

SECRET

it was wholly immaterial as to what his custom previous to that time had been.

31. Because, during the trial the following colloquy took place between the solicitor and the witness Schiff:

Q. Isn't the dressing room back behind these doors?

A. Yes, it is behind these doors.

Q. That is the fastening of that door, isn't it?

A. Yes.

Q. And isn't the dressing room back there then?

A. That isn't the way it is situated.

Q. It isn't the way it is situated?

A. It is not, no, sir.

Q. Why, Mr. Schiff, if this is the door right here and—

A. Mr. Dorsey I know that factory.

Q. Well, I am trying to get you to tell us if you know it; you have no objection to telling it, have you?

(Here objection was made by defendant's counsel that Schiff had shown no objection to answering the questions of the solicitor and that such questions as the one next above, which indicated that the witness did object to answering was improper.)

Mr. Dorsey: I have got a right to show the feeling.

The Court: Go on, now, and put your questions.

Mr. Dorsey: Have you any objections to answering the question,

Mr. Witness?

A. No, sir; I have not.

These comments of the solicitor, reflecting upon the witness were objected to and the Court urged to prevent such reflections.

This the Court declined to do and allowed the solicitor to repeat the insinuation that the witness was objecting to answering him.

This was prejudicial error. The witness deserved no such insinuations as were made by the solicitor and in the absence of the requested relief by the Court, the jury was left to believe that the reflections of the solicitor were just.

This witness was one of the main leading witnesses for the defendant, and to allow him, movant contends, to be thus unjustly discredited was harmful to the defendant.