? A. Did I ever try it any more than once, - I tried it more than once, but on that floor I said I tried it, and the door was opened, - that don't say I only tried it once.

Q. Was this question put to you and did you make this answer to me: "Q. When did you go through there on the eighth floor yourself? A. I ain't been through there, I never went through there." A. No, sir, I never said I never went through there; I passed through there most all the time, if I felt like it.

Q. And referring to the eighth floor door, you were asked this question, and did you make this answer: "Did you ever try it? A. I only tried it once." A. Yes, I made that statement once, I only tried it once, and I found it open at that time; I

didn't say I only tried it once the whole time I was in the building.

Q. Was not this question put to you, and didn't you make this answer to me: "Q. Don't you know as a matter of fact that the doors on the eighth, ninth and tenth floors were usually locked? A. Usually locked." A. I don't remember saying anything like that.

Q. And was not this question put to you and didn't you make this answer to me: "And don't you know it because you have tried those doors? A. Yes, sir, rubbing up against them, I know they ain't, rubbing, passing down that way."? A. No, sir, I didn't make that.

Q. And was not this question put to you and didn't you make this answer: "Don't you know beside rubbing up against them -- don't you know you have tried that knob and it was locked? A. General rule they locked them." Was that question put to you and did you put that answer? A. No, sir.

Q. Aid wasn't this question put to you, and didn't you make this answer at the same time by me: "And you know it because you tried that knob? A. Not every time I go up." A. Yes.

Q. That you said? A. That I said; I didn't try those doors every time I went up. It was not in my —

Q. You do remember that question and answer? A. I remember that question.

Q. And none of those ether questions, none of those others?

A. When you say anything I said, I will tell you.

Q. And was this question put to you and did you make this answer: "But you tried that knob? A. I have tried it". A. I tried the door and it was open; I remember saying that.

Q. No, no, Mr. Witness. A. All right.

Q. I say, did you have this question put to you, "But you have tried that knob", and did you answer, "I have tried it"? A. No, sir.

Q. And was not this question put to you, and did you make this answer to me: "Did you ever try that door and find it locked? A. What door? Q. You know what we are talking about? A. I have tried it once. Q. Did you find it locked that time? A. Yes, sir." A. No, sir.

Q. Was this question put to you and did you make this answer to me: "You did find it locked, you went up there, and pulled the knob and find it locked? A. Yes, sir"? A. No, sir.

Q. How many times ~ was this question put to you and did you make this answer: "How many times did you do that? A. Once." A. How many times did I do what? Try the knob?

Q. I am not asking whether you ever did anything, except did you tell this to me, -- was this question put to you, and did you make this answer in my office on April 3rd, 1911, is the question that is put to you? A. Well, what I know, what question is it, so don't you explain it to me.

Q. I want to know whether you were asked this question:

“You did find it locked, you went up there and pulled the knob and found it locked? A.

No, sir.” A. You ~ no, sir.

Q. You didn't say that? A. I didn't say that, no, sir. I didn't.

Q. And was not this question put to you and didn't you make this answer, “Q. How many times did you do that? A. Once.” A. Went to clean the stairway, how many times did I go to clean the stairway?

Q. No; was that particular answer and question made and put to you — was not that particular answer given by you to that particular question? A. I remember saying how many times did I sweep these stairways, I remember saying two or three times —

Q. Mr. Witness, we don't want anything except whether you made that statement to me in my office on April 3rd in the presence of a stenographer and other witnesses: Q. How many times — ”

MR. STEUER: In the presence of other witnesses?

MR. BOSTWICK: Yes.

MR. STEUER: You and the stenographer were becoming witnesses at that time, were you?

THE COURT: No, go on.

MR. BOSTWICK: Other witness to his statement, to his transaction, - I am looking forward, perhaps, to another proceeding.

MR. STEUER: Don't you make threats against anybody

in the course of this trial —

THE COURT: Proceed in an orderly way.

MR. STEUER: I respectfully except to the remark of the District Attorney. What has come to me heretofore with respect to threatening language to other witnesses, I did not believe, but I respectfully request now, Your Honor, that the District Attorney be requested to desist from ever making such a statement again in the course of this trial in the presence of any of these witnesses.

MR. BOSTWICK: I ask the Court to scrutinize my statement and to pass judgment on it.

THE COURT: Proceed.

Q. Was not this question put to you, and did not you make this answer: "And you never found it unlocked? A. I told you once."? A. Yes, I found it unlocked.

Q. I don't want to know what you found. All I want to know is whether you made that statement to me in my office on April 3rd, 1911, and in the presence of a stenographer and a witness? A. Yes, I made a statement as to the —

Q. What I want to know is whether you made that statement or not? A. I am afraid to say unless you tell me what it is about, I remember finding the doors open, you say didn't I say the doors -- how do I know what you mean. I said once on some other last time, - I don't know, if you explain it to me I tell you exactly.

MR. BOSTWICK: I ask that the statement of the witness be stricken out as irresponsible.

THE COURT: Denied.

MR. BOSTWICK: There being no question.

THE COURT: Denied.

Q. I ask you whether this question was not put to you, and whether you did not make this answer: "I want you to answer my questions? A. No, sir; I only tried once to see if the doors were locked, because I thought they kept them locked most of the time"? A. No, sir, never, not that way.

Q. And was not this question put to you, and did not you make this answer: "Was there any key in those doors? A. I could not tell from on the outside"? A. Yes.

Q. You made that answer, you remember that? A. Yes, sir, because all I know --

Q. Were you asked this question, "Did you ever see any key on the outside? A. I didn't go rubbering to see." Now, then, that is the question, and that is the answer, "Did you ever see a key on the outside of those doors? A. No, sir."? A. About the key, yes.

Q. Did you so answer that question? A. Yes.

Q. What time was it when you started to sweep that place down? A. Well, about ten o'clock, ten or eleven o'clock, the time that I got my little cleaning to do down stairs.

Q. You mean during the day-time? A. During the day-time.

Q. And what time did you cease or stop sweeping down these

stairways? A. When I got through.

Q. And then did you say — you say from half past ten or ten o'clock, - did it take you from half past ten all of the time? A. I didn't have no limit at all; I was just ordered to sweep those stairs.

Q. Did you spend two hours sweeping the stairs? A. Whatever it was necessary; I did not make it a rule to spend any particular time.

Q. I don't want to know how long it was necessary. I want you to tell me how long it took you, to sweep those stairs, from the best of your recollection? A. I can't say exactly how long. Well, maybe it took me an hour.

Q. What is the longest? A. It took me to sweep those stairs— I never timed myself.

Q. I am not asking you whether you timed yourself, I asked you how long was the longest it took you? A. Well, I guess an hour and a half if you want to know it.

Q. Did you ever take three hours in sweeping those stairs? A. No.

Q. Now, were you ever at the Washington place door at closing time? A. Was I up there at closing time, - I don't make it my rule to be there at closing time.

MR. BOSTWICK: I respectfully ask your Honor to direct this witness

--

THE COURT: Strike it out.

MR. BOSTWICK: To answer the question of the District

Attorney.

THE COURT: This applies to the last question, the last question, only.

(Question repeated by the stenographer.)

THE COURT: Answer that yes or no, or I don't remember.

A. Yes, I was at the Washington place door at closing time.

Q. When? A. I don't know exactly what date.

Q. Well, when, to the best of your recollection? A. Well, I am around there most any time, about closing time, I don't know what date.

Q. Did you ever try one of those doors on the Washington place side after closing time?

A. No, sir, because I wasn't upstairs; I was down in the main hall at that time, and I didn't stay upstairs at closing time.

Q. Weren't you down in the main hall attending to your duty? A. Yes, sir.

Q. And you were not upstairs in the eighth and ninth loft when they closed? A. Not when they closed the doors.

Q. Then you don't know whether the door on the eighth floor and the ninth floor was locked at closing time? A. At closing time, I don't know.

Q. You don't know anything about the condition of that door on the Saturday of March 25th, 1911? A. No, the closing time I don't.

Q. Where were you at the time of this fire? A. Downstairs



with the engineer.

Q. You were not even on the eighth, or ninth or tenth floor? A. No, sir, not at the time of the fire.

Q. Can you tell me how many days it was before the fire that you remember having tried the door and finding it locked on the ninth floor? A. And finding it locked --

MR. STEUER: I object to that on the ground that it assumes a fact, the contrary of which has been testified to by the witness.

MR. BOSTWICK: I didn't mean to include it if that is your understanding; that was not my understanding.

THE COURT: The question is withdrawn, then.

Q. While you were cleaning those stairways did you ever see any one go in or come out of the doors on the Washington place side on the eighth or ninth or tenth floor? A. Did I ever seen a one go in or come out, - yes I have been some one go in and come out; I forget the lady's name, I don't know, -there was so many girls; as a rule they did not go up and come down that way.

Q. I don't want the rule. A. All right. I have seen some.

Q. Wait just a moment. Your answer to that is you have? A. Yes, sir.

Q. Now, I ask you whether you did not hear this question put you by me, and did you make this answer on the 3rd of April 1911 in my office:

District Attorney [...] subject was not gone into on my direct examination, no inquiry upon it was propounded. You cannot simply raise up a stub for the purpose of knocking it down?

THE COURT: Why do you argue it; I am prepared to rule on it. I do not think it was gone into on the direct.

MR. BOSTWICK: I think it was, if your Honor please.

THE COURT: The question is as to whether he has seen persons go upstairs or down. What was the question?

(Last two questions and answer read by the stenographer. )

MR. STEUER: I object to that as attempting by another question to contradict an answer which he has just received to one of his questions.

THE COURT: I will allow the question.

MR. STEUER: I except.

Q. Was not this question put to you and this answer given by you: "Q. While you were cleaning these stairways you never saw anybody come in or go out any one of those doors on the Washington place side, on the eighth, or ninth, or tenth floors".

MR. STEUER: I object to it, may it please your Honor on the ground that the only purpose it can be is to contradict the witness on a collateral matter, and upon an inquiry that was not gone into upon direct examination.

THE COURT: You did not go into the question on the direct as to whether or not he had seen persons going up and down?

MR. STEUER: No, sir.

THE COURT: You did inquire and interrogate him with respect to the condition of the doors?

MR. STEUER: Yes.

MR. BOSTWICK: Your Honor will recall that he asked him didn't he sweep beginning at the tenth floor and that way down to the bottom, and didn't he bump into another door and that door was not open, and whether he did not open the doors; that was all brought out on direct examination.

MR. STEUER: I didn't ask him anything about bumping—I did ask him whether he swept on the stair leading from the tenth to the ninth on the Washington place side, and whether he swept all the way down, and I asked him whether he himself ever passed through that stairway into the ninth and the eighth loft, and I asked him whether he ever passed into it with Mr. Stern, his manager or superintendent. Now, those were the subjects of inquiry that I directed to the witness. There was not a suggestion by me of an inquiry whether he saw anybody go up or down those stairs. I call your Honor's attention to the fact that the rule is that you can ~-

THE COURT. I know what the rule is.

MR. BOSTWICK: We have been hearing so much of what Mr. Steuer and others understand to be the rule, if your Honor please, that I would certainly like to have one authority called to my attention so that I may look over that authority which sets forth as to the limitations of cross examination. Your Honor knows that there has not been a decision since 87 New York, although I well know what has been the judicial attitude toward that subject and the practices which they have followed, and I would simply like to know of a single case that laid down the law and forms the authority in that respect.

MR. STEUER: I heard you say before, Mr. Bostwick, that there is not any decision, and then within a very short time the decision of the highest Court of the State was produced and called to his Honor's attention. You said a moment ago there was not any authority on the question of examination of these statements; I don't know how much reading you do ~~

THE COURT: Gentlemen, I trust that after this there will be very much less colloquy; it serves no useful purpose, it is certainly disrespectful to the Court, and distracting to the jury and not conducive to furthering the ends of justice. The examination and cross examination must relate to facts in issue, or relevant or deemed to be relevant thereto, but the cross examination need not be confined to the facts to which the witness testified

on his examination in chief. Re-examination must be directed to the explanation of matters referred to in cross examination and if new matter is permitted by the Court in re-examination, the adverse party may further cross examination upon that matter. When a witness is cross examined, he may in addition to the questions referred to, be asked any question which tends to test his accuracy, veracity or credibility, and to shake his credibility or injure his character. That appears to be the rule as set out in our decisions.

MR. BOSTWICK: I base upon the first sentence of your Honor's quotation of cross examination, that it need not be confined to the facts to which the witness testified on his examination in chief. I disagree with that rule which is entirely in my favor, if your Honor will permit me to examine as to matters which are not brought out in addition to those brought out in direct examination. I desire to call your Honor's —

THE COURT: Yes, but this rule in most of the States of this country applies that the cross examination must be limited to matters which have been brought out in the examination in chief, and as to the new matters which are brought out by the witness, the witness is deemed to be the witness of the examiner and not of the one who called him.

MR. BOSTWICK: Your Honor, this witness testified on direct examination that he started at the tenth floor

and he opened the door ——

THE COURT: I think it bears upon his knowledge of the situation and I will allow it.

MR. STEUER: I except.

THE COURT: In other words, he may testify whether in point of fact he did that which he said he did by showing his familiarity with the conditions at the place where he is said to have been, that which he has testified to.

Q. Was this question put to you and did you make this answer: "Q. While you were cleaning those stairways you never saw anybody go in or come out any one of the doors on the Washington place side on the eighth floor, or the ninth floor or the tenth floor? A. No, sir, I did not see anybody come out."

MR. STEUER: I object to that question.

A. (Interrupting) I didn't say it that way.

MR. STEUER: (Continuing) On the ground that the question has been propounded by the District Attorney to the witness first that he attempts and seeks to contradict the witness on a subject collateral to the direct examination, and which he himself elicited for the first time.

THE COURT: I will allow the witness to answer.

MR. STEUER: I except.

Q. Did you get that question, or do you want me to repeat it? A. Yes, I got the question.

Q. You understand it? A. I don't remember saying never.

Q. Will you say that you didn't say it? A. I say that I did not say —

Q. Will you say that you did not say it? A. What I say ~

Q. Will you now say that you did not say it? A. Well, I did not say exactly like —

Q. Will you now say you did not say never? A. Never —

Q. Will you now say that you did not say never? A. Never saw the girls come down ~  
well, I say as a rule that the girls did not come down that way, I remember saying that.

Q. Now, Mr. Witness — A. I did not see anybody —

Q. I ask you whether you did not use these words in my office on April 3<sup>rd</sup>, this is very simple, and you ought to give me a direct answer, -- did not you say this to me, just listen to what I have read to you. A. All right.

Q. Didn't you say, "No, sir, I did not see anybody come out?" A. I may have said it, I don't remember.

Q. You may have said it? A. I don't remember saying never seen the girls, as a rule they didn't come down that way.

Q. Did you say it, - didn't you say it or don't you remember? A. I don't remember.

Q. You may have said it? A. I may have and I might not that way, I don't remember.

Q. But you would not have said it if you ever had been anybody come out? A. I have seen them come out there.

Q. Why did you say in your statement that you never had? A. That is it now, that is what I am kicking on. I don't

remember saying never. If you had told me in the house in time, I would have kicked and told you so, but on this "never" business, that is what got me bothered all up.

MR. BOSTWICK: Mr. Graham.

(A young man steps to the railing.)

Do you ever remember seeing this gentleman before (pointing to Mr. Graham)? A. I might have seen him before.

THE COURT: Mr. Steuer, I will hand those two books to you, those are two of the cases that you referred me to, one is at page 175, that is in volume 131, and the other is at page 613, that is in Volume 120. What part of either of those cases applies?

MR. STEUR: On page 175 the Court of Appeals criticizes the suggestion that where the paper is in Court and you call for its production, and they refuse to give it to you, unless you agree to offer it in evidence, they criticize even that rule, and in that case, your Honor, the paper had not as yet been used or examined from.

THE COURT: Now, that case that you hold in your hand is not in point.

MR. BOSTWICK: Is that Smith against Rentz case, your Honor?

THE COURT: Yes. That case is not in point. We will take up the other one.

MR. STEUER: Your Honor does not consider that that



is conclusive on that proposition that you have a right to a paper when it is used for examination?

THE COURT: I don't consider that the situation there was analogous, therefore, I do not think that that ease is in point.

MR. STEUER: Now, if the Court is satisfied with its rule, I am entirely willing to content myself with the exception, your Honor. I thought I was bringing to the attention of the Court authorities that would show that that testimony is admissible, and if it is, your Honor's opinion, as urged by the District Attorney, that they have a right to use the paper and frame questions from it, and ask the witness, didn't you say to me thus and so, as reading the question from a paper, and then we cannot see whether it is properly read or not, if the contention of the District Attorney is that that is the law, I don't want to urge the contrary rule, I am perfectly to rest upon the exception upon such a proposition.

THE COURT: I have not made up my mind, Mr. Steuer, as to what the rule of law is, but I merely say that the case in the 131st New York is not in point.

MR. STEUER: I will not urge that upon your Honor any more, except that I ask your Honor to look at it again. Because I am quite satisfied that it goes further than what I contend for here.

THE COURT: The rule may be exactly as you state it,

I am not prepared to say that it is not.

MR. BOSTWICK: The People offer no objection to its going in evidence.

MR. STEUER: Now, I except to that remark, in view of what transpired, particularly in view of the Court's instructions that there should be no further colloquy.

THE COURT: You may turn to the case in 120 New York, 613. I may say, Mr. Bostwick, that what I had in mind when I ruled then, was the particular part of the law that is applied to the paper, where the paper is used for the purpose of the witness's refreshing his recollection, and in those cases it has been held that although it is not offered in evidence the opposing counsel had the right to see it in order that he may examine the witness upon it, for the purposes of ascertaining among other things how, and in what way and why it refreshes his recollection, and for the purpose of demonstrating, if you please, if it can be done, that it is not such a paper as would, in the ordinary course of things refresh the recollection of the witness. I may also say off-hand --

MR. BOSTWICK: The last article in Stevens, where he quotes the Smith against Rentz case, is laid down as the proposition that where the person who had a notice to produce served upon him -- that is not this case, that was one of the things in that case. But I also concede the proposition that he would offer in evidence

a document, that it is then proper that the counsel for the opposing party, the opposing counsel has opportunity to examine, and has the right, and it is his right and duty to inspect the document if he wishes so to do.

THE COURT: You have interrogated the witness, and I am referring now not to the last witness, but to the witness before the last — with respect to certain statements alleged to have been made by her, and the interrogation has proceeded along the line of directing her attention to something which she is alleged to have said inconsistent with her testimony as given here in Court. I suppose that the writing stands in the same position to the inquiry that any oral inconsistent statement that was made by the witness would have stood. In other words, you interrogated her with a paper in your hand in the same way you might have interrogated her on what she said before, or was alleged to have said before, without having introduced the writing, and it had been stated orally in the presence of some one whom you proposed to call as a witness, is not that so?

MR. BOSTWICK: No, I must state in fairness to the Court I went further than that, because I showed her the document.

THE COURT: And she identified it?

MR. BOSTWICK: And she identified it and her signature. And I believe, if your Honor please, that in

the case of Queens Insurance Company against Van Heisen, reported in the Law Journal, that we are entitled to offer the document in evidence itself, and then it is subject to be rehabilitated by the counsel for the defendant.

THE COURT: I will let my ruling on that question stand over until to-morrow. I will look up the law, and I will decide to-morrow about it, and the witness can be recalled.

REGINALD J. WILLIAMSON, a witness called in

behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. Where do you live? A. 134 West 133rd street.

Q. Mr. Williamson, where are you employed? A. Where are I employed, sir?

Q. Yes, sir. A. Harris and Blanck, Triangle Waist Company.

Q. Now? A. Not at present at all. You mean now?

Q. Yes? A. No, at present.

Q. Where are you employed? A. I are employed now with D. L. Cohn as janitor.

Q. Where do you work? A. At 134 West 133rd street.

Q. Has it anything to do with Harris and Blanck in any way? A. No, sir.

Q. Were you in the employ of Harris and Blanck at the time of the fire? A. Greene street ~

Q. Were you employed with them at the time of the fire?

A. I was, yes, sir.

Q. What position did you hold with them? A. As porter.

Q. And what floor did you work on? A. At the time of the fire I was on three floors, that is assisting on two floors, regularly on one, that is the ninth floor.

Q. How long have you been regularly on the ninth floor? A. I was there for about fifteen months.

Q. Prior to the fire? A. Yes.

Q. Now, did you work for Harris and Blanck at any other place for any length of time after the fire? A. I worked twelve days.

Q. After the fire? A. Yes, sir.

Q. And since the twelve days after the fire you never worked for them at any place? A. No place at all.

Q. Now, when you worked on the ninth floor during these 15 months you have testified about, what time did you go to work? A. Eight o'clock.

Q. Morning or evening? A. Morning.

Q. And what time did you quit work? A. Quarter to six the bell rang and we got out at six o'clock.

THE COURT: Gentlemen, after a witness has testified what is your wish, that he should remain in the court room or leave it?

MR. STEUER: It don't make any difference to me at all.

MR. BOSTWICK: I don't think the witnesses should re~

main in the room except a formal witness when he has testified, for the very reason they may be recalled, and I think they should be withdrawn. We carried out that policy in producing the People's witnesses.

Q. Now, you tell the jury what was your routine duty after you came to work and up to the time when you quit? A. I got in the morning at 8 o'clock a.m., I made the floor clean on all three floors, that is, two floors, that is the eighth floor and the ninth floor.

Q. Talk up, so these people can hear? A. I say I got over there at eight o'clock in the morning, 8 a. m. I can't speak very well. I have got a bad cold, and have had it for some time — up on the 8th and the 9th floor I clean, and sweep I mean, - the night porter cleans out at night, I don't have to sweep when I get there first thing in the morning; I clean the toilets, that is the first work. I get through with them about quarter to nine. I then take lunch orders for the eighth and the ninth floors.

Q. What do you mean by lunch orders, tell the jury what you did? A. I take orders from the girls, every girl in the house that wanted lunch and don't bring her lunch, or something of the kind, I take the orders, collect the money and bring their lunches by numbers.

Q. How do you know what the girls want? A. They tell me what they want.

Q. Do you go to each girl in the place? A. I does go to

each girl in the place in rotation.

Q. Every day? A. Every day, done it all over; after that I go and buy the lunch, get back about eleven o'clock, sometimes a little later, and have all the lunch by the time — before the bell rings for twelve o'clock; after getting them lunches, and giving them their change, while they eat, I will go to the large aisle, and sweep ~ sprinkle and sweep them all; they go to the windows and eat their lunches, mostly, and the dust don't interfere with them at all; I would sweep. When the bell would ring for them to turn to I would then clean the water sinks and all that and the toilets and spaces where they had been around the windows, and than I go out to lunch about two or half past, sometimes not before three o'clock, and make for my lunch. When I get back from lunch, my lunch, it is generally cleaning again, I clean then and leave things in shape for the night man. I usually sweep on the eighth or the ninth and on the tenth floor, and we had a boy, Harry, and the only thing I have to do is to assist on the eighth — the ninth floor I generally sweep; I see that the toilets are all right, and after that I see that the water pails - I had arranged it so that the water pails is here all right.

Q. Keep your voice up so that we can hear you. A. I wish I could. I have got a bad cold and have been so for the last two months. At that time I am called in to do anything they may want done on the tenth floor, in the afternoon from four

o'clock or half past four, about the time they may call on me for anything. Sometimes the water is running over on the ninth floor, and the water is running over from the ninth floor and I am called to fix it, and so forth, and they used me that way until quarter to six.

Q. Now, the eighth and ninth and tenth floors during the fifteen months that you worked there where were the keys on the Washington place side doors? A. The Washington side door key.

Q. Yes, sir. A it was kept in the door, tied with a long string, that is the way it was kept.

Q. Tied to what? A. Tied to the knob of the door.

Q. Was it kept that way all the time that you worked there? A. It was kept that way as far as I can remember all the time that I worked there; Mr. Blanck I recalls pretty near discharged me about the keys.

Q. What happened? A. He came to the door one morning, it was about — I was just taking orders —

MR. BOSTWICK: I object on the ground that anything Mr. Blanck may say to this witness, from this witness's mouth, on the ground that it is self-serving declaration.

THE COURT: Sustained.

MR. STEUER: I beg your Honor's pardon, but a direction from the defendant with relation to one of these Washington place doors, is not that admissible?

THE COURT: Something that may have been said. I



don't think it competent.

MR. STEUER: Your Honor does not want to hear me on that?

THE COURT: I do not think it will be necessary.

MR. STEUER: Then I respectfully except.

I would like to formulate the question, however, and bring the matter up square, so there won't be any doubt about it.

Q. You tell this jury what, if anything transpired, and what was said by Mr. Blanck any time while you were in the employ of Harris and Blanck with relation to the keys and the Washington place door?

MR. BOSTWICK: The objection is renewed.

THE COURT: Same ruling.

MR. STEUER: And I respectfully except.

Q. Who tied the key to the Washington place door knob on the ninth floor? A. That I don't know, sir.

Q. Did you ever tie it? A. I did once, when I was chastised about it, being too tight to the knob.

Q. On that occasion did you yourself furnish the piece of lawn or string or whatever it was with which you tied the door key on the ninth floor on the Washington place side to the door knob on that door? A. I did, sir, I furnished it myself.

Q. Where did you get the piece of string or lawn, or whatever it was, Mr. Williamson?

A. The only thing I had to do was to turn my back, that was all, lawn there was a plenty of.

Q. Then you took a piece of lawn, and did you, yourself tie the key to the door-knob,

A. Yes, sir, I did, because I was watched while I was doing it.

Q. How long before the fire was that, if you recall? A. That I can't say exactly the time, but I suppose it might have been about two or three months.

Q. How many times were you by the Washington place door yourself? A. I was by that place about fifteen to twenty times a day or more.

Q. In going up or downstairs which way did you go, up or down? A. I go down the Greene street side.

Q. Did you ever see the Washington place door on the ninth floor wide open?

A. Yes, sir, I have.

Q. During what season of the year did it stand wide open? A. In the summertime.

Q. Did any of the girls that were employed on the ninth floor ever talk to you about the Washington place side door?

MR. BOSTWICK: I object to that.

THE COURT: I will allow the answer yes or no.

A Yes, sir, I have.

Q. What did the girls say to you about the Washington place side door, if anything?

MR. BOSTWICK: I object to it. A. A draft.

THE COURT: Objection sustained.

MR. STEUER: I except.

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

THE COURT: Strike it out.

MR. STEUER: I except.

Q. Don't answer this question until the judge has said whether you should or not: Did any of the girls on the ninth floor ever make a request of you to close the door on the ninth floor on the Washington place side when the door was open? A. Say that question, please, repeat that question.

Q. (Repeated by the stenographer) A. Yes, they had.

Q. And did you at the request of the girls close the door upon such occasions? A. I did.

Q. Did you ever see any of the girls on the eighth floor go up to the ninth floor, or come up to the ninth floor? A. I certainly had sir.

Q. Was there any time when the great majority of the girls used to come up from the eighth floor to the ninth floor every day?

MR. BOSTWICK: I object to the question.

THE COURT: I will allow it.

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

Q. When was that? A. That was during the time we had a telephone, a graphophone, - we had one on the ninth floor and none on the eighth floor.

Q. What did the girls do, and during what period of time was it that the girls came from the eighth to the ninth floor? A. During lunch hour.

Q. And what did they do on the ninth floor at that time? A. They were allowed the privilege to stand around.

Q. And what was playing if anything at that time? A. What was playing?

Q. Yes, - what did you call it telephone or graphophone? A. A graphophone.

Q. Which way did the girls come up from the ninth floor? A. They would come up both ways until they were stopped.

Q. Did you see them coming up the Washington place stairs? A. Yes, sir, I was the one that reported it to make it stop, because it gave me more work, more trouble.

Q. What was done after that report was made? A. After that report was made, it was stopped and Mr. Blanck had another one at once for the eighth floor.

Q. And that was put on the eighth floor? A. So all the girls had one playing at the same time.

**CROSS EXAMINATION BY MR. BOSTWICK:**

Q. When you finished your sweeping at night you did not say it was all clean, did you?  
A. That is when I left at night?

Q. Yes. A. Oh, no; it was not clean; it was clean enough for the night man, but I done justice towards him during the day.

Q. What you did was to just brush around? A. Oh, no, not brush around, I had to sweep.

Q. And after you got through sweeping there was still

waste and dirt left on the floor wasn't there? A. Oh, certainly the girls came out of the aisles alone, and would bring lawn out, and we had a man for that purpose.

Q. When that string was missing, and you wanted a piece of string, you didn't have any trouble in getting any lawn, did you? A. The string was not missing, my attention was called to the string, and the objection was to the string that the string was too short and was on the door knob tied to the key.

Q. You didn't have much difficulty in getting a piece of string to put on the door? A. No, sir; no trouble to get lawn, out there.

Q. Just put your hand back? A. Baskets - the girls all had baskets, there was always enough string there to hang yourself.

Q. All you had to do was to put your hand out to get a lot of it? A. That is, those baskets there.

Q. There were not very many baskets there, was there? A. Yes, sir, absolutely, there was lots as baskets, as close together as my fingers, that is, comparatively speaking. Between each girl.

Q. They had them alongside of them in baskets? A. Yes, sir, they worked alongside of the baskets.

Q. Where did they get those things, this stuff to put in the baskets? A. Where did they get it?

Q. Yes. A. It came from the cutters' table, and they have spare they brings down to wrap around it.

Q. Did you say how long was this piece of string you put on the door with the key?

A. Well, I suppose, I would say it would have been about twenty or twenty-five inches when I got the piece, and I tied to the knob and the key, and took the old piece off entirely.

Q. Twenty-five inches long? A. About that.

Q. And wide a piece of lawn was this? A. Well, as I best remember, it might have been about three and a half or four inches.

Q. About three and a half to – A. To four inches wide; might possibly have been more, that I can't remember; I knew it was strong enough to hold the key to the knob for a year or two.

Q. Was it red? A. No, sir; the color, if I remember it was white.

Q. You don't think it was blue, do you? A. I don't see much blue, only what is in the yokes, and so forth, don't use long pieces of blue on that floor.

Q. And then your recollection is that this key to the Washington place door was tied to the door? A. Yes, sir.

Q. By a string? A. Yes, sir.

Q. Twenty-five inches long and three and one-half inches wide? A. That is my recollection, of the string as near as I could get to it.

Q. Now, you remember when that day the phonograph was there? A. Yes, sir, I do remember.

Q. That was during the strike, wasn't it? A. Yes, sir.

Q. And you saw that door open sometimes in the summer time, didn't you? A. I was there two summers and the door had been opened.

Q. And I think you said in answer to a question of Mr. Steuer, that you had been asked to shut it on account of the draft? I don't know whether the draft was allowed in or not.

MR. STEUER: You made a motion to strike it out.

Q. You were asked to shut it, I think, by -- I think that much was left in? A. They asked me to shut it, I was asked by the girls.

Q. Was that in the summer time or in the wintertime? A. That was during the summer time, the draft on the back and they objected to it, and so they wanted it closed.

Q. Now, that draft, did it come from the hallway on the main floor? A. It came from the — I suppose from the bottom — from the ground floor.

Q. From the ground floor? A. It was a very strong draft when you opened that door.

Q. Did you ever see that door open in the winter time? A. That door was open in the winter time when I had — went down that way or anybody had occasion.

Q. Opened every day? A. Every day — no, sir, the door was not opened every day.

Q. Was not used regularly by all the employees going in

and out? A. It was not.

Q. When was it used? A. It was used, in fact the door as I know of, there was not any objection to using the door only the time of the graphophone when I reported it.

Q. How about the fire? A. Oh, the fire, that is something, - I know the key was on the door with the string tied to it. The fire, - I was not on the floor at the time of the fire.

Q. Were you in the building? A. I was in the building.

Q. What part of the building? A. I was on the tenth floor.

Q. Now, when they had their phonograph there, there was an objection made by you to the girls going or coming from downstairs because it caused, it made more work for you, is that it? A. Yes, sir, it did.

Q. How much work did it make for you? A. That is one reason.

Q. Let us take these reasons in order, first, now, the first reason was because it made more work for you? A. It did.

Q. How much more work did it make for you? A. It would be during the lunch hour and they would come up with their bannana peels and their orange peels in their hands, most anything that you would have in the garbage line, and theft they would drop them on the stairs, being even more dangerous to themselves too.

Q. Do you remember how long it was after you objected that



Mr. Blanck bought another phonograph? A. I am not positive the number, how many days there were.

Q. No? A. I could certainly believe it was in a week or so, that is the way I remember.

Q. You testified on direct examination that he got another one? A. He got another one for the eighth floor.

Q. I ask you this, do you remember how you described on your examination to Mr. Steuer, how soon he got another one? A. I don't remember, sir, that I specified the time that he got another one in.

Q. You don't remember a few moments ago, how you told the jury, how soon after? A. How many days, the time I don't remember, if I did.

Q. You gave it then, didn't you? A. As to the number of days, how many days before I got it, I don't think so.

Q. He got it at once, didn't you say? A. Well, I won't say at once, when he got it for the help, I considered that.

Q. Did you take orders for the lunches that the girls had in the factory? A. I certainly did, sir, just the same way now, I could do it, I could go around in a bunch of five hundred --

Q. Did most of them go out for their lunch? A. No, sir, not most of them.

Q. Did some of them go out and get their lunch? A. Some did go.

Q. How many lunches did you bring in? A. I would bring in

some days eight dollars some days ten dollars, they don't buy much, about five cents, that is, two cents bread, or the like of that, or they would buy three cents meat and two cents bread, penny apple, and so forth.

Q. How many trips would you make to get these lunches? A. I has a fellow to help me.

Q. Who is he? A. That is when we bought the stuff at 8th street, a Mr. —

Q. 8th street where? A. Bought it from Sam, What's-his-name, a Jewish name that I just disremember, now.

Q. What part of 8th street did you buy those lunches on? A. In between Greene and the next street, ~ is it Mercer?

Q. What kind of a house? A. Small basement, just go on downstairs, small basement.

Q. How many months had you been buying lunches there? A. I had been buying lunches there from the time I went over there to work, they started me right in with that.

Q. And you don't know Sam's name, his other name? A. Sam Bone, I think it was, I weren't certain of the last name.

Q. You have told me how much lunch you brought in? A. I remember it varied, you know, the amount varied; sometimes eight dollars, sometimes seven dollars, some times went down as low as four dollars, it depends on the weather; if they're rainy or snowy days, like that, the number is higher, it is about a good deal higher, and if it is a pleasant day they takes advantage and goes out and gets the good sunshine; depends on

the day it is.

Q. Would you --

MR. STEUER: Wait a moment. Let him go ahead and finish his answer. What about the good sunshiny day?

A. (Continuing) if it is a good sunshiny day, there would not be as many orders.

Q. Would not be as many orders? A. No, sir, the girls would go out for the lunches, take advantage of the weather I suppose.

Q. Didn't the night operators take lunch orders too? A. No, sir.

Q. And nobody got lunch orders? A. No, sir; if they worked over-time I would take the orders.

Q. Now, this door that you have talking about with the key, what floor was that on?

A. This here that I have referred to is the ninth floor.

Q. On which side of the building? A. That was on the west side.

Q. West side of the building? A. Yes, sir.

Q. Now, how about the eighth floor, was the key in that door? A. That door I have seen the key in the door, but I have not seen no string on the door. Mr. Brown had more charge of that part of it on the eighth floor than I or anybody else had. He was more trusted on that floor.

MR. BOSTWICK: Let me have People's Exhibit No. 2.

(Produced before witness.)

Q. This is Washington place side of the building (indicating) of the building, and this is the Greene street side over here (indicating)? A. This is Washington place (pointing).

Q. Washington place? A. Washington place.

Q. And this is Greene street side, (indicating)? A. Yes.

Q. And these two things here are the freight elevators? (indicating) A. Yes, freight elevators.

Q. And over here are the stairs (indicating)? A. Yes, sir.

Q. Do you remember that in there next to the elevators, there was a clothes closet? A. There was what?

Q. A clothes closet? A. There was from the elevator?

Q. A clothes closet? A. There was in front of the elevator?

Q. Yes. A Yes.

Q. Do you remember there are two dressing rooms and toilets? A. What is that street (pointing) — this is the toilet (pointing)?

Q. This is what you called the westerly part of the building? A. The westerly part, this direction (indicating), entrance from this way (indicating); here is the dressing room (pointing); here, away this way -- that is right, that is right.

Q. You remember that do you? A. I remember it.

Q. Right here (indicating) is the passenger elevators? A. The passenger elevators? A. The passenger elevators, yes, sir.

Q. There is a partition in front of the passenger elevators is there not? A. Yes, in front of it, very low, not high.

Q. Very low? A. Yes.

Q. And there was a place in the middle there which people go through? A. There was a space, yes, sir, come out this way, a space (indicating).

Q. And right next to the passenger elevators in front of which was this partition, there was the Washington place stairway, was there not? A. It was not right next, we had one box, where we kept the sleeves in between that, from this part (indicating) toward the elevator door, then came the stairway door.

Q. You see there (indicating) on this diagram, is the door; there is the door right there leading to the Washington place stairs (indicating)? A. Yes.

Q. Do you see that door? A. The door, yes.

Q. And there is the row of machines, the first row of machines, just by the columns (indicating)? A. Yes.

Q. Do you see this, those little squares on this diagram (indicating)? A. I do.

Q. What stood there? A. Well, if I am allowed to say this, I was asked this when I was up there watching just after the fire, it is a piece of tin stood here (indicating) and I could remember asking that question, and I think the name of the gentleman was Mr. Jones, and this here (indicating) I remember; I remember that box.

Q. That was a box? A. I could remember ~~ Gussie, the girl -- that is what I remember —

Q. That which is marked with a double circle by me (indicating) is the box? A. Yes, sir, that is what I remember, we had we had a box with the sleeving in.

Q. I show you People's Exhibit No. 15 and state to you that that is the doorway leading to the Washington place stairway, the eighth floor after the fire. Now, those are the stairs (indicating)? A. Yes, sir.

Q. That lead from the eighth to the ninth floor, did you ever go up those stairs from the eighth to the ninth floor? A. Did I ever?

Q. Yes. A. Yes, sir, I have.

Q. You have? A. Yes, sir.

Q. What time of the year was it? A. Well, as I remember, I had been down there winter and summer myself, I always take advantage when I could to carry anything I would have from the sink down that way, and it is very seldom, all my tools that I uses, and everything was entered to the Greene street side, because the garbage box was always kept that way.

Q. This is diagram No. 1. On which floor were the oil tanks kept? A. The oil tanks, we had oil tanks on — that is, you mean the oil for the machines?

Q. The large tank and the small tank? A. We kept our oil tank ~ we kept oil, machine oil on both floors.

Q. Where were these tanks kept? A. Kept near the Greene

doors.

Q. Near the Greene street entrance? A. Yes, sir.

Q. Now, I show you diagram No. 1, and this is Greene street side (indicating)? A. Yes, sir.

Q. And this is the Washington place side (indicating)? A. Yes, sir.

Q. There were five rows of tables of machines, was there not (indicating)? A. As many rows, - now I can't remember.

THE COURT: That is on the eighth floor?

THE WITNESS: That is on the eighth floor.

Q. The eighth floor, there were some rows of machines? A. Yes, sir, certainly; not as many as on the ninth floor.

Q. And they took up about how much of the floor? A. We had more room I think on the eighth floor, that is between the aisles.

Q. Did — did you mean that there was more room on the eighth floor than there was on the ninth floor? A. Yes, sir.

Q. You don't mean that there was more in the entire floor space? A. No, we had more aisle room.

Q. You had more aisle room? A. Yes, sir, more aisle room.

Q. That is correct, according to this diagram. About how much of this floor was used for the machines? A. As near as I could remember —

Q. Would you say half? A. A little over half.

Q. A little over half; the balance of the half of the floor was full of what, occupied by what? A. We had,

with the exception of the room that we had over there more than the ninth floor, they were using it in cutting tables on the south side ~~ on the north side — no, on the east side, the cutting tables, very long tables.

Q. Now in length, how did they compare with the tables on which you had your machines? A. In length, I would think they would be just as long.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. How did you know that on the day of the fire the key was in the door of the ninth floor on the Washington place side, Mr. Williamson? A. Well, I had not missed it at all.

Q. You worked on the ninth floor that day, didn't you? A. All day, yes, sir, with the exception of the time I had to go to the other floors, but I would have been on the eighth, if I was not called a few minutes before on the tenth, I would have been on the ninth floor.

Q. You had been called up to the tenth? A. Just before, yes, sir, that would have been the first door I would have run to for safety.

Q. That would have been what? A. That would have been the first door I would have run to for safety if I had been on the ninth floor.

MR. BOSTWICK: I move to strike that out, if your Honor please.

THE COURT: Strike it out.



IDA MITTLEMAN, a witness called in behalf of the

defendants, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. STEUER:

Q. What is your address? A. 334 East 5th street.

Q. Miss Mittleman, please talk over this way, will you please, will you please speak louder? Do you, or did you work for Harris and Blanck at the time of the fire? A. Yes, sir.

Q. And did you work for them before that? A. Yes, sir.

Q. How long? A. Almost two years.

Q. Did you have a sister that also worked for Harris and Blanck at the time of the fire?  
A. Yes, sir.

Q. And how long did your sister work there? A. Well, I could not say exactly how long.

Q. Longer or shorter? A. Longer than I did.

Q. Longer than you? A. Yes.

Q. Which one of you two sister was it that sat at the first table from the Washington place side door? A. My sister did.

Q. Where did you sit? A. On the Greene street side.

Q. At which table did you sit? A. Towards the Greene street side.

Q. Well, beginning from the Greene street side, and counting towards the Washington place side, at which table did you sit? A. About the third or fourth table.

Q. The third or fourth table? A. Yes, sir.

Q. When you were sitting at your machine which way was

your face? A. Towards the Greene street side.

Q. And you had your back to where your sister was sitting, is that right? A. Yes, sir.

Q. Now, on the day of the fire do you remember of the giving of the signal for the shutting off of the power? A. Yes, sir, I did.

Q. How as the signal given for the shutting of the power off? A. The bell rang and then everything stopped, and then we were about to go home.

Q. What did you do when the bell rang and the power was shut off? A. I got up from my machine and walked over to my sister's place which was at the Washington place side, and was about to dress when I heard some noise.

Q. Wait a moment. I want to locate your sister's position. At which table did your sister work at? A. The last table on the Washington place side.

Q. That is, counting the first table? A. The first table towards the Washington door.

Q. On which side of the table, did your sister work at, the one nearest to the door, or the one away from the door on the Washington place side? A. The one nearest the door.

Q. So that the row of machines that your sister sat at would be the first row of machines that a person would reach? A. Yes, sir.

Q. If that person came from the Washington place side? A. Yes, sir.

Q. Now, in that row how many girls sat? A. About fifteen or twenty.

Q. Which girl, beginning at the Washington place windows, which girl was your sister? A. The second girl.

Q. From the Washington place windows? A. Yes, sir.

Q. Now, on that occasion — where did you keep your clothes, your hat and coat? A. On the Washington place side.

Q. In the dressing room? A. Yes.

Q. There were two dressing rooms there were not? A. Yes, sir.

Q. And in which one of those dressing rooms did you have yours? A. Washington place side.

Q. The one nearer to the Washington place door? A. Yes.

THE COURT: Mr. Steuer, we have reached the usual hour for adjournment. Would you rather continue with the witness now?

MR. STEUER: I want to comply with the wish of the jury. My personal wish would be to go on, but whatever the jury is inclined to do will suit me.

THE COURT: And sit until half past five.

THE FOREMAN: I would not want to do that, your Honor, not more than five minutes or ten minutes at most. I have got work to do when I get back to my office and it will be six o'clock before I get there.

THE COURT: Very well, Mr. Steuer, we will adjourn now.

iFDiL

Witness.	Direct. Cross. Es-D. Re-C.	
JOHN WILLIAMS,	1212	1253
ISAAC STERN,	1246	1252 1269
MAX HIRSCH,	1272	1275
MAY CALIANDRO LEVANTINI,	1291	1298
THOMAS HORTOS,	1325	
eeGi¥ALD j. WILLIAMSON,	1250	1358 1370
IDA MITTLEMAN,	1371	

Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon, until the same is submitted to you. You are excused until to-morrow.

(Adjournment taken until 10:30 to-morrow, 20<sup>th</sup>, 1911.)

Last Exhibits:

People's	42.
Defendants'	H.

New York, December 20<sup>th</sup>, 1911.

TRIAL RESUMED

THE COURT: Mr. Steuer, in the limited time at my disposal I have been unable to find any case decisive of the question presented as to your right to have during the re-direct examination of the witness, the paper which was marked for identification People's Exhibit 42. But I think that fairness suggests, and I, therefore, shall rule that you be allowed to have it for two purposes. In the first place that from an examination of it you may determine whether or not the alleged portions of it as brought to the attention of the witness were as stated; and, in order that you may direct the witness's attention, if you see fit, to any portions of it which you may contend tend to modify or qualify the portions to which her attention was directed.

MR. BOSTWICK: May I ask your Honor whether you have seen the case in 178 New York, Hanlon against Ehrich?

THE COURT: What does it say?

MR. BOSTWICK: "In such a case the whole of the writing should be offered in evidence before it is allowed to be read. There are, however, many instances in which the writing may contain such incompetent and irrelevant matter in addition to some parts which are material, competent and contradictory of the witness. In this case the proper

rule would seem to be that only the material and competent parts should be received and read in evidence. In no event, however – ”

THE COURT: What is the reference where it says, “In such a case”?

MR. BOSTWICK: Just such a case as this.

THE COURT: Just read that part.

MR. BOSTWICK: Perhaps your Honor would like to see the case itself (handing same up to the Court.)

THE COURT: I shall adhere to my ruling in precisely the form stated. Now, Mr. Steuer, you may either complete your examination of this witness and then call back the other witness, or you may call back the other witness first, as you see fit.

IDA MITTLEMAN, resumes the stand and further testifies:

DIRECT EXAMINATION BY MR. STEUER: (Continued)

MR. BOSTWICK: At this point, and at this time I offer the entire statement in evidence under the rule in Hanlon against Ehrich.

THE COURT: I won't receive it. Not at this time, -I may under certain circumstances.

(The last question at the session of yesterday is now read by the stenographer at the request of Defendants' counsel, as follows: “And in which one of those dressing

rooms did you have yours?")

Q. That question refers to your hat and coat. In which one of the dressing rooms did you have your hat and coat? A. The Washington place side.

Q. Do you mind telling me what your first name is? A. Ida.

Q. And your sister's name is what? A. Anna.

Q. You say on the Washington place side you had your hat and coat. There were two dressing rooms there, weren't there? A. There is only one on that side; one on the Washington place side and one on the Greene street side.

Q. Which floor were you on? A. The ninth floor.

THE COURT: She means the one nearer to Washington place.

MR. STEUER: I understand.

Q. On this diagram, which is People's Exhibit 2 in this case, that is Greene street over there and this is Washington place here, here are the passenger elevators on the Washington place side; can you follow that? And this is supposed to be the door leading to the Washington place stairway, and here are the machine tables beginning on the Washington place side and going down toward Greene street; here are the dressing rooms on the Washington place side, do you see? One we have marked "1", and the other we have marked "2". Which one of those dressing rooms was your hat and coat in? A. No. 1, towards Washington place.

Q. On the day of the fire, and every day, did you get your



hat and coat yourself when the signal was given for the power to shut off? A. No, sir.

Q. Who did get your hat and coat? A. My sister.

Q. Were your hats and coats together in the same room? A. Yes, sir.

Q. On the day of the fire, after the signal had been given to shut off the power, what was the first thing that you did? A. I got up from my place and walked over to my sister's, which was at the Washington place side.

Q. Your sister's machine? A. Yes, sir.

Q. At that time, when you reached your sister's machine, where was your hat and coat?  
A. Still in the dressing room.

Q. And who went over to the dressing room to get your hat and coat? A. Nobody; we were about to go and get it when we were stopped by the noise coming from the elevator direction.

Q. The direction of the elevator? A. Yes, sir.

Q. Which elevator? A. Washington place side.

Q. What did you do, if anything, after you heard the noise at the Washington place elevator? A. When I heard that noise May Levantini came along and asked what was the matter that time, and I said, "I don't know", and the two of us rushed to the door and she opened it.

Q. Which door? A. Washington place door. And she opened it, and I walked out with her and as we did, the smoke coming up and crowds of people walking down, we ran back on the floor, and I ran to tell my sister it was fire, and after that we went

to the elevator.

Q. When you went out of that door tell the jury just how far you got? A. By the stairway and I was looking down.

Q. Did you look over the stair rail, itself, the handrail itself? A. Yes, sir.

Q. Now, tell the jury exactly what you saw when you looked down? A. Well, all I could see was heads, and the smoke was thick, I couldn't see much, just heads of people walking down; and I ran back, I thought that was no way of getting down, I thought it would be quicker to get down the elevator, and I ran back and told my sister.

Q. Did you see any flame when you looked down? A. No, sir.

Q. The only thing you saw was smoke? A. Yes, sir.

Q. And people? A. And people.

Q. Tell the jury what you did when you got back into the loft? A. Ran over to my sister's machine and told her it was fire, and the two of us ran over to the elevator and banged on it.

Q. Which elevator? A. Washington place side.

Q. In going out of the loft did you yourself have anything to do with the door knob or the lock or the key, or anything attached to the door? A. Nothing at all. May opened it.

Q. When you came back did you have anything to do with the door? A. No, sir.

Q. What happened when you got back to the Washington place elevator? Were there any other people then.? A. Just the only

three there and we seen the elevator not coming up, we were about to go to Greene street side, and we were met with a crowd of girls coming towards us and we remained there.

Q. Had you started for the Greene street side? A. Yes, sir.

Q. You had waited for the Washington place elevators first and they didn't stop? A. Yes, sir.

Q. How far to the Greene street side did you get ~ if you can tell the jury -- before you were met with the crowd coming from the Greene street side? A. Just about two steps away from the elevator, that was all.

Q. Then what happened? A. Then a crowd of girls come toward us and we remained in the same place.

Q. Where was that? A. Washington place elevator.

Q. And were you all crowded around the Washington place elevator at that time? A. Yes, sir.

Q. Tell the jury what happened then? A. Well, the elevator come up, it come up the other side and we were standing at the other door.

Q. I don't understand. A. There were two elevator doors and we were standing at the one towards the window.

Q. Nearest the Washington place windows, is that right? A. Yes, sir, and the other elevator came up.

Q. But it was the other elevator that come? A. Yes, and we rushed to that door, and we re almost the last to get in.

Q. Who was almost the last to get in? A. I was. Some one pushed me in sideways, and when the elevator shot down I see my

sister remained and I gave one scream and all of a sudden I see her there and when the elevator went down half way she jumped in on top of the people.

Q. Onto the elevator ear? A. Yes, sir. The elevator man pushed her in.

Q. Do you remember who the elevator man was? A. Yes, sir.

Q. Who? A. I don't know his last name; Joe, I think.

Q. Joe? A. Yes, sir.

Q. You and your sister got down in the same car, is that right? A. And we didn't know it.

Q. You didn't know your sister was in the car? A. No, sir.

Q. All the way down? A. Yes, sir.

Q. The last you saw of your sister was that she had been left behind? A. She was on the floor.

Q. You told the jury something about her jumping in; did you see her jump in, or is that something you have been told since that time? A. She told me that, and I felt somebody on top of me, but who it was, I didn't know.

Q. You and your sister have talked about this matter since that time? A. Yes, sir.

Q. Have you been to the District Attorney's office? A. Yes, sir.

Q. Did you make a statement at the District Attorney's office? A. Same thing,

Q. Who examined you at the District Attorney's office? A. Mr. Bostwick.

Q. Do you remember when it was that you went to the District Attorney's office? A. It was the week after the fire.

Q. You got a notice to come there and then you went? A. Yes, sir, on a Thursday.

Q. You work for Harris and Blanck now, don't you? A. Yes, sir.

Q. Have you been working for them all the time since the fire? A. Yes, sir.

CROSS EXAMINATION BY MR. BOSTWICK:

Q. When you went to the door you were with – A. May.

MR. STEUER: I beg your pardon, - May I resume? I just thought of something.

THE COURT: Certainly.

BY MR. STEUER: (Direct examination continued)

Q. In relation to the Washington place door, had you seen that door prior to the date of the fire -- the same door that leads to the staircase — before the fire? A. Had I seen the door? A. Yes, sir.

Q. How long did you work on the ninth floor? A. Almost two years.

Q. Was there a time when you were moved down to the eighth floor? A. Yes, sir.

Q. How long were you moved down to the eighth floor? A. A couple of months, I don't know how long -- during the summer.

Q. But you know that all the girls during the summer all the girls works. on the eighth floor one summer? A. Yes, sir.

Q. Where was the key, if you know, put, of the Washington place door of the ninth floor? A. It was hanging on a string in the key-hole -- no, hanging on the knob, I believe.

Q. Do you know exactly how it was tied? A. I can't tell you. It was a piece of string.

Q. I don't want you to guess at anything or to tell us anything, except what you know and saw with your own eyes. Now, you tell the jury just what you know about the key in the Washington place door, the ninth floor? A. I remember it always hanging with a piece of string on it.

Q. Did you ever go up and down the steps on the Washington place side? A. No, sir.

Q. Did you ever see anybody go in or out of that door? A. When I sat on the Washington place side for a short while I often seen the foreman walk up and down.

Q. But after you went over to Greene street you couldn't see? A. I didn't notice anybody then.

Q. I think you said yesterday that when you sat on the Greene street side you faced Greene street? A. Yes, sir. That was when I was moved from the Washington place side.

Q. How long did you work at the Washington place side, do you remember? A. About a year, - over a year.

Q. What table did you work at then? A. Third table from the Washington place side.

CROSS EXAMINATION BY MR. BOSTWICK: (Resumed)

Q. When you went to this door you went with May Levantini?

A. Yes, sir.

Q. And if May Levantini says she went alone, that isn't so?

Objected to. Objection sustained.

Q. Then you got out in the hallway there were no flames there? A. No, sir.

Q. So that no flames barred your way to the eighth floor? A. No, sir, the smoke.

Q. But no flames? A. No flames the time I was there.

Q. Was the smoke on the eighth floor bad? A. Yes, sir.

Q. And thick? A. Yes, sir.

Q. And that is where the girls were all going out? A. Yes, sir.

Q. Did you open that door or touch the knob? A. No, sir.

Q. And you are sure that when you got to the elevator doors there were only three and not thirty or forty? A. After a while they came over from the Greene street side. While we were there there was only three beginning.

Q. You have talked about this matter since the fire? A. Yes.

Q. To whom have you talked? A. My sister and people at the house ~ folks.

Q. Is that all? A. That's all.

Q. You didn't have any talk with May, did you? A. With May? I have not seen her only yesterday.

Q. That is the only time you have seen her? A. Yes, sir.

Q. Now, this key that you say hung from the knob: did it

hang down by the side of the door so you could see the key? A. Yes, sir.

Q. How long a string did it hang by? A. About three or four inches.

Q. Three or four inches, and what kind of a string was it? A. A piece of tape or something.

Q. How wide would you say the tape was? A. About a half inch or so.

Q. At night when you went out from the factory during the two years that you worked there did you ever go down the Washington place stairway? A. No, sir, I used the elevator.

Q. You never saw anybody else go down that stairway? A. During the day or night?

Q. At night-time when you went home? A. No, sir.

Q. In the statement that you have referred to, which you made to me, were you not asked this question, and did you not make this answer: "Then what did you do? A. We were getting our things together when all of a sudden I heard a noise and I said to her, 'I guess the elevator is falling down.' So another girl and I walked over to the door near the elevator and we turned the key and opened it."? A. I didn't remember just then who did it, now I recollect that she did it.

Q. You recollect it now, but you didn't recollect it at the time — A. (Interrupting) Yes, sir.

Q. (Continuing) That you made the statement to me. Do you recollect this question being put to you, and your



making this answer: "Did you try this knob before you touched the key? A. No, sir. Q. You touched the key first? A. Yes, sir." A. I didn't remember just then whether I touched the key or she did.

Q. But you did make that statement? A. Yes, sir.

Q. And you said then that you were the first one to touch the key?

MR. STEUER: I object to that. I don't understand  
it so from your reading? A. I don't remember that.

THE COURT: Well, it may mean two things, - first in relation to the knob, or it may be in its relation to the person.

Q. And was this question put to you and did you make this answer: "Q. And you unlocked the door? A. No, just turned it and pulled it out."? A. I don't remember just then what I done — I knew that I got hold of something.

Q. No, did you make that answer to that question? A. I don't remember.

Q. Do you remember this question being put to you and your making this answer upon this oral examination: "Q. Did you have any trouble opening that door? A. Just one turn, that's all. There is another girl, May Levantini was with me."? A. I don't remember since that time, I can't recollect it.

Q. You don't remember making that statement? It was after the fire, wasn't it?  
A. Yes, sir.

Q. That you gave this statement to me? A. Yes, sir.

Q. Do you remember this question being put to you and your making this answer to me: "What makes you think that you turned the key? Are you sure that you turned the key? A. Well, I will tell you, Kay was with me then, too. Maybe she remembers turning the knob, but I don't."? A. I couldn't make out just then who did it, I don't remember.

Q. No, you were very uncertain in your mind at that time as to who did it? A. Yes, sir.

Q. And do you remember this question being put to you and this answer being made: "You only turned one thing then, as near as you can remember? A. Maybe the other girl got hold of the knob, I don't remember, I just turned that once. That girl tried to open said she turned the key also". Do you remember that question and answer? A. Yes, sir.

Q. And that was so? A. Yes, sir.

Q. Maybe the other girl did get hold of the knob, and maybe she did turn the key? A. Yes, sir.

Q. You don't remember? A. No.

Q. You didn't remember then? A. I didn't remember just then.

Q. And you don't remember now? A. Now I do remember.

Q. Do you remember this question being put to you and you making this answer: "You don't think that you touched the knob? A. I tell you, if you had this girl May Levantini" — do you remember that question being put and that much of the answer being made?

MR. STEUER: Is that a complete answer?

MR. BOSTWICK: No, it is a dash, indicating nothing more was said there. I will read the next question directly.

A. I don't understand what you mean by that.

Q. And then after the stop the question was put to you, "It is awfully important whether the door was locked or not? A. It is very hard to know whether I touched the knob or not, she can tell you more, she was nearer. That is all I can remember, see?". Did you make that answer to that question? A. Yes, sir.

Q. And do you remember this question that I put to you when you were up in my office: "You have no recollection of turning the knob? A. No." That was correct? A. I don't remember all that you have said.

Q. And do you remember this question being put to you? "You don't know whether anybody else turned the knob? A. No, but that young woman was with me, the two of us were at the door". Do you remember that question and answer? A. Yes.

Q. And do you remember this question being put to you and your making this answer: "Had anybody gone to that door before you went there? A. No."? A. No, sir; that is right.

Q. You remember making that? A. Yes, sir.

Q. Do you remember this question being put to you and your making this answer: "Then you closed the door, you didn't go down the stairway? A. No, the door closed itself." A. I don't

remember.

Q. You don't remember making that question and answer? A. No, sir.

Q. Do you remember this question being put to you, and your making this answer:

“Did anybody go down those stairs? A. No, sir.” A. I don't remember saying that either.

Q. Now, it is a fact that no one did go down those stairs, isn't it? A. No, sir, I said before that I did.

MR. STEUER: You mean at the time of the fire.

Q. I mean at the time of the fire? A. At the time of the fire I don't remember.

Q. You didn't see anybody go down those stairs? A. At the time I was there I didn't see anybody.

Q. On April 4th do you remember my putting this question to you and your making this answer: “You touched the key first? A. Yes, sir. Q. You unlocked the door? A. No, just turned it and pulled it out.” Do you remember making that answer to that question? A. No, sir.

Q. Do you remember this question being put to you and your making this answer: “You pulled this key out of the door? A. No, sir.”? A. I couldn't recollect.

Q. Do you remember being asked this question: “Did you turn the key? A. Turned the key? Q. But the door didn't open? A. I couldn't tell you whether I did it or not, I imagine I did it.” I walked into the hall-way and looked down at the people, seen people going down in the smoke, and ran back and

told my sister I opened the door on the ninth floor, two of us"? A. Yes, sir.

Q. You did make that answer? A. Yes, sir.

Q. Do you remember this question being put to you; "Did you have a talk with Mr. Harris and Mr. Blanck before you came down here? A. No, sir. Or that lady here?" Then do you remember my putting this question and your answering: "What is her name? A. May Levantini, 96 Christopher street, she would make me sure of that"? A. Yes, sir.

Q. You said that, didn't you? A. Yes, sir.

Q. And you have no doubt that anything May Levantini would tell you would be so?

MR. STEUER: I object to that as immaterial, irrelevant, and incompetent.

A. The reason why I said this —

THE COURT: Objection sustained.

Q. Do you remember being asked why you didn't go down to the eighth floor and your saying: "I don't know why I didn't go down to the eighth floor? A. No, sir, I don't remember saying it.

Q. Do you remember my asking you this question, and your making this answers "You told me positively the other day that you turned it? A. If I had may hare she would tell you."? A. I think I did say it. The reason why --

Q. Well, no, - you think you did say that? A. Yes.

Q. That is true, too, isn't it? A. Yes, sir.

Q. You just told me a minute ago that you did make this answer, and I asked you if it is not true, and that is when you were asked, "But the door did not open", and you said you could not tell whether it did or not, but you imagined that it did; that is so, isn't it? A. That it did open? When? I don't understand that.

Q. I ask you the question, "But the door didn't open", and you answered, "I couldn't tell you whether I did it or not, but I imagined I did"? A. Yes, sir.

Q. Do you remember going over to see May Levantini? A. Yes, sir, I do.

Q. You went over to her house, didn't you? A. Yes, sir.

Q. And didn't you ask May Levantini to say that she came out with you? A. No, sir.

Q. And didn't May Levantini say "You didn't come out with me"? A. No, sir.

Q. Well, now, which is correct? Did May Levantini go to that place alone, as she testified? A. No, sir, she doesn't remember.

Q. Or were you with her? A. She said she didn't remember, she don't think I was out with her.

Q. How many times did you go to May Levantini? A. Once.

Q. Is that the only time you asked May Levantini to say she went to the door with you?

MR. STEUER: I object to that.

A. I didn't ask her anything – just come up to find out

whether she was all right, if she felt all right.

Q. Didn't you state a few moments ago that you asked May Levantini to state that she went to the door with you? A. No, sir.

Q. Didn't you say that? A. I didn't tell her to tell that I went out in the hall with her.

MR. STEUER: On the contrary, she said the directly opposite.

THE COURT: Now, please don't, Mr. Steuer. Refer back to the testimony.

(The eighth and the seventh questions, back in the record from this point, with the answers thereto are now read by the stenographer.)

Q. Is that the only time May Levantini said "You did not come out with me"? A. Yes, sir.

Q. Didn't you and May Levantini have a discussion as to the facts as to what happened at the time of the fire? A. Yes.

Q. And wasn't it a long discussion? A. Not so very long.

Q. Well, it lasted some little time, didn't it? A. Yes.

Q. And you didn't agree, did you? A. No, sir, she couldn't remember.

Q. And you couldn't remember? A. I could, she couldn't.

Q. But didn't you say to me you couldn't remember, it was so long ago? A. In what way do you mean?

Q. Didn't you say you couldn't remember whether you were the one that went to door or May went to the door? A. Oh,

that isn't the thing I meant by the way you said about the knob and the key. I don't remember which one turned that, but the two of us were out in the hall, that is what I do remember.

Q. And didn't she say that only one of you was in the hall? A. I don't know about that. She says she doesn't remember who was out there with her. I think she mentioned some girl, if I am not mistaken.

Q. Didn't you tell me early in this examination that there were thing you didn't remember at the time you made your statement in April, and you do remember now? A. Yes, sir.

Q. And has your talk with May Levantini made the thing fresh in your mind? A. Yes, sir.

Q. And haven't you talked with anybody else to make the thing fresh in your mind? Haven't you tried to get it fresh in your mind? A. Well, my sister did.

Q. Didn't you talk with your sister about it? A. Yes, sir.

Q. And hasn't what she told you made it fresh in your mind? A. Yes, sir, she told me it all.

Q. She told you all about it? A. She told me about how the two of us did go out in the hall, and that is what I do remember, and about the door she said she seen May open it.

BY THE SEVENTH JUROR:

Q. Are you positive you went out in the hallway through the door and looked down the stairway? A. Yes, sir, that is the only way I knew there was fire.

Q. You are positive, are you? A. Yes, sir. And I ran back



and told my sister there was fire.

RE-DIRECT EXAMINATION BY MR. STEUER:

Q. You told the District Attorney the first time you were examined that you were positive that you went out in the hall? A. Yes, sir.

MR. BOSTWICK: I think Mr. Steuer testified to the last question.

MR. STEUER: (Addressing Mr. Bostwick) Will you let me have that statement?

THE COURT: I understand from your remark that you were about to request the District Attorney to hand you a certain something.

MR. STEUER: So we will get the record right, I now request that the District Attorney give to me the paper from which he read the questions and answers which he claimed were propounded to this witness, and were answered by her on the date mentioned by him.

THE COURT: Now, the District Attorney declines to do that?

MR. BOSTWICK: Respectfully.

THE COURT: And the Court sustains the District Attorney.

MR. STEUER: Exception. Now, may we have the paper that the District Attorney read from marked for identification?

THE COURT: Not unless the District Attorney wants it.

MR. STEUER: I except. I call for the production of the paper from which the District Attorney claimed in the presence of the jury that he was reading questions and answers, questions which were propounded to this witness and answers which were made by her.

MR. BOSTWICK: The claims that the defendant puts upon the record as having been made by the District Attorney are not altogether in agreement --

THE COURT: No. So far as the examination of the District Attorney disclosed anything, the questions as propounded may have been the District Attorney's recollection of the conversation.

MR. STEUER: It may have been, but is it pretended that it was? What may have been is not important t but in the presence of the jury there is held a paper, and questions and answers are read to the witness from that paper, not from recollection, your Honor.

THE COURT: Now, I have ruled upon it, Mr. Steuer.

MR. STEUER: But the record has got to show the thing correctly before we can pass from it.

MR. BOSTWICK: It may be conceded of record that the District Attorney held in his hand a paper.

MR. STEUER: And that it was from that paper that the alleged questions and answers were read to the witness and that the questions were propounded to her as being the questions which were put to her in the District At-

torney's office on certain dates.

MR. BOSTWICK: I won't concede it exactly in that form. It will be conceded that the paper purported to contain questions and answers put to the witness in the District Attorney's office.

MR. STEUER: Well, it is that paper now that I ask the production of.

MR. BOSTWICK: I decline to produce it.

THE COURT: I won't order the production of it.

MR. STEUER: exception. And your Honor won't direct that that paper be marked for identification, so that if it ever becomes competent upon this trial that we will know that is the paper?

THE COURT: No, I will not make that direction.

MR. STEUER: I respectfully ask its production that it may be marked for identification.

THE COURT: I understand that the District Attorney does not voluntarily produce it, is that so?

MR. BOSTWICK: Under the 178 of New York, your Honor, I understand the rule to be that if the defendant's counsel --

MR. STEUER: Does the District Attorney produce it?

THE COURT: It is a simple proposition; you either comply with the request or you do not, and it is entirely optional with you, as I will not direct you to produce it.

MR. BOSTWICK: I offer the statement in evidence.

MR. STEUER: I thought yesterday that that was not to occur in future.

THE COURT: No; the District Attorney has a perfect right to offer a paper in evidence.

MR. BOSTWICK: It is the proper practice under judge Werner's decision.

MR. STEUER: Without my seeing it?

THE COURT: He has the right to offer it in evidence. Before the Court determines whether or not the Court will receive it in evidence, you have the right to examine it in order that you may determine whether or not you will object to its reception in evidence.

MR. STEUER: Let me see it.

(Paper handed to Mr. Steuer by Mr. Bostwick.)

MR. STEUER: May it please your Honor, as I understand the situation.

THE COURT: Now, all you have got to do is just to formulate your objection.

MR. STEUER: I don't wish to formulate an objection. And with all due deference to your Honor I must insist ~~~

THE COURT: In other words, you consent to its going in?

MR. STEUER: Now, I am going to be a free agent if may it please your Honor, and I am going to do what I think under the circumstances I should do; and if your Honor

will bear with me, I don't think there will be any difficulty about this paper getting in evidence.

THE COURT: I may say now that I shall not under any circumstances receive it, as the proof now stands, even upon consent of both sides.

MR. STEUER: Well, to that I respectfully except.

THE COURT: Not as the evidence now stands.

MR. STEUER: The paper was handed me for the purpose of examining it to see whether I object to it or not.

THE COURT: Yes.

MR. STEUER: And of course I don't want to make any use of it that is contrary to your Honor's direction. Am I to understand that I haven't the right to use the paper in the conduct of the re-direct examination of this witness? Whatever information I gathered I freely admit I gathered because your Honor said I should look at it for the purpose of stating whether I object to it or not. Therefore, I ask your Honor whether I may or may not use the paper in conducting the re-direct examination of this witness.

THE COURT: When you formulate a question, Mr. Steuer, I will pass upon the propriety of the question if objection is taken.

MR. STEUER: What I wish to know is, will I be guilty of any impropriety if I formulate the questions from this paper. I get it for a limited purpose; I want to know

whether that limitation is removed or not. I don't want to be in a position of having gotten a paper for one purpose and then having used it for another, unless it is thoroughly understood by the Court and District Attorney that I may use it for any other purpose.

MR. BOSTWICK: The District Attorney tendered the paper under the right of the defendant to see a paper before it was admitted in evidence.

MR. STEUER: Yes, I concede that.

MR. BOSTWICK: And not for the purpose of inspection for the purpose of —

MR. STEUER: And therefore I asked the Court if it were permissible for me to use it for that purpose.

MR. BOSTWICK: Now, I renew the offer of the paper in evidence at this point of the proceeding.

THE COURT: Under the circumstances, Mr. Steuer, you may conduct the examination of the witness as though you had not seen or read the paper.

MR. STEUER: Then to the failure to permit me to use the paper for the purpose of conducting the re-direct examination of the witness I respectfully except.

THE COURT: So far as the examination of this witness is concerned she stands in precisely the same position as though no paper had been read from. The Court takes cognizance of no paper whatsoever.

MR. BOSTWICK: Before Mr. Steuer formulates

next question I would like the record to show the ruling of the court upon the last offer of the paper in evidence.

MR. STEUER: In view of the fact that I am not permitted to use the paper for the purpose of conducting the re-direct examination of the witness, I join with the District Attorney in the offer of this paper in evidence.

THE COURT: I think there is power in the Court, despite the consent of both parties to the introduction of something in evidence to exclude it; I think that there is that power in the Court.

MR. STEUER: There is no doubt that the Court has inherent power to —

THE COURT: And in this instance being satisfied as to the principles of law applicable I unhesitatingly exercise the power and exclude the paper.

MR. STEUER: And I respectfully except. Now, under those circumstances, your Honor, I offer the paper in evidence as a defendants' exhibit.

THE COURT: There will be the same ruling. Now, either side may lay the proper foundations for the introduction of this paper as evidence, but in order that the Court may receive the paper in evidence the paper will have to be handed to the witness, the witness will have to be given an opportunity to peruse it, and certain testimony will have to be given respecting its correctness and the way in which it was taken. So far as is now disclosed this witness has never seen this paper.

MR. STEUER: Those are objections, your Honor, that are only available to the defense; those are not objections that can be used, or availed of by any one else. Since I have not the right to use the paper for the purpose of conducting the re-direct examination I waive any of the objections that have been enumerated, to wit, that the witness has not seen the paper; that her attention has been called to the material parts of it, I concede, but there have also been omissions with respect to parts thereof. Now, I can't tell, and I don't believe that your Honor can tell what impression the jury has formed as to whether the statements made by this witness under oath to them are the same as the statements made by this witness to Mr. Bostwick when he examined her. For the purpose of demonstrating that situation clearly to the jury as to whether she did or not — and I am not arguing that she did it or that she did not — but for the purpose of giving the jury conclusive evidence upon that subject as to whether she did in April testify precisely before Mr. Bostwick in his room the same as she has now testified under oath, I offer that record which Mr. Bostwick made at that time of what she did say.

Q. There is no evidence that this is a record of anything.

MR. STEUER: Well, what is it, if it is not a record?



THE COURT: I have no data before me which would warrant the reception of this paper in evidence, and therefore, no matter what the consent or the waiver may be, I will not receive it.

MR. STEUER: I except.

THE COURT: The foundation may be laid which will permit of its introduction in evidence; it has not been laid.

MR. STEUER: May I ask the witness to step aside and I will call Mr. Bostwick.

MR. BOSWICK: Wouldn't you prefer to call the stenographer? I will tender you the stenographer.

THE COURT: I think the orderly course of procedure would be to call the stenographer in the District Attorney's office, ask him to produce his note book, if you want to go into that, find out whether he was present at the time that this witness made a statement, interrogate him with respect to those portions of the statement made in his presence to which her attention was not directed, if there be such portions —

MR. STEUER: Well, I will do anything that you direct me to.

THE COURT: And first interrogate this witness and find out whether there were things which she said in the District Attorney's office to which her attention not called.

MR. STEUER: But I am not permitted to do that because that would show that I am using the knowledge of this paper that I have been told I must not use.

THE COURT: Not at all. That is something you could do irrespective of that paper. You have the right, Mr. Steuer, if you will permit me to suggest, to interrogate this witness fully as to what she said in the District Attorney's office bearing upon any of the matters as to which she was interrogated by Mr. Bostwick upon the cross examination for the purpose of showing, if you can, by her that she made at that time in that same connection explanatory, amplifying or qualifying statements and then for greater certainty you elicit from this witness that her statement was in the presence of other persons, and you may produce those persons and give evidence as to what in point of fact her statement was; and the reason that I decline to receive this statement now is that it doesn't sufficiently appear that it embodies any statement made by the witness.

MR. STEUER: Your Honor, Mr. Bostwick produced it as such and I am willing to take it as such and offer it.

MR. BOSTWICK: Oh, I do not produce it as such.

THE COURT: Now, we will precede.

MR. STEUER: I except to its exclusion.

BY MR. STEUER:

Q. At the time when Mr. Bostwick examined you in his

office did you state to him at that time, in words or substance that you went out to the Washington place door and that you looked down and that you then saw dense, thick smoke coming up? A. Yes, sir.

Q. And did you then say to him that when you saw that smoke you turned back and went into the loft and told your sister? A. Yes, sir.

MR. BOSTWICK: I object on the ground that the counsel for the defendants is suggesting the larger part of the answer to the witness.

THE COURT: I wouldn't lead her, Mr. Steuer.

MR. STEUER: Then I must confess, your Honor, that I have entirely misunderstood the ruling.

THE COURT: You may ask her whether she said anything in addition to those matters as to which her attention was called on the cross examination. If she answers in the affirmative you may ask her what in addition she said, and when you have exhausted her recollection on that, then you are in the position of being permitted to ask her leading questions.

MR. STEUER: To the exclusion of the last question I respectfully except.

Q. Will you please tell the jury what you said to Mr. Bostwick in his room when he asked you these various questions as to what happened on the day of the fire? A. I told Mr. Bostwick at the day of the fire as soon as the bell rang to go

home, I come over to my sister's place, which is at the Washington place side, and we were about to get our things and we heard some noise and we stopped as we were going to get our things and ran over to the elevator. All we could hear was noise and where it come from we didn't know; and with that May Levantini came along and asked the same question, and we answered, "We don't know what it is, we think it is an elevator crash." With that she ran over to the door and I followed her and opened it up — now, which one of us two turned the key or the knob, I couldn't remember then, but now I do remember that it was May.

MR. STEUER: I consent that that should be stricken out.

THE COURT: Strike out just the last clause.

Q. I only want you to tell the jury what you said to Mr. Bostwick in answer to his questions at that time? A. What kind of questions?

Q. What Mr. Bostwick asked you in his office. Now, go ahead and tell the jury?

MR. BOSTWICK: I object unless it is limited to matters other than those that hare already been brought out.

THE COURT: She may state in full everything and anything that she said to you in any way relating to the matters to which you directed her attention on cross examination.

Q. Proceed and tell the jury what you said toMr. Bostwick in

answer to the questions that he put to you on the two occasion when you were in his office? A. Mr. Bostwick asked me about the door and all I could tell was I didn't remember just who it was that opened it or turned the knob, but I do remember the two of us being out in the hall, and we ran back on the floor. I do remember May also, and I ran back to tell my sister it was fire, and the two of us ran to the elevator, waited there a while, see it didn't come up, we were about to go to the Greene street side, and we were met with a crowd of girls coming towards us, and we remained at the same plane until the elevator came up, and that is how we got down.

Q. At that time did you tell Mr. Bostwick in answer to a question put by him that you had looked over the stair-rail and had looked down and saw thick smoke coming up? A. Yes, sir.

Q. And did you tell him that it was seeing the smoke that made you go back into the loft? A. Yes, sir.

Q. Did you at that time tell him that when you went down in the car of the elevator that you didn't know that your sister was in the car at that elevator? A. Yes, sir.

Q. Did you at that time say to Mr. Bostwick that you had gone out with May Levantini, that you didn't know whether it was you or she that had turned the knob, but that you would like to have May Levantini there because she could perhaps tell better on that subject?

MR. BOSTWICK: I object to that as partially including matters that have already been brought out by the general

question.

THE COURT: I will allow her to answer.

A. I remember saying that the two of us were out in the hall, and whether she turned the knob or key, or whether I did, I don't remember. I think that was all.

Q. Do you remember Mr. Bostwick asking you whether after you went out into the hall on the ninth floor through the Washington place door whether the door remained open while you were in the hall? A. Yes, sir.

Q. What did you say? A. I don't know.

Q. You don't recall what you said? A. No, sir.

Q. Did the door remain open at that time, or not? A. I couldn't tell, but I think it did, because we ran right out of it again.

Q. You ran where? A. Back on the floor.

MR. STEUER: Now, may I repeat the question and answer as to all the statements now —but I suppose it is no more.

THE COURT: The situation is the same as it was.

MR. STEUER: All right, your Honor.

RE-CROSS EXAMINATION BY MR. BOSTWICK:

Q. And your best recollection is that the door was left open? A. Yes, sir.

BY MR. STEUER:

Q. Your sister's name is Annie, is it? A. Yes, sir.