

Irving H. Dale—By Govt.—Cross

2071

Q. Despite the fact Schechter was asked that question on June 18th in my presence? A. Yes; Mr. Peterson asked him.

Q. Are you sure about that? A. Positive.

Q. Do you know what date the investigation started on this particular matter, have you any record? A. I have my memorandum, but I think my memory would be accurate on that. It was about the 28th of May or perhaps the 29th that I received information that the Schechters were bringing in poultry without having it inspected.

2072

Q. May 29th? A. The 28th or the 29th—no, it was Saturday, it was May 26th that somebody called up on the telephone and told us that the Schechters were running in a load of poultry from Philadelphia without having it inspected.

Q. Do you know where that telephone conversation came from? A. I would have to refresh my recollection on that.

Q. You took the man's name? A. If he gave me his name I took it and it is on the memorandum.

Q. And his address? A. Yes.

2073

Q. And you spoke to him personally? A. Yes.

Q. You took the message? A. Yes.

Q. Are you sure about that? A. Yes.

Q. And you made a memorandum of it? A. Yes, sir.

Q. Now, from that time on you sent investigators out on this case? A. On that complaint.

Q. How many investigators did you place at your disposal? A. Just one.

Q. From that time on— A. At that particular time I put one man on to investigate whether the Schechters had brought in poultry without

2074

Irving H. Dale—By Govt.—Cross

having it inspected, and he came in with a report to show that their violations were so much more widespread than that, that I put other investigators on it.

Q. Was that Mr. Forsmith who went out on the original complaint? A. Yes.

Q. And he told you that there were other violations? A. He told me that there were no inspection labels on the coops, and in addition, that they were not killing straight.

2075

Q. That was May 29th? A. May 28th or 29th, perhaps the day after Decoration Day; it was just that week-end.

Q. And then you continued sending out investigators? A. Yes, then I had two men kept almost continuously full time on this investigation.

Q. Did you write a letter to Mr. Schechter and ask him to come in? A. Mr. Peterson called him on the telephone, if I remember rightly.

2076

Q. Was that the June 1st telephone conversation that you referred to? A. No, it was earlier than that. He tried to get him to come to the office, but he might have written him a letter, but I have no knowledge of it.

Q. If Mr. Peterson said it was June 1st when he had the first telephone conversation, would you disagree with him? A. If Mr. Peterson said that, he knows it better than I do.

Q. If Mr. Peterson said he wrote no letters? A. He would know better than I would.

Q. Did you dictate any letters? A. No.

Q. You did not call him in for a conference to explain? A. No.

Q. The complaint made against him? A. No, I did not. I did not. I discussed it with Mr. Peterson shortly after June 1st and he told me

that in the light of what Joe Schechter had told him on the telephone June 1st he did not see any sense in calling him in and I agreed with him.

Q. You both made up your minds on June 1st because of the telephone conversation that he was beyond redemption? A. No; but when a man says he intends to do something and intends to continue doing it, and says it flatly, there is no use talking to him.

Q. There is no use seeing him face to face? A. For what purpose?

Q. There is no use seeing him face to face? A. (No answer.)

Q. You are a lawyer? A. Yes.

Q. Do you know the position Mr. Peterson holds? A. Yes, I do.

Q. It is somewhat judicial in nature? A. Well——

Q. In a sense? A. I suppose in a sense. In a sense he has to use judgment.

Q. Yes, and it requires deliberation, does it not, the position? A. Yes.

Q. It requires the ability to talk to people? A. Yes.

Q. Make them do things, does it not? A. Well, to try to make them do things.

Q. Does not require hasty action, does it? A. No.

Q. That should not be characteristic of any kind of man? A. No.

Q. And you say from a mere telephone conversation he was justified in doing what he did? A. In that case I think so.

Q. As a lawyer you say that? A. As a lawyer I said that to him and as a lawyer I say it now.

Q. And you would want your client to be judged by that conclusion? A. If my client

2080

Irving H. Dale—By Govt.—Cross

picked up the telephone and said he was violating the law and intended to continue to do so, I would expect the man at the other end of the line to figure he was dealing with a law-breaker under those circumstances, and there is no sense calling him in to speak with him.

Q. And if he was your client you would come to the conclusion that he had no rights in the matter, he was concluded by what he said? A. Of course he would have rights.

2081

Q. You would want to talk to him, wouldn't you? A. No, there is no sense of talking to him, even if he has rights.

Q. You would not want to see him? A. There would be no purpose in seeing him. If he asked for a conference, we would have been happy to give it to him, and that is what happened.

Q. The purpose of the conference would be against him? A. No.

Q. You wouldn't do that to your client? A. No.

2082

Q. You would want to have that done to your client; you would think it was a pretty nasty trick? A. Oh, no, it would not be a nasty trick.

Q. You would not think so? A. If my client came to a conference, and I acted as his lawyer, and he answered questions, there is nothing done——

Q. And you would tell him to shut up if he were asked questions? A. If I thought it were to the best interests of my client, I would tell him to keep quiet.

Q. You would call a conference and after calling the conference you would tell him to keep quiet? A. It would depend on what was asked and what came up.

Redirect examination by Mr. Rice:

Q. Mr. Dale, you say the Live Poultry Code Authority offered to retain you to help me in presenting this case. A. Not in presenting it; to assist you in the case.

Q. Yes. A. Yes.

Q. They offered you \$900 to assist me in this matter? A. Yes.

Q. You are not getting paid anything, are you? A. What do you say?

Q. For your testimony. A. Oh, no, of course not. 2084

Q. Aside from possibly a dollar and a half as a witness? A. I have forgotten about that.

Q. You were not retained, were you? A. No.

Q. Those negotiations did not go through? A. No.

Q. And I myself urged you to take the position, did I not? A. Yes, you did.

Mr. Rice: That is all.

Mr. Heller: That is all.

(Witness excused.)

The Foreman of the Jury: Your Honor, may we have a five-minute recess? 2085

The Court: Yes, surely. Do not let anybody talk to you about the case.

(Short recess.)

Mr. Rice: If your Honor please, I desire to call Mr. Forsmith for just one question on a matter that came up during his cross examination.

The Court: Very well.

2086 *Benjamin Forsmith—By Govt.—Direct*

BENJAMIN FORSMITH, recalled, testified further as follows:

By Mr. Rice:

Q. Mr. Forsmith, on cross examination you were asked by Mr. Heller about a meeting at which you were supposed to have said that the Code was only for the benefit of you and Mr. Peterson. A. Yes.

2087 Q. Will you tell us just what you did say at that meeting?

Mr. Heller: I object to that on the ground that he has already said he does not remember he said "I would not say or I would not say no."

Q. Do you remember what you said? A. I do.

2088 Q. What did you say? A. I said that so far as Peterson and myself is concerned we were there to do benefit to the industry and if we could not do anything for the industry we would not stay there, we would quit, that the only purpose of this Code was to help the industry and do some good.

Q. Did you say that the Code benefited only you and Mr. Peterson? A. No, I said that the Code is supposed to benefit the industry and that was the intention of the Code.

Q. Now what was the purpose of the meeting? A. We were forming new provisions as amendment to the Code.

Q. New provisions that the industry wanted or some members of the industry wanted? A. Provisions which had been called for and there had been a hearing, a meeting had been held,

Benjamin Forsmith—By Govt.—Cross

2089

and the provisions had been approved by the Secretary of Agriculture. The purpose in calling this was to get the people together, in furtherance of these provisions to provide some form in which the provisions could be carried out, and I called the people——

Mr. Heller: Now I object to his going into this kind of testimony.

The Court: Yes.

Q. How did you happen to make this statement?

2090

Mr. Heller: I object to that, he made it and he has stated what it was.

Mr. Rice: Very well. I withdraw the question. That's all.

Mr. Heller: Just one question.

By Mr. Heller:

Q. Who refreshed your recollection as to what was said? A. Nobody.

Q. You walked out into the hallway during recess? A. I was sitting in the courtroom all the time.

2091

Q. And you were thinking to yourself of what had happened at that meeting? A. Yes, and at recess I went over to Mr. Rice and I told him what had transpired at this conference.

Q. And you are certain that you did not make a statement to the effect that the Code really benefited you and Mr. Peterson? A. That's right.

Q. You are positive about that? A. Positive.

Q. And do you know who was there at the meeting? A. Yes, offhand I do.

2092 *Benjamin Forsmith—By Govt.—Redirect*

Q. Well, give me some names. A. Well, there was Louis Spatz; Morris Brown and All Wenkle; K. Gross; I. Kaplan; Morris Sorgun—oh, about 18 people. In fact I have a memorandum drawn in the office as to who was there and what happened at the conference.

Q. Are you sure now that that statement was not made? A. The statement you asked me?

Q. Yes. A. Yes.

2093 Q. Are you willing to be judged by your memory of what transpired at that meeting as you have now stated it? A. Yes.

Q. As to whether or not you are telling the truth? A. That's right.

By Mr. Rice:

Q. You came up to me during recess a few minutes ago and you told me that you now recall——

The Court: He just said that he did.

2094 Q. I did not approach you on the subject? A. No, sir.

(Witness excused.)

Mr. Rice: If your Honor please, we have prepared a list of the market men and addresses——

The Court: Show it to Mr. Heller.

Mr. Rice: In the vicinity of A. L. A. Schechter Poultry Corporation.

Mr. Heller: Very well, I consent to it being offered in evidence.

The Court: All right.

Mr. Rice: Is this being offered as a defendants' exhibit?

Philip Alampi—By Govt.—Direct

2095

Mr. Heller: I will take it as mine, if you so desire.

(Marked Defendants' Exhibit E in evidence.)

PHILIP ALAMPI, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Direct examination by Mr. Rice:

Q. What is your occupation, Mr. Alampi? A. Investigator for the Live Poultry Code.

2096

Q. What has been your training? A. I have had four years of vocational agriculture in an approved New Jersey high school. and four years in agricultural work at Rutgers, New Jersey, majoring in poultry husbandry.

Q. Will you kindly speak a little louder? A. Graduating with a B. S. degree.

Q. You graduated from Rutgers University? A. Yes, with a B. S. degree.

Q. Specializing in what line? A. Poultry husbandry.

2097

Q. What particular subjects did you take under that heading? A. Practically all of the fields that come under the head of poultry husbandry, such as poultry diseases, poultry feeding, poultry management, brooding, rearing, marketing, and all other related fields.

Q. Under what instructors or professors did you study those subjects? A. Under Professor, the head of the department is Professor Willard C. Thompson, internationally known poultry husbandryman, and Dr. Frederick Beaudette, the outstanding poultry pathologist in the world.

2098 *Philip Alampi—By Govt.—Direct*

Q. How long have you been in the employ of the Live Poultry Code Authority? A. Since June 18th.

Q. 1934? A. That is right.

Q. And what have been your functions as an investigator for the Code Authority? A. To investigate complaints in other matters for the Live Poultry Code industry.

Q. Have you ever visited either one of the Schechter markets? A. Yes, sir.

2099 Q. Which one did you visit first? A. The A. L. A. Schechter Live Poultry Corporation at 858 East 52nd Street.

Q. When did you visit that market? A. The first time June 21, 1934.

Q. What did you observe there? A. I first made myself acquainted with the men in the establishment.

Q. Was that June 24th or June 21st? A. June 21st, my first visit.

Q. What did you observe there? A. Primarily the method of doing business, and the members of the slaughter house.

2100 Q. Anything else? A. Not that I recall at the moment.

Q. When was the next time that you visited either one of the Schechter markets? A. I visited the same mentioned market on June 22nd.

Q. Who did you see on that occasion? A. At that time both Abe Schechter and Meyer Schechter were present.

Q. By Abe Schechter, do you know Abe Schechter by any other name? A. Aaron.

Q. How do you know that he is called Abe Schechter? A. By the customers calling him Abe, and his self-admittance.

Q. His what? A. Self-admittance.

Philip Alampi--By Govt.—Direct

2101

Q. He told you that he was called Abe Schechter? A. That is right.

Q. As well as Aaron Schechter? A. That is right.

Q. Who was there besides Aaron Schechter? A. Meyer Schechter.

Q. That is the man also known as Martin Schechter? A. Martin Schechter, that is right.

Q. Did you have any conversation with them? A. I did.

Q. What was the conversation? A. Just a minute, which one is that, is that the 22nd?

2102

Q. Yes, I think you said June 22nd. A. That is right.

Q. What day of the week is that? A. June 22nd is on a Friday.

Mr. Rice: Does anybody have a calendar?

Mr. Heller: That is right.

Q. That is a Friday? A. That is right.

Q. What was the conversation? A. I do not recall that.

2103

Q. You do not recall any conversation now? A. There may have been one but I do not recall it immediately.

Q. What did you do then, what did you see? A. Primarily I found out who the officers were in the corporation, who the workmen were, their names and particularly what their functions were.

Q. This was on June 22nd? A. That is right.

Q. Did you see anything else? A. I observed the killing of poultry, and finding violations of the straight killing law.

Mr. Heller: I object to that and move to strike it out.

2104 *Philip Alampi—By Govt.—Direct*

The Court: Yes, I will strike that out.

Q. You were investigating violations of the straight killing provision of the Code? A. Yes, sir.

Q. And what did you do at the Schechter Market on that occasion? A. I watched a particular sale.

Q. Tell us about it. A. Buyer 961 Blake Avenue—

2105 Q. Why do you call him 961 Blake Avenue?
A. That is his address, and he is known as such on the card books.

The Court: What?

The Witness: That is his address and he is known as such on the card books.

Q. Do you know whether it is the custom in the poultry trade sometimes to call a customer by his address instead of by his name? A. Yes, very frequently.

Q. And to a certain extent you have adopted that custom? A. Yes, sir.

2106 Q. And so you call this customer 961 Blake Avenue? A. Yes, sir.

Q. Do you know what his name is? A. I do not, sir.

Q. What happened? A. 961 Blake Avenue wanted some poultry, so Meyer Schechter ordered a kill for him—

Q. Who? A. Meyer Schechter.

Q. That is Martin Schechter? A. That is right. Sam Cohen, a workman, pulled the birds from the coop; 45 birds were handled and 6 were rejected by the buyer. The birds were slaughtered by Zukor Weiss.

Q. How do you happen to remember these figures, Mr. Alampi? A. I made a notation of that immediately while the sale was going on, and then when I went to the office I dictated it to the girl and re-read my notes and compared them with the original notes.

Q. Have you recently reviewed your memoranda? A. Yes, sir.

Q. Is it your practice to make a memorandum as to all of your investigations at all of the markets? A. Yes, sir.

Q. These are kept as part of the files of the Code Authority? A. Yes, sir.

Q. You say that this customer, whose address is 961 Blake Avenue, handled 45 chickens and he rejected 6 chickens? A. Yes, sir.

Q. Did you observe the condition of those 6 rejected chickens. A. Four of those birds, in my estimation, were perfectly O.K., and two were culls.

Q. Were the four obviously fit for human consumption? A. They were, because I questioned both the buyer and the Schechters, and they admitted the O.K., but the buyer did not want them.

Q. The buyer did not take them? A. No.

Q. What was done with them? A. They were put in a separate empty half coop.

Q. Who was present there at the time this happened? A. Meyer and Abe.

Q. When you say Abe you mean Aaron? A. That is right.

Q. They were present during all of this? A. Yes.

Q. When these six rejected chickens were put in a separate coop what happened to them after that, do you know? A. I watched them until my departure, which was 11:15, and they had not been sold at that time.

2110

Philip Alampi—By Govt.—Direct

Q. They had not been sold at that time? A. No.

Q. And you did not see what happened to them thereafter? A. No, sir. Of the six, two were specific culls.

Q. Did you have any further conversation with either one of the Schechters at that time? A. I don't recall.

Q. You say that you questioned each one? A. I questioned both the Schechter boys, Abe and Meyer.

2111

Q. What did they say? A. They said that the birds were fit for human consumption, but the buyer would not take them.

Q. Both of them said that? A. Yes, sir.

Q. Did you observe anything else on Friday, June 22nd? A. Not that I recall now.

Q. When was the next time you went to this market at 858 East 52nd Street? A. On Monday, June 25th.

Q. What is that? A. Monday, June 25th.

Q. On the following Monday? A. That is right.

2112

Q. Who was there? A. Meyer Schechter.

Q. Anybody else? A. I think Saul Schechter was there at the time.

Q. And Saul Schechter is not any of these defendants? A. I don't know.

Q. What did you observe on Monday, June 25th? A. Buyer No. 2267, as he was known.

Q. That is a customer whose address is what? A. He was known as 2267.

Q. 2267? A. That is right.

Q. You don't know his name? A. I don't know his name or his address. (Continuing previous answer.) Entered and wanted some

try and Meyer ordered it killed for him. Four birds were rejected from his kill, and of these four two were specific culls. One was egg-bound and the other obviously the same. Later a buyer from 1753 Prospect Place—

Q. By the way, is an egg-bound chicken fit for human consumption? A. It is not, sir.

Q. Do you know that to be true? A. Yes, sir.

Q. From your experience as a poultry expert? A. Yes, sir.

Q. Is it obviously unfit for human consumption? A. Yes, sir.

Q. Anyone in the poultry trade would recognize it as such. A. Yes, sir.

Q. All right. What happened? A. These birds were thrown into a special undesirable coop, as the Schechters call it.

Q. That is, four birds? A. That is right.

Q. Including two unfit birds and the healthy birds? A. That is right.

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

Q. Did you say how many chickens this customer took away with him, how many he purchased? A. That is incorporated in my reports, and if I could see the same, I would refresh my memory.

Q. Yes. Would you look at your reports? I have the original here. Do you have copies? A. Yes, I have copies in the other room.

Q. You have copies? A. In the other room.

Q. You mean in the witness room? A. Yes. May I be permitted to get them?

Mr. Rice: Will you get them, Mr. McDonald?

Q. You have a great number of figures. A. That is right.

2116 *Philip Alampi—By Govt.—Direct*

Q. Which you are going to testify about? A. Yes, sir.

Q. And you have recently refreshed your memory as to those figures? A. Yes, but there is an enormous amount, and it is hard to remember all this.

Q. You are speaking of the occasion on May—on June 25th. A. June 25th.

Q. Monday, is that right? A. That is right.

2117 Q. Can you tell us how many chickens were purchased by that particular customer? A. He handled 23 and rejected 4. 19 were killed.

Q. Did you have any conversation with Meyer Schechter about the quality of the chickens rejected? A. No, sir.

Q. Was anything said in your presence and in the presence of Meyer Schechter? A. No, sir.

The Court: What were the number of chickens on the 21st?

The Witness: The 21st?

The Court: Yes.

2118 The Witness: There wasn't any; June 22nd was the first observation.

The Court: Well, as to the 22nd how many?

The Witness: 39 killed and 6 rejected on the 22nd.

Q. Now, when the customer rejected these four chickens did Meyer Schechter do anything? A. No, except that the chickens were thrown in the coop and he let them go.

Q. He stood by there? A. Yes.

Q. And he did not protest? A. No.

Q. He didn't say anything? A. No.

Q. Now, did you observe what happened to the four rejected chickens? A. Yes.

Q. What happened to them? A. Later in the morning a buyer from No. 1753 Prospect Place, Brooklyn, came in and he wanted some poultry, and the Schechters slaughtered some for him. Then this particular coop of undesirables was killed off for him, which included those particular birds that I mentioned before.

Q. Did you see the four chickens slaughtered for the customer at 1753 Prospect Place? A. Yes.

Q. What is the name of that customer? A. I don't know, but I think it is Harry Schreiber.

Q. Tell us what you saw on that occasion. A. Then the four birds were slaughtered in addition to a paralyzed bird that had been laying on the floor all morning, which was also slaughtered and thrown in with the rest of the birds.

Q. And was that paralyzed bird unfit for human consumption? A. Yes.

Q. And was it readily recognizable as such? A. Yes.

Q. And was Meyer Schechter present at the time? A. Yes.

Q. Was anybody else present? A. Abe Schechter.

Q. And was he present during that entire time? A. Yes.

Q. And was he present also when the four birds were rejected on Monday, June 25th? A. Yes.

Q. He was present at all times? A. Yes.

Q. Have you told us everything that happened when the customer from No. 1753 Prospect Place came in and purchased these chickens, including the three unfit chickens? A. Yes.

2122 *Philip Alampi—By Govt.—Direct*

Q. Have you told us everything? A. Yes.
Then I called our office——

Mr. Heller: Did I understand you to say, Mr. Rice, the three unfit chickens at No. 1753 Prospect Place?

Mr. Rice: Yes.

Mr. Heller: Then I object to it, your Honor; the indictment says but one, page 21 of the indictment.

2123 Mr. Rice: Well, if we prove three and charge one, there is no objection to that, is there?

The Witness: What happened is that I called Mr. Dale from our office and he in turn got in touch with Mr. Seabrook of the Board of Health, and we made arrangements to meet——

Mr. Heller: I object to that.

Q. What did you do and what did you observe? A. I met Dr. Seabrook at No. 1759 Prospect Place.

2124 Q. And what did you do there? A. We entered 1753 Prospect Place premises and there we examined those birds that I had condemned as culls from visual observation.

Q. How did you know they were the same birds? A. I had toe-punched them.

Q. Will you explain that to the jury, the jury does not know what toe punching means? A. Well, in poultry terminology toe punching means cutting or punching the web of the foot, so that the bird is identifiable. It is done with a regular punch usually. It was impossible in this case, so I carried a razor blade with which I slit the web in the place where there are 32 possible marks of identification.

Q. Will you explain that, please, so that we will understand what 32 possible marks are? A. Well, you may mark an outside right or an inside right, or you may mark an outside left or an inside left; and then you can have all combinations of those cut.

Q. And you put two marks on the web of the chicken's feet? A. I just slit the web.

Q. Does it hurt the chicken? A. No, sir; it is done on baby chicks; it is a common practice in the poultry business.

Q. And how is the mark made? A. Well, it just cuts the web and the cut remains as the mark.

Q. And it never heals? A. It heals, the edges heal, but the cut never returns to its original form, solid form.

Q. You say that you recognized these three unfit chickens when you and Dr. Seabrook got over to 1753 Prospect Place? A. That is right.

Q. How did you mark them previous to that time, and when had you marked them? A. I had marked them while they were in the coop of chickens, while they were on the floor of the coop.

Q. Did the Schechters see you doing it? A. No, sir.

Q. You marked them when they weren't looking? A. That is right.

Q. Then when you got over to 1753 Prospect Place what happened? A. Dr. Seabrook found these birds——

Mr. Heller: I object to what happened at a different place not in the presence of the defendant.

The Court: He can tell what he observed, that is all.

2128 *Philip Alampi—By Govt.—Direct*

Mr. Rice: I simply want to trace these chickens to that particular place.

Mr. Heller: He said he found them there.

The Court: He went there and identified them by the cuts that he had made. He has already said that, I think; didn't you? Don't shake your head.

The Witness: Yes, sir.

2129 Q. What happened to those chickens? A. Dr. Seabrook ordered them to be cut up, and he condemned one as an egg-bound bird. The second bird he cut up and it was of questionable quality, and the other was very poor quality, but not condemnable.

Q. You saw all this yourself? A. Yes, sir.

Q. Did you observe anything else on June 25th at the poultry market at 858 East 52nd Street, Brooklyn? A. Not that I recall.

Q. When is the next time that you went—
A. Tuesday, June 26th.

Q. The following day? A. That is right.

2130 Q. You went to the same market? A. That is right.

Q. What did you observe at that time? A. Observed, I went through the same procedure as before, and observed straight killing and the sale of culls.

Q. Who was present? A. The three brothers, Alex, Abe and Meyer, as well as Sam Schechter and Levine of the Schechter & Levine firm.

Q. Tell us what you observed, Mr. Alampi, when the three Schechter brothers whom you have designated were present. A. Abe Schechter ordered a kill for the Schechter & Levine

firm, and Sam Cohen pulled the birds, and handed them to Levine for observation.

Q. Levine was the customer? A. That is right.

Q. Sam Cohen is the working man? A. That is right.

Q. And Abe Schechter is the defendant Aaron Schechter? A. That is right.

Q. All right. Now, what customers bought? A. Levine & Schechter bought this kill. There were two coops killed, and from the first coop four birds were rejected.

Q. What was the condition of the rejected birds? A. I couldn't ascertain at that time because things were happening so fast; I just had time to mark them without being seen, and not examine them closely.

Q. Were they unfit for human consumption? A. I later determined that they were.

Q. That they were unfit? A. That they were fit.

Q. They were fit for human consumption? A. That is right.

Q. You did determine that? A. I determined that upon close observation.

Q. What was the name of that customer? A. Levine handled the birds, of Levine & Schechter.

Q. Who operated at what address? A. I don't know.

Q. 257 Brighton Beach Avenue? A. (No answer.)

Mr. Rice: Is that right, Mr. Heller?

Mr. Heller: Yes, that is correct.

Q. What else did you observe on that day, Tuesday, June 26th? A. Later in the morning

2134

Philip Alampi—By Govt.—Direct

a buyer from 5010 Church Avenue came in and ordered a kill and included in this kill were those four rejected birds that I had previously toe punched.

Q. Which four rejected birds? A. They were rejected from the Levine & Schechter kill.

Q. Oh, which you determined were not unfit chickens? A. I later determined that by examination in the customer's store.

Q. Then all of these rejected birds were later sold? A. That is right.

2135

Q. To another customer? A. To 5010 Church Avenue.

Q. In your presence? A. That is right.

Q. Were all three of the Schechter Brothers present at that time? A. Yes, sir.

Q. Then what happened? A. I proceeded to the store at 5010 Church Avenue to make a close observation of the four rejected birds that were toe punched.

Q. What else happened at the Schechter Market? A. I don't recall.

2136

Q. On that day; anything else? A. There was a lot of conversation directed to me by Abe Schechter.

Q. What did he say? A. Firstly, that I was the cause of his losing the customers because the customers were being afraid of being involved in a lawsuit; secondly, that I had no right being an investigator, not knowing anything about chickens.

Q. Did you tell him that you were a poultry expert? A. No, sir.

Q. You just kept quiet? A. That is right. Third, that I would not be allowed to enter the premises the following morning, Wednesday morning.

Q. Who told you that? A. Abe.

Q. Tell us just what he said. Tell us just the way he said it. A. Well, he said. "You come here tomorrow morning, we won't let you in." "You try to get in, we'll put you out."

Q. Was there anybody—— A. Meyer was present.

Q. (Continuing) —with him? A. Meyer was present.

Q. Did he participate in the conversation? A. Meyer later said, that is, Abe and Meyer both admitted they did not kill straight and they were very emphatic about it.

2138

Q. That is, they both said it? A. That is right, very emphatically. They repeated it several times during the conversation.

Q. What else did they say to you about coming there next day? A. They threatened me with violence if I put my foot in the premises.

Q. What did they say, just approximately what did they say? A. Well, they accompanied all this with unprintable language.

Q. What do you mean by "unprintable language"? A. I think the word is self-explanatory.

2139

Q. Speak right up. Just tell us what was said. A. Well, they just cussed me up and down, that was all.

Q. They cursed you? A. Oh, yes.

Q. They used vile words? A. Yes.

Q. You do not want to repeat those words here in court? A. That is right.

Q. Anything else said about your coming there on the following day? A. No, sir.

Q. What was the next thing that happened? A. I returned to the office and I went there again the following morning.

2140

Philip Alampi—By Govt.—Direct

Q. That is, Wednesday, June 27th, is that right? A. That is right.

Q. Who did you find there on the following day? A. Both Abe and Meyer were present when I arrived. Later Alex came in.

Q. Did you have any conversation with Aaron and Martin Schechter? A. No, except the usual customary morning greetings, and I walked into the place.

Q. They let you into the place? A. Yes, sir.

2141

Q. Was there anything said about your staying out of the place? A. Not when I entered.

Q. Was anything said later? A. At the end of the day's work there was.

Q. Was there anything said by Alex Schechter? A. No, sir.

Q. What happened that day? A. A buyer, which represented, I think, the Schechters, Sam Schechter's place, came and ordered some birds, and he rejected—

Q. You mean Sam Schechter of Schechter & Levine or Levine & Schechter? A. That is right.

2142

Q. Yes. A. Ordered a kill and he rejected eight birds.

Q. How many? A. Eight.

Q. How many did he take? A. He took two and a half coops.

Q. And he rejected eight? A. That is right.

Q. What was the condition of the eight rejected birds? A. Six were O. K. in my mind, but two were culls.

Q. Were the two—

The Court: How many were there?

The Witness: Six were O. K. and two were culls.

Mr. Rice: Two and a half coops, your Honor.

Q. What happened to the eight rejected birds?

A. They were thrown into a special three-quarter coop of undesirables, as Schechters termed them.

Q. Who was present when all this took place?

A. Abe and Meyer.

Q. Was Alex present then? A. He came by later, he was later there.

Q. During what part of the procedure was he present? A. When the birds were rejected.

Q. Was he present when the birds were rejected? A. Yes, sir.

Q. Just tell us what happened. A. The birds were thrown in this special three-quarters coop, and later a fire from 1753 Prospect Place—wait a minute, I am getting ahead of my story. In the meantime about 8:35 both rabbis left, and Abe Danziger and Meyer Schechter were the only ones left in the establishment. At 9:28 I left to make a telephone call, and at that time the only poultry in the establishment was this three-quarters of a coop of undesirables. Meyer made a remark that there was no more chickens, you may as well go home, since both rabbis had left.

2144

Q. Who was present when Meyer Schechter said that you might as well go home? A. Abe Danziger.

2145

Q. Nobody else? A. No. So I left the premises, went to a garage at the next corner and made a telephone call at 9:28. When I came back—

Q. You mean 9:28 in the evening? A. In the morning, a. m. I came back at 9:35, and there was Rabbi Wise with a shochet's knife, with blood on the knife and the three-quarter coop of poultry had been slaughtered.

Q. That is the three-quarters coop of so-called undesirable poultry? A. Had been slaughtered while I was gone in those few minutes.

2146

Philip Alampi—By Govt.—Direct

Q. How long were you gone? A. I was gone from 9:28 to 9:35.

Q. You went out of course when Meyer Schechter told you there was to be no more slaughtering? A. Yes.

Q. And you had better go out? A. That is right.

Q. And how long were you gone? A. From 9:28 to 9:35.

Q. That is seven minutes? A. Yes, sir.

2147

Q. When you got back seven minutes later what did you find? A. The entire three-quarters of a coop had been slaughtered and fresh blood was present everywhere, and everyone had a look of amazement on their faces.

Q. Who was there? A. Meyer Schechter, Abe Danziger and Shochet Wise.

Q. And was there any conversation after you got back? A. Except that I suspect a buyer was standing nearby, by the scales.

Mr. Heller: I object to what he suspected.

2148

The Court: Some man was standing there.

Q. Do you know what his name was? A. Morris Wagshaul.

Q. What is his address? A. Morris Wagshaul, this particular address was 127 Sutter.

Q. 127 Sutter Avenue? A. That is right.

Q. Morris Wagshaul of 127 Sutter Avenue was there when you got back? A. That is right. Meyer Schechter told Leo the bookkeeper—

Q. Who is Leo? A. The bookkeeper.

Q. What is his last name? A. I do not know.

Q. Leo Schimmel? A. I do not know.

Q. What did he tell him? A. Told him to place the stack of birds on Leo's fenders in the car, and told him to drive to Dumont and Brighton Beach. The buyer drove off in his own car. I took the license number of the man that I thought was the buyer, called the office, and got in touch with Mr. Dale, and he in turn informed me who the owner of the car was and his two business addresses, one of which was 127 Sutter.

Q. You heard Meyer Schechter say to the bookkeeper to go to Dumont Avenue— A. To take them to Dumont Avenue and Brighton Beach.

Q. Did he give any specific address? A. No.

Q. You never knew Dumont Avenue and Brighton Beach? A. No.

Q. Do you know whether there is such an address? A. No.

Q. Do you know that there was no such an address? A. That is right.

Q. How do you know that? A. Because I had never heard it used, and it didn't seem to me from my small knowledge of Brooklyn that there was any slaughter houses there.

Q. Do you know whether that poultry did go to any such place as Dumont and Brighton? A. I know that it did not, I know where it went.

Q. How did you find out where it went? A. I took the license number of the car of the man that was standing by, called Mr. Dale, who in turn called the Motor Vehicle Bureau, and he gave me the owner of the car as well as his two business addresses, one of which was 127 Sutter.

Q. Who was the owner of the car? A. Morris Wagshaul.

Q. The man you have seen in the premises? A. That is right.

2152

Philip Alampi—By Govt.—Direct

Q. What did you do? A. I immediately went to 127 Sutter, and there on the right-hand side of the street was the same car that I had previously seen that had the same license number in front of Schechters. I proceeded to the store on Sutter Avenue on my left and entered the establishment, and there was a pile of freshly-killed poultry on the table. An elderly man was standing there, and I asked his permission to examine the poultry, and he said yes, certainly. But previous to that I had marked my inspection

2153

culls by the toe punch method.
Q. That is, you had marked these two chickens? A. That is right.

Q. Which you say were unfit for human consumption? A. Yes, sir.

Q. You say you traced those chickens over to Morris Wagshaul's place? A. That is right.

Q. By getting the license number of the car? A. That is right.

2154

Q. What did you do when you saw those chickens at Morris Wagshaul's place? A. I asked permission to examine the poultry, and I found the birds that I had toe punched, and just as I got through looking at the pile Morris Wagshaul came over and told me to get out in very violent terms——

Q. What did he say? A. He told me to get the hell——

Mr. Heller: That is objected to.

The Court: Yes, the defendants were not there.

Mr. Rice: Question withdrawn.

Q. What happened? A. So I left the premises.

Q. You just determined that those two unfit chickens had reached Morris Wagshaul's store, is that correct? A. That is right.

Q. You didn't do anything further about it?

A. That is right; I tried to get in touch with the Board of Health, but it was unavailable.

Q. Are you sure that those two chickens were unfit for human consumption? A. They were very obviously culls.

Q. Would they be recognized as unfit for human consumption by anybody in the poultry trade? A. Yes, sir.

Q. What was their condition? A. One of them is what is commonly termed as a gaper.

Q. What has been called here a gapper? A. Gapper or gaper, or a bird with infectious laryngotracheitis, affected so that the bird extends its head and then withdraws it and gasps for air. Sometimes a cheesy plug comes in the trachea, and bloody mucous is within the trachea, and it may die. The other was a very emaciated bird, it looked like it was a tubercular bird.

Q. Are you sure that those two birds were among the three-quarters of a coop that were slaughtered during the seven minutes that you were out of the market? A. Yes, because they had been marked.

Q. How much time expired from the time you marked those two birds to the time that you saw them at Wagshaul's store? A. An hour and a half.

Q. An hour and a half? A. Yes.

Q. Did you go back to the Schechter Market on that day, Wednesday, June 27th? A. I don't recall.

Q. At the time when you saw Morris Wagshaul's automobile and took his license number did you have any conversation with Meyer Schechter? A. I tried to find out who the buyer was and Meyer Schechter would not let me look at

2158 *Philip Alampi—By Govt.—Direct*

the charge book, sort of smiled, and put his fingers up to his nose and told me to go on. "You are dumb," he says; "You'll never get that fellow."

Q. He told you that you were dumb? A. That is right.

Q. Did he say anything else? A. Remarked that "You might as well go home. It is all over with. Nothing doing."

Q. Did he say that you would not be able to find out who the buyer was? A. Yes, sir.

2159 Q. Did he say you were too dumb to find out? A. Yes, sir.

Q. Was anybody else there at the time? A. Abe Danziger.

Q. What did you do on the following day, Thursday, June 28th? A. On my way to the Schechter establishment I met Shochet Wise on the trolley car, at which time he asked me numerous questions.

The Court: You met who?

The Witness: Shochet Wise.

2160 The Court: That does not bind them, conversation with Wise.

Q. What happened after that? A. We proceeded to the Schechter establishment about 4:55 A. M. There Wise was greeted by Gershon, another shochet, and I went forward to enter the poultry market, and I was greeted with a burst of loud language from Abe Schechter, telling me that I could not enter the establishment.

Q. Was there anybody else present with Abe Schechter? A. There was Sam Cohen, Abe Danziger, and several other buyers that bought poultry there the first thing in the morning.

Q. Just what was said by Abe Schechter? A. Abe told me that I could not enter the establishment regardless of whether I was from the Code or not and he would not let me in, or Peterson, or anyone else from the Code; if Peterson wanted to enter the establishment, "Let him put up \$5,000, let him take him as a partner," then he could go in all he wanted to, he could live there, if he wanted. He told me if I went in the place he would kill me, and this was all supplemented by unprintable language.

Q. What was that? A. This was all supplemented by unprintable language.

Q. Do you mean he used vile language? A. Yes, sir.

Q. That you do not want to use here in court?

Mr. Heller: I object to counsel's characterizing the kind of language.

The Court: If he wants it, tell it; if he doesn't, that is the end of it.

Q. You would rather not use the language used by Aaron Schechter on that occasion? A. Yes, sir.

Q. Speak up. A. That is right.

Q. Was there anything else said to you that you can repeat here? A. Not that I recall.

Q. What did you do? A. I went out and sat on the running board, for it was too early to go back to the office. So, about seven o'clock, Abie asked me to go for a ride, and having nothing else to do, and willing to take a chance, I said O. K. So we proceeded to a certain place to deliver a couple of bags of poultry, and on the way over he told me that I should be a nice boy and do like the other investigators and behave myself, and in the meantime his tone had changed considerably from the five o'clock tone.

2164

Philip Alampi—By Govt.—Direct

Q. He did not tell you what he meant by being a nice boy and behaving yourself? A. He told me I should not go out and go into his customers' stores and look at the poultry and try to get affidavits and things like that.

Q. Did he say anything else. A. He admitted several times that he did not kill straight, and he did not care who knew it.

Q. Did he say anything about the Code Authority? A. Not on that trip.

2165

Q. Did he on some other occasion? A. Upon my arrival back, both he and Meyer again brought the question up as to—that is, I tried to get in again and they again refused me entrance, and told me I could not get in, or Peterson, and repeated the same story.

Q. Who did you talk to? A. Both Meyer and Abie then.

Q. Was Alex there? A. I don't recall.

Q. But did Meyer as well as Aaron participate in the conversation? A. Only on the admission of straight killing. The rest of it was directly by Abe.

2166

Q. What did he say after you got back there, anything further? A. No, sir.

Q. What was the next thing that you did? A. Tried to get in, and not being able to, I reported back to the office.

Q. On the following day, June 29th which is a Friday— A. That is right.

Q. (Continuing) —what did you do? A. I proceeded to the establishment, and they again refused me entrance.

Q. Who did? A. Abe Schechter, together with Meyer.

Q. Was Alex there? A. I don't recall.

Philip Alampi—By Govt.—Direct

2167

Q. What did Abe and Meyer Schechter say?

A. They told me again that I could not enter, and I had no right entering the establishment. So I asked them if I could use the pay 'phone. They said yes, so I called the police station, asked for a radio car, and the radio car came in a few minutes. I met the two policemen outside and told them my story.

The Court: Never mind what you told them. The defendants were not present.

2168

Q. Were the defendants present? A. Yes, sir.

Q. What happened—just a moment. Which defendants were present? A. Abe and Meyer.

The Court: Outside?

The Witness: Yes, sir, outside of the establishment.

The Court: Where the policemen were?

The Witness: That is right.

Q. Did they come outside when the policemen arrived? A. Yes, sir.

Q. Did they talk to the police officer too? A. Sure.

2169

Q. What was said? A. They told him I had no right going in, and they would not let me in, and the cop had no right letting me in. So the cops, not knowing what to do, called their superior, and still there was a question in their minds, so I accompanied them to their precinct, at which time the lieutenant, not knowing his exact position, told me that I had better go back to the office and drop the matter at that time, which I did.

Q. Mr. Alampi, you have said that you have specialized in poultry and poultry diseases? A. Yes, sir.

2170 *Philip Alampi—By Govt.—Cross*

Q. At college? A. Yes, sir.

Q. Do you know whether or not poultry diseases are communicable to other poultry? A. Yes, sir.

Q. To what extent? A. Whole car loads may be infected from one or two particular birds.

Q. Do you know whether any scientific experiments have been conducted to ascertain whether avian tuberculosis is communicable from chickens to human beings? A. Yes, sir.

2171 Q. Do you know what the findings of the scientists have been? A. Dr. Klimmer, at Leipzig, Germany, has reviewed the entire literature, and his report claims, and he knows——

Mr. Heller: Unless he is here to testify, so I can cross examine him, I object to the report. He is giving us some report some doctor gave, and the doctor is not here for me to question him.

2172 Q. Never mind what this gentleman said. What studies have you made as to the question of the communicability of tuberculosis from chickens to human beings? A. I have found 37 cases of human t.b. which have been contracted from chickens.

Q. 37 cases where human beings have caught tuberculosis from tubercular chickens? A. That is right.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

Q. Mr. Alampi, what was your work before you accepted this position? A. I was student at the College of Agriculture.

Q. This was your first job, correct? A. Yes, sir.

Q. The job that you received from the Code Authority? A. I had numerous jobs in college.

Q. In college, but not in a place of business? A. That is right.

Q. This is the first job, is that correct? A. (No answer.)

Q. Who gave you this job? A. Mr. Leroy Peterson.

Q. Do you know Mr. Peterson? A. I know him now, yes, sir.

Q. Did you know him before that? A. Before I accepted the position?

Q. Yes. A. No, sir.

Q. You were recommended by someone? A. Yes, sir.

Q. Can you tell us by whom? A. Dr. W. C. Thompson.

Q. Does he know Mr. Peterson? A. No, sir.

Q. Did he give you a letter of recommendation? A. Mr. Peterson called Dr. Thompson on the 'phone and asked him for his student that majored in poultry.

Q. And you were assigned to the job? A. That is right.

Q. What do you get a week? A. Now?

Q. Yes. A. Thirty-five.

Q. What did you get when you started? A. Twenty-five.

Q. You got a ten dollar increase? A. That is right.

Q. Was that as a result of the work that you did in this case? A. I know not, sir.

Q. Beg pardon? A. I know not, sir.

Q. It was granted to you without your solicitation? A. I was called in one morning and told that I had an increase of ten dollars in salary.

2176 *Philip Alampi—By Govt.—Cross*

Q. Mr. Peterson patted you on the back and said you had done a good job, and you could have ten dollars a week extra? A. Not in those words.

Q. But something to that effect? A. He said, "You will get ten dollars a week extra."

Q. Did you study investigation while you were in college? A. Not directly.

Q. This was your first major investigating job, was it? A. Major, yes.

2177 Q. Now, I understand you to say you came to work in the month of June, is that correct? A. Yes, sir.

Q. What day in the month? A. June 18th.

Q. The first job that you were assigned to was the Schechter job? A. No, sir.

Q. You had a couple of jobs before that? A. Yes, sir.

Q. When was the first day that you were assigned to the job, when was that? A. To Schechter?

Q. Yes. A. June 21st.

2178 Q. You mean you were instructed on June 20th to appear there June 21st? A. That is right.

Q. Then do I understand you to say you were there on June 21st? A. Yes, sir.

Q. June 22nd? A. Yes, sir.

Q. June 23rd? A. No, sir.

Q. That was a Saturday? A. Yes, sir.

Q. The next Monday, June 25th? A. Yes, sir.

Q. June 26th? A. Yes, sir.

Q. June 27th? A. Yes, sir.

Q. June 28th? A. Yes, sir.

Q. June 29th? A. Yes, sir.

Q. When did you start in the morning? A. Before their killing.

Q. 6:30 in the morning? A. Well, the killing was at seven o'clock every day except Thursday, when it was five o'clock, and six o'clock on Friday.

Q. So with the exception of Thursday, you were there at 6:30, and on Thursday at 4:30? A. I was there before the killing.

Q. And approximately what time in the morning? A. If the killing was at 7, I would be there before the killing.

Q. So that on all days you were there before 6:30, except Thursday, and you were there at 4:30 on Thursdays? A. Maybe some deviation of a couple of minutes.

2180

Q. That is approximately the time you started to work? A. That is right.

Q. You were at the premises 858 East 52nd Street? A. Yes, sir.

Q. In the slaughter house, is that correct? A. Yes, sir.

Q. You got there in the morning before they started killing, is that it? A. Generally in the slaughter house.

Q. And how long did you stay? A. I stayed until they finished killing, the slaughtering was finished.

2181

Q. Until everybody bought their poultry? A. Until the shochet went home.

Q. When? A. Until the shochet was through, presumably.

Q. You saw the customers come in? A. Yes.

Q. During your stay? A. Yes, sir.

Q. And you had a note book with you? A. Yes, sir.

Q. Each time a customer bought you stood right by the shochet? A. No, sir.

2182

Philip Alampi—By Govt.—Cross

Q. Where were you standing? A. I stood off a fair distance where I could make my observations and record my notes.

Q. In other words, you were standing there with a notebook and pencil in hand? A. No, sir.

Q. Didn't you have a pencil? A. I had a pencil, but I would jot notes down as I would deem advisable.

Q. But you had it with you? A. Yes, sir.

2183

Q. And then as the customer picked his poultry out you stood there and watched it? A. Yes, sir.

Q. And occasionally you would ask the customer for his name and address, would you not? A. In very few cases.

Q. Can you tell us how you found out the names and addresses without asking the customers? A. Yes; I would look at the charge book and get the information, and ask the workmen.

Q. You would go in the office and refer to the charge book? A. No, sir, I would ask permission to look at the charge book.

2184

Q. You asked permission from the Schechters? A. That is right.

Q. They said you could go ahead and look at them, is that right? A. In some cases.

Q. And then you took the name and address? A. Yes, sir.

Q. And in other cases you asked the customers? A. In some cases.

Q. For their names and addresses? A. Yes, sir.

Q. You did that all during your entire stay, is that correct? A. The latter part I wasn't allowed to look at the books.

Q. But up to that time you did? A. Yes, sir.

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

Q. Did you get into any arguments with the customers? A. I do not recall now.

Q. On how many occasions did you get into arguments with customers? A. I do not recall.

Q. Not one? A. I say I do not recall; I may have.

Q. Try to refresh your recollection? A. I had one with Izzy Cohen at one time.

Q. Did you have any arguments with any other customers? A. I do not remember off-hand.

Q. Did you ever hear a customer say, "I am not a thief; what are you watching me for?" Did you ever hear a customer say that? A. Yes, sir.

Q. That was said plenty of times, was it not? A. I won't say plenty.

Q. Didn't some say, "I am not coming back to this market; I am not going to go back and buy at this market unless you get rid of this man"? A. I heard them say that.

Q. They found it objectionable to have you there, didn't they? A. Well, I do not know whether it was my presence.

Q. They didn't want to be policed, did they? A. Presumably.

Q. When you came there, when you got in there you saw the merchandise already on hand, did you not? A. Yes, sir.

Q. You saw the coops stacked up against the walls? A. Yes, sir.

Q. Plenty of chickens were on hand? A. Yes, sir.

Q. Plenty of coops? A. Yes, sir.

Q. Did you look at them? A. Most of them.

2188

Philip Alampi—By Govt.—Cross

Q. Did you see the labels on them, the inspection labels? A. That I did not observe.

Q. Did you make it your business to see whether those chickens were inspected or not?

A. No, sir.

Q. That was not part of your duty at that time? A. It was not, sir.

Q. Your duty was solely what? A. To investigate straight killing and the sale of culls.

Q. They sent you down there for that purpose? A. Yes, sir.

2189

Q. You received instructions, did you not, to find out that, in other words, as to whether or not the Schechters were doing straight killing, or whether or not they sold culls, is that right?

A. I was to make an investigation of my observations there.

Q. You were sent down there for that purpose, were you not? A. Yes, sir.

Q. You were told to get all the evidence that you possibly could? A. I was not told to get evidence, no.

2190

Q. Didn't you, as a matter of fact, go to some customers and ask them to sign affidavits? A. Yes, sir.

Q. You did that, didn't you? A. Sure I did.

Q. And they refused you these affidavits, didn't they? A. Sure.

Q. Now let us get this straight: The method of killing was, a customer would come in and say, "I want a coop or a coop and a half," is that correct? A. That is right.

Q. And then he would mark with a cross mark that he wanted coop 1 and coop 2? A. I do not recall whether he did or not.

Q. You do not recall that was done; you were there for seven days, weren't you? A. Yes, sir.

Q. You had ample time to observe that? A. In most cases they were marked the day before with the numbers of their respective business addresses.

Q. Each coop was marked up? A. Not all of them.

Q. Some of them were? A. Yes.

Q. You looked at some of those? A. Not any particular observation of the place.

Q. Didn't you see each and every coop that was there had a label on it inspected? A. That was not my duty; I didn't observe that.

Q. You didn't want to observe that; that wasn't part of your duty? A. No, sir.

Q. The customer would have his chickens designated, or he would pick them out in the morning for slaughtering purposes, wouldn't he? A. He would do his own selecting.

Q. Beg pardon? A. He would do his own selecting.

Q. In other words, what you mean by selection, he would say that coop or that coop or the other coop, wouldn't he? A. Yes, sir.

Q. Then the workmen would take the chickens out of the coops? A. Yes, sir.

Q. And hand them to the shochet, the man that kills them? A. No, sir, hand them to the buyer who in turn would select or would reject them, and he would hand them to the shochet.

Q. And he would hand them to the shochet? A. Yes.

Q. And some of them he would reject, they were culls? A. I don't know why he rejected them.

Q. Didn't you on your direct examination in this case say that they said "I do not want these, they are culls?" A. He said "I do not

2194

Philip Alampi—By Govt.—Cross

want them.” I do not think I said anything about culls.

Q. Did you say anything about them being culls? A. I do not recall.

Q. Didn’t you say “In my opinion they were, in the other man’s opinion they were not,” didn’t you say that on direct examination? A. Not in those words.

2195

Q. Before a man can ascertain whether a chicken is diseased or whether it is a cull he has to take it in his hands, doesn’t he? A. Not in all cases.

Q. Is it necessary to take each chicken from the coop before it is slaughtered? A. Is it necessary——

Q. To take out with your hands from the coop each and every chicken before you give it to the shochet for slaughtering? A. Yes, sir.

Q. And so the workman would take it out of the coop and give it to the buyer, wouldn’t he; the buyer would look it over, and then he would say “I will take it” or “I won’t take it,” is that right? A. That is right.

2196

Q. On all of these occasions, the same process was followed, is that correct? A. Except in some cases where one of the shohtim, where the intermediate man between the workman and the shochet. For instance, I believe a shochet would handle the bird, and I believe when Schechter was doing that the buyer stood looking outside or some place.

Q. And then Abe Schechter would give it to the shochet? A. That is right.

Q. And he would kill it? A. That is right.

Q. But where a buyer was there he would take it or refuse it, is that right? A. The buyer was there anyway in all cases.

Q. He would stand a little away? A. Surely.

Q. And observe what was being done, is that correct? A. In the cases where the buyer didn't handle it he wouldn't observe it, he could not observe what he was getting, he knew beforehand what he was getting.

Q. He had seen the poultry before? A. Surely.

Q. Is that correct? A. Surely.

Q. So if it was handed to him for acceptance, it was handed to the shochet for killing having been accepted, is that right? A. Yes, sir.

Q. After it was handed to the shochet, then he killed it? A. Yes, sir.

Q. And put it in a barrel? A. Yes, sir.

Q. Those that the buyer rejected, were they killed first or put away alive? A. They were put away alive.

Q. In a different place? A. Yes, sir.

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

Q. Those are the chickens that you examined? A. Yes, sir.

Q. In each one of these cases? A. All my mentioned cases.

Q. All right. Now, tell us the first occasion, what was the first day that you observed the sales of chickens, what was that day? A. June 22nd.

Q. On June 22nd, how many chickens were selected on June 22nd and how many were rejected? A. This particular sale 961 Blake Avenue, 39 accepted and 6 rejected.

Q. From where did these 39 and 6 come from? A. From one full coop.

Q. That was a full coop? A. That is right.

Q. And the man accepted 39 of that coop, and the other 6 he refused? A. That is right.

2200

Philip Alampi—By Govt.—Cross

Q. And those 6 were placed in a different place? A. That is right.

Q. In another coop? A. Yes, sir.

Q. Did you examine them at the time the buyer rejected them or subsequently? A. In that particular case the buyer, myself, and one of the Schechters and a shochet examined them, and they said four of them are O. K. but the buyer did not want them.

Q. Who said four were O. K.? A. The Schechters and the shochet.

2201

Q. They said four looked all right to them? A. Yes, sir, but the buyer would not take them.

Q. What did the buyer say? A. He would not take them.

Q. What did he say? A. He said, "I do not want them."

Q. Did he say they didn't look good to him? A. No, he said, "I don't want them."

Q. What did he say as to the other two, they didn't look good to him? A. He didn't make any statement of the other two that I recall.

2202

Q. He left the determination as to whether they were good to Schechter and the shochet?

A. He would not take them.

Q. Did they say that they were not good? A. Who?

Q. Schechter and the shochet, did they say that they were not fit? A. No, sir.

Q. He said, "I do not want them?" A. Yes, sir.

Q. Then those chickens were put away? A. Yes, sir.

Q. And then what did you do? A. I waited until the sale was made of these particular birds, but when I left those birds had not been sold.

Q. You mean those six birds? A. Yes, sir.

Q. When did you identify those six, at that moment when they were rejected? A. Yes, sir.

Q. While they were alive? A. Yes, sir.

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

Q. You say you went over there with your razor blade, is that right? A. That day I did not have my razor blade with me.

Q. How did you cut them? A. I did not cut them that day.

Q. You did not do anything that day? A. No, sir.

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

Q. You made a close inspection of each and every one of those six chickens? A. Yes, sir.

Q. Right there at that time? A. Yes, sir.

Q. And of those six chickens you say two were unfit for human consumption? A. No, sir.

Q. You were an expert, were you not? A. I am not saying.

Q. You consider yourself expert, don't you? A. Yes, sir.

Q. You know when a chicken is diseased or not? A. Yes, sir.

Q. You have the training for that? A. Yes, sir.

Q. You came to the conclusion that two of those six were diseased? A. Yes, sir.

Q. And not fit for human consumption? A. Yes, sir.

Q. Did you say that to anybody? A. No, sir.

Q. You permitted them to be placed elsewhere, is that right, for sale? A. They put them somewhere else, I did not permit them, they did it of their own accord.

Q. You did not make any objection to them putting them some other place at that particular moment? A. I did not get that.

2206 *Philip Alampi—By Govt.—Cross*

Q. You did not say a word to anybody that they were diseased chickens? A. Yes, sir.

Q. You just kept your mouth shut? A. Yes, sir.

Q. You were ready and willing to put that in as a piece of evidence? A. I put it in my report.

Q. You didn't say a thing to anybody about it? A. No, sir.

Q. You didn't warn them that they were diseased? A. No, sir.

2207 Q. You said nothing? A. That is right.

Q. What happened the next day?

The Court: Are you going to be long with this witness?

Mr. Heller: I will be with him for three-quarters of an hour.

The Court: Then we had better take a recess. Gentlemen, do not discuss the case with anybody, do not allow anyone to discuss it with you, keep your minds open until it is finally submitted to you, come back tomorrow morning at ten o'clock.

2208

(Adjourned to Tuesday, October 23, 1934, 10 A. M.)

Philip Alampi—By Govt.—Cross

2209

Brooklyn, N. Y., October 23, 1934.

Met pursuant to adjournment at 10 A. M.;
present as before.

PHILIP ALAMPI, resumed the stand.

Cross examination continued by Mr. Heller:

Q. Mr. Alampi, did you refresh your recollection over night about this case? A. Somewhat.

Q. Did you talk to anybody about the case?
A. Yes, sir.

2210

Q. To whom? A. To the Government officials.

Q. Did you speak also to Mr. Peterson about the case? A. No, sir.

Q. Now, Mr. Alampi, when did you graduate from college? A. June 9th.

Q. This year? A. 1934.

Mr. Rice: Will you speak up a little louder, Mr. Alampi?

The Witness: June 9, 1934.

Q. Three weeks thereafter you got this job, is that correct? A. What is that?

2211

Q. In about three weeks thereafter you got this job? A. Less than that.

Q. What college did you graduate from? A. Rutgers University.

Q. Where is Rutgers University located? A. New Brunswick, New Jersey.

Q. How long have you been living in this State? A. Now?

Q. Yes. A. Since June 18th when——

Q. When you got this job? A. That is right.

2212 *Philip Alampi—By Govt.—Cross*

Q. Before that you were not a resident of the City of New York or State of New York? A. That is right.

Q. Of the State of New Jersey? A. Yes, sir.

Q. You had lived there all your life? A. No, sir, I was born in Philadelphia, but later moved to Williamstown.

2213 Q. What subjects did you take up, will you tell us, during your first year in college? A. The first year in college I spent in taking up the general curricula which all students majoring in agriculture take up.

Q. Mention the particular subjects. A. Chemistry, botany—

Q. Yes. A. English, mathematics, military science, soils, agriculture.

Q. Languages? A. No languages at all.

Q. You didn't study any languages? A. No.

Q. In the second year what did you take up? A. Organic chemistry, zoology, poultry, horticulture, dairy, plant physiology, English, mathematics.

2214 Q. What did you take up your third year? A. The third year I took up poultry pathology, poultry feeding, poultry management, entomology, bacteriology, genetics.

Q. English? A. No English in the third year.

Q. And in the fourth year? A. The fourth year I had economics, rural sociology, advanced poultry diseases, poultry management, poultry marketing, agricultural economics, general economics, agricultural education, agricultural extension, animal breeding and dairy husbandry.

Q. How many hours, on the average, per day did you spend in class room work during the fourth year? A. In actual lectures?

Q. Yes, lectures. A. Approximately from 8 A. M. to 4 P. M.

Q. During the fourth year? A. That is right.

Q. Those were lectures given to you by your college professors, is that right? A. Yes, sir.

Q. And during the third year? A. Approximately the same.

Q. The second year? A. Approximately from 8 to 3 on an average.

Q. Then your training consisted of lectures from professors at the college from 8 to 4 in the afternoon, is that correct? A. In part.

Q. Did you spend most of that time on the campus, in the class rooms? A. About half the time in the class room and about half the time in the field, what we call laboratory work.

Q. That is in the college laboratory? The laboratory is located on the college campus? A. By laboratory we mean actual participation in various poultry farms and at the college poultry farm doing actual work.

Q. The college has a poultry farm adjoining to it? A. That is right.

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

Q. That is what you call laboratory work? A. That was in part some of our laboratory work.

Q. And all you received when you graduated was a B.S.? A. Yes, sir.

Q. The degree of Bachelor of Science? A. In agriculture.

Q. Bachelor of Science in agriculture, isn't that correct? A. Yes, sir.

Q. And do you think that qualified you as an expert? A. That, plus my entire life spent in poultry husbandry.

2218

Philip Alampi—By Govt.—Cross

Q. You mean before you went to college? A. Yes. I lived on a poultry farm before I went to college, and I went through college on a flock of 125 chickens, worked my way through school with chickens.

Q. I didn't quite catch the meaning of that, you worked your way through. A. In my freshman year when I came to college I had my personal belongings, \$60, and 125 white leghorn chickens.

2219

Q. You brought the chickens from your home to high school? A. From my home.

Q. You brought your personal belongings, \$60 in cash and 125 white leghorn chickens? A. That is right.

Q. And you think that qualifies you as an expert? A. I took care of those chickens while I was in college. I placed those chickens on the college poultry farm, and I would rise every morning about six o'clock, feed them, feed them at noon, and take care of them at night and retail the eggs to the college professors. In that way I worked my way through school.

2220

Q. How old were you when you were in high school? A. In high school?

Q. Yes, when you entered high school how old were you then? A. I entered in 1926, I am 22 now; about 14.

Q. And when you graduated from high school you were 18? A. That is right.

Q. And when you graduated from college you were 24? A. 22.

Q. That is your age at present, is that correct? A. Yes, sir.

Q. You are not married, are you? A. No, sir.

Q. The first time you were sent to visit premises 858 East 52nd Street you were asked to get the names of the members of the firm, is that correct? A. To find who the actual participants were.

Q. Those were your first instructions? A. Together with watching the straight killing and sale of culls.

Q. Who gave you those instructions? A. Mr. William Wright, our chief investigator.

Q. He told you to go down and find out who the members of the firm were and plant yourself and see how they conducted their business with reference to straight killing, is that correct? A. He told me to pursue the regular routine of investigation.

Q. What was the regular routine of investigation? A. Briefly, go into an establishment, find who the workmen were, who the responsible parties were, if it was a corporation, individual or partnership, and then watch for violations of straight killing and sale of culls.

Q. What do you mean by, to watch for violations of straight killing? A. To see whether they violated the straight killing provision of the Code.

Q. So that on the first day you came there you spoke to workmen, is that correct? A. The first man I spoke to was Alex Schechter.

Q. And you asked him who the members of the firm were? A. I asked him who he was and who the other members of the firm were, and who the workmen were.

Q. And he gave you the names of the members of the firm? A. Yes, sir.

Q. And told you the names of the workmen, pointed them out to you? A. Upon my first en-

2224

Philip Alampi—By Govt.—Cross

tering the establishment, he did not, but later I found out.

Q. You found out the names of the workmen?

A. Yes.

Q. Did you ask them personally? A. That I don't recall right now.

Q. But you found that out somehow? A. Yes.

Q. And when you came in you wore a badge, is that correct? A. I wore a regular Code Authority badge.

2225

Q. You pinned that on your lapel? A. I had it on my vest.

Q. Did you keep your jacket open so everybody could see you had a badge? A. Not particularly.

Q. Did you show it to anybody? A. Not until I was requested to show my authority.

Q. Then you showed your badge? A. Yes, sir.

Q. Did you show your badge to any customer? A. Several of them requested to see it and wanted to polish it.

2226

Q. Some of them wanted to shine it, some of the customers? A. Yes.

Q. It wasn't shiny, is that it? A. I don't recall.

Q. It wasn't shiny on that day? A. I don't recall.

Q. June 21st was the first day that you observed conditions in the premises? A. June 21 was my first day there.

Q. You came there very early in the morning? A. The exact time is incorporated in my minutes.

Q. You were told to make minutes of what transpired? A. The first day I was just to

make general observations of the place and observe the violations as before.

Q. Then you went back—did you say violations as before? A. Violations of straight killing, sale of culls, that I previously mentioned.

Q. You were there prior to the 21st? A. No, sir.

Q. We are talking about the first day—— A. 21st was the first day I was there, Thursday.

Q. You were sent there with instructions to make a memorandum of what you saw? A. Yes.

Q. You made such memorandum? A. On pieces of——

Q. Paper? A. Paper.

Q. And you incorporated it in a memorandum when you got back to the office? A. I later dictated a report from those notes.

Q. There is no question that you reached there before the killing of chickens took place the first day? A. That is incorporated in my report. I cannot just remember offhand now.

Q. Don't you remember stating yesterday you were there during the entire time of killing every day of your stay at the premises? A. May I refresh my memory by looking at my notes?

Q. Yes, surely. A. Have you the original, Mr. Rice?

(Mr. Rice hands papers to the witness.)

A. The first day, the 21st, I had trouble in finding the establishment, I was a little late in arriving. They had already started slaughtering when I arrived.

Q. What time did you get there? A. Approximately a little after six.

Q. Six in the morning? A. Yes.

2230

Philip Alampi—By Govt.—Cross

Q. When you arrived there were customers there, weren't there, who were purchasing chickens? A. Purchasing chickens, that is right.

Q. And they would take the chickens from the coops, or the workmen would, and give them to the rabbi to slaughter? A. The workmen would pull the chicken from the coop, hand it the respective buyer, who in turn gave it to the shochet to kill.

2231

Q. The only ones who kill chickens are the shochets, is that right? A. That is right.

Q. You never saw any of the Schechters kill any of the chickens, did you? A. I never saw them slaughter them, by the method that the shochets use.

Q. You know that in the Jewish law the shochet can kill a chicken? A. I am not very familiar with the Jewish laws.

Q. You don't know anything about it? A. I know somewhat, but not all.

Q. You testified yesterday that you toe-punched some of the chickens, didn't you? A. Yes, sir.

2232

Q. And that occurred while the chickens were alive, is that correct? A. That is right, sir.

Q. Don't you know that that is an offense against the Jewish laws? A. Toe-punch chickens?

Q. Yes. A. I don't know of any particular phase in the Jewish laws—

Q. You are not a Hebrew, are you? A. No, sir.

Q. You did not tell the Schechters that you toe-punched those chickens, did you? A. No, sir.

Q. Kept that as a secret to yourself? A. Yes, sir.

Q. Do you know that a person eating a chicken after having been toe-punched by a Christian is committing a sin, do you know that? A. I don't, sir.

Q. You did not inquire about that? A. No, sir.

Q. You did not ask for permission whether you could toe-punch those chickens? A. No, sir.

Q. They were not your property, were they? A. They were not my property.

Q. You had no interest in that business, did you? A. Yes, sir.

Q. A proprietary interest? A. No, sir.

Q. Did you make an investment in the business? A. I did not, sir.

Q. Were you responsible for the bills? A. I don't believe so.

Q. All you got out of this was \$35 a week, wasn't it? A. Not exactly.

Q. After you got your increase? A. Not exactly.

Q. The college boy made good, didn't he? A. I wouldn't put it in those words.

Q. \$35 is a good salary for a boy coming out of college? A. It isn't bad.

Q. It isn't good at all, is it? A. I am not saying that.

Q. There is no question about this, during your entire stay, all you did was a secret within the inner recesses of your heart? A. Will you state that again?

Q. All right, I will put it in plain English: During your entire study and all the investigation work that you did, and all the findings that you made, they were kept to yourself? A. They are incorporated in my reports and those re-

2236

Philip Alampi—By Govt.—Cross

ports went through the regular channels in the office.

Q. Now besides the Code Authority people and yourself no one else knew what you did?

A. Excepting my immediate family at home.

Q. You told them about it? A. I told them of some of my work with the Code Authority and some of the ways in which we were doing our work.

2237

Q. You told them about these violations? A. What particular one are you referring to?

Q. The same ones that you are referring to. A. On what particular day?

Q. At any time. A. I mentioned that we were observing violations.

Q. And you are a confidential investigator? A. So far as the Code Authority was concerned, yes, sir.

Q. But in so far as you were concerned you were not? A. I would not put it in those words.

Q. You were telling everybody about it except the Schechters and still you think it is confidential?

2238

Mr. Rice: Now I submit, your Honor, that that is not fair. The witness has not testified that he told everybody.

The Court: No.

Q. Now on June 21st you came a little late, but that was 6:30? A. The exact time I don't know.

Q. Approximately 6:30 in the morning? A. A few minutes before, probably.

Q. And how many hours of that day did you stay at the premises? Do you want to refresh your recollection from the record? A. If I may.

Q. I will show you your report. How many hours of that day were you there? A. I stayed there on till 5 o'clock, until the killing was over.

Q. Now from 6 to 5 in the afternoon, from 6 in the morning until 5 in the afternoon? A. Yes, sir.

Q. The entire day? A. Yes, sir.

Q. And you watched each and every thing that was done from 6 in the morning until 5 in the afternoon? A. I didn't say everything.

Q. You were there? A. Yes.

Q. And as much as your eyes could observe you observed? A. Within my power.

Q. You were not thrown out on that day? A. No, sir.

Q. You were permitted to do whatever you pleased? A. I was permitted to go about my duties at the premises at No. 858 East 52nd Street.

Q. It was not your premises, was it? A. No, sir.

Q. Now when you observed the killing on that first day, tell us just what you saw. A. The first day I was approached by Alex Schechter and he immediately started getting in the air as to why I was there and what my duties were and he complained about everybody else in the industry, he was doing right, but everybody else was doing wrong. My first day was merely to get acquainted as to who was there and about their method of doing business.

Q. You inquired from 6 in the morning until 5 o'clock to find out who was there and what is what? A. Not exactly.

Q. Tell us what you observed on the 21st—what complaint have you to make with reference to the Schechters on June 21st? A. I saw several customers buy poultry.

2242 *Philip Alampi—By Govt.—Cross*

Q. There is nothing unusual about that, is there? A. No, just the regular routine business, and then later in the day I saw two workmen, Cohen and Danziger, re-grading birds, which is a common occurrence in that slaughter house.

Q. Did you say it was then common occurrence in the slaughter house? A. It was done every time I have been there in the slaughter house.

Q. Wasn't that first day the first day you were there? A. Yes.

2243 Q. And already that was in your mind as a common occurrence, the first day you were there?

Mr. Rice: If your Honor please, the witness stated very distinctly that that is a common occurrence and then immediately Mr. Heller says you say that that had been a common occurrence. The witness said no it was——

The Witness: What I said was that it was a common occurrence each time I was there.

2244 The Court: Of course he cannot say what happened before he was there because he did not see it.

Mr. Rice: Obviously, your Honor.

The Court (to the witness): When you are talking about a common occurrence you refer to when?

The Witness: Starting the first day I was there June 21st, and what I observed with my own eyes.

Q. How many customers did you see come in on June 21st? A. I don't know.

Q. How many gradings were there on June 21st? A. I have it incorporated in the notes. According to my notes he had 40 coops and he killed about 20.

Q. Now you must have been near those coops in order to count them? A. Enough distance so that I could easily count them.

Q. You were standing in front of them when you counted them or on the side? A. The coops were lined up on the left-hand side of the establishment as you enter and I stayed in the middle of the right-hand side wall counting the coops.

Q. Facing the coops? A. Facing the end part of the coops.

Q. You were at the end part of the coop? A. The coops were up against the left-hand side wall and I counted them from the right-hand side.

Q. And how many feet away from the coops were you? A. I should judge 10 feet, maybe 8 feet.

Q. Your vision was good? A. Presumably.

Q. And you were able to count the numbers? A. Yes, sir.

Q. One by one? A. Yes, sir.

Q. And did you say yesterday you did not observe whether or not those coops had the labels placed upon them when they were inspected or not? A. I did not observe any labels.

Q. You saw none at all? A. I am not saying that.

Q. Did you see any without labels? A. I don't know.

Q. You did not incorporate that in your report? A. I had no duty to perform in regard to inspection labels.

2248

Philip Alampi—By Govt.—Cross

Q. You did not look for anything that was beneficial to the Schechters, did you? A. I would not say that in those words, I had my duties to perform on straight killing and culls.

Q. You were sent out to get whatever damaging testimony against the Schechters you could get? A. I would not say damaging testimony as I said before—my duties.

Q. How many times did you see the performance of slaughtering of chickens on June 21st? A. I did not keep any tally of that.

2249

Q. Do you know how many customers, how many chickens they had slaughtered on that day? A. I do not, sir.

Q. You don't know anything about that? A. Not the first day.

Q. Just the first day you made a report merely of your observations? A. Observations and conversations that ensued during that day.

Q. That is all that took place on that day? A. I watched the workmen re-grade the birds and we saw six culls which Alex admitted they were culls, and four were emaciated and two had tumors.

2250

Q. Tell us when you observed those four culls and what transpired. A. On that particular morning the poultry that was left in each coop overnight was re-graded again and the workmen pulled the birds from one coop and throw them in another, feeling the birds for quality. I observed six birds and I asked Alex Schechter and the workmen what they were and Alex said that they were culls.

Q. And what did you understand by culls at that time? A. Poultry unfit for human consumption.

Q. And does that mean you cannot eat them? A. I said unfit for human consumption.

Q. Will you explain that? A. In my opinion—

Q. Never mind your opinion, what does it mean? A. I can only quote my own opinion.

Q. You have been in this poultry business—have you done any business in it? A. Which end?

Q. The end of buying and selling. A. I have marketed poultry.

Q. On paper in a class room? A. Not actually, I have actually marketed poultry in Philadelphia.

2252

Q. You mean you raised them? A. Yes.

Q. And that is what you mean by marketing? A. No, I grew the birds, fattened them and marketed them in the city.

Q. You sold them one by one? A. By the baskets.

Q. How many baskets did you sell? A. I don't know that. It was back when I was in high school.

Q. A boy of 16 years of age? A. Probably, 16 or 17.

Q. Did you ever have experience of buying and selling chickens at West Washington Market or any wholesale slaughter house market in the City of New York for yourself or anyone else? A. Not that I recall, sir.

2253

Q. Now what is meant by an unfit chicken, let us get your opinion now. A. My opinion is based upon my experience and also by the definition—

Q. What does it mean—we know your experience. A. A bird unfit for human consumption is self-explanatory.

Mr. Rice: If your Honor pleases, this witness is being called upon to express his

2254

Philip Alampi—By Govt.—Cross

opinion, he certainly has the right to state what his opinion is based on.

The Court: He has, but he has stated what his experience was. It is entirely unnecessary to repeat it each time saying my opinion, based on my experience—this trial should be tried expeditiously.

The Witness: Any diseased poultry is unfit for human consumption.

2255

Q. All those six chickens were diseased? A. Yes, by the admission of Alex Schechter and the workmen.

Q. What diseases did you find in those chickens? A. Four were emaciated and not inclined to move about.

Q. Now what do you mean by emaciation? A. The wasting away of the breast muscles.

Q. They had thin breasts? A. Extremely.

Q. You would not die from eating a chicken that has a thin breast, would you? A. Those words are not right.

2256

Q. They are not right, that is all. Did you cut those chickens open? A. No, sir.

Q. You didn't do that, did you? A. No, sir, I had no authority to cut the chickens open.

Q. Did you file a complaint with the Schechters? A. What do you mean file a complaint?

Q. That those chickens were diseased? A. Alex Schechter admitted that they were culls, and said that he would destroy them, but he did not destroy them.

Q. He told you they were culls? A. He did.

Q. But he didn't destroy them? A. No.

Q. What did he do with them? A. He left them in the coop and they were not destroyed when I left.

Philip Alampi—By Govt.—Cross

2257

Q. When you came back the next day did you find those six chickens? A. I do not know.

Q. Did you toe punch those six? A. I did not.

Q. You do not know what happened to those six? A. No, sir.

Q. On June 22nd, tell us what happened on that day? What time did you get there in the morning? A. May I refer to my notes?

Q. Yes, surely. A. I arrived at exactly 5:50 A. M.

Q. In the morning? A. Yes, sir.

2258

Q. How many hours did you stay there on that day? A. I left there at exactly 11:15 A. M.

Q. Did you came back that day? A. No, sir.

Q. Tell us what you found happen on that day? A. That particular day Meyer was there.

Q. Meyer Schechter? A. That is right. And Abie arrived about 6:15. The first killing occurred about 6:30, and it was for 961 Blake Avenue, at which time Cohen pulled 45 birds from a coop, a full coop.

Q. Is Cohen an employee? A. He is a workman there.

2259

The Court: Now we will take a recess for a few minutes (addressing jury): Gentlemen, do not discuss the case, do not permit anyone to discuss it with you; we will take a short recess.

(A ten-minute recess was taken, during which time the jury left the court room.)

Q. Mr. Alampi, do you know how many inspectors were employed on June 22nd? A. From what office?

Q. At your office? A. How many were employed?

2260 *Philip Alampi—By Govt.—Cross*

Q. Yes. A. I don't know the exact number.

Q. Four? A. At least four.

Q. Not more than six? A. I don't know, sir.
I do not know.

Q. Have you ever met them? A. Yes.

Q. Met some of them? A. It has been—I believe so. I was new on the work. I believe that I met them. In the meantime we were taking on new men and laying some others off. On that particular day I don't recall.

2261 Q. Taking on and laying off men from week to week, you mean? A. That was not the usual custom, but at that time they were being taken on and one or two dropped.

Q. Can you approximate how many inspectors there were employed at that time? A. Oh, I don't know, seven or eight, approximately.

Q. Do you know for a fact that there are 350 markets under your jurisdiction, or are there more? A. I don't know that number, sir.

Q. You have not visited 350 yourself, have you? A. You mean the Metropolitan area?

2262 Q. Yes. A. All of them?

Q. Yes. A. No, sir.

Q. Have you visited a hundred? A. Up until now?

Q. Yes. A. I have, sir.

Q. From day to day? A. Not with regularity. I have been to a hundred places since I have been on the job.

Q. All told? A. More than a hundred.

Q. That is from the month of June to the present time? A. Yes, sir.

Q. That is correct, you were there from June 21st to June 29th, is that correct? A. June 29th inclusive.

Q. Yes; every day? A. Yes, sir, except—no, no, I wasn't there Saturday or Sunday.

Q. Yes. During that period of time you did not visit any other markets, did you? A. I don't think I did.

Q. Do you know whether there was another inspector at 991 Rockaway Avenue while you were at 858 East 52nd Street? A. I do not know that, sir.

Q. Never spoke to him, did you? A. There was one inspector on one day, but I don't remember which day, but I remember that Inspector Lenhardt had been stationed at one of the Schechters; which, I don't know.

Q. Coming back to June 22nd, you were there until 11:15? A. That is right, sir.

Q. From 4:30 in the morning, 5:30 A. M. in the morning, is that correct? A. Yes, sir.

Q. Who took the chickens out on that day from the coops? A. The particular violations that I observed, Mr. Cohen did.

Q. Did you see him take out all the chickens during the day—during your stay, rather? A. You mean he handled every bird?

Q. Yes. A. I don't know that, sir.

Q. Any other workmen handling birds? A. Probably Danziger had handled some birds too.

Q. Do you know how many customers were there in the morning? A. I do not know, sir.

Q. Did you make a record of each transaction that morning? A. No, sir.

Q. Same process was followed that morning as the previous morning, was it not? A. In what respect?

Q. In the way of handling of the chickens? A. The same, approximately same trio, that is, Cohen and the buyer and the shochet.

2266

Philip Alampi—By Govt.—Cross

Q. And when you speak of a killing you mean a slaughtering of the poultry as it is purchased?

A. That is, a shochet kills it, and that is what we call a kill.

Q. That is what you call a killing, don't you?

A. That is right.

Q. You did not observe the second day whether all the poultry was inspected poultry, did you?

A. I did not observe at any time whether it was inspected.

2267

Q. During the entire period you were there?

A. That is right.

Q. You did not examine the poultry yourself to see whether they were healthy or not while in the coops? A. Previous to my observation of violations?

Q. Yes. A. I observed them at the time they were sold and rejected—rejected and sold.

Q. When you got there in the morning had the chickens been there? A. The chickens were in the coops.

Q. All crated up? A. All cooped up.

2268

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

Q. Did you examine them while you were there as to whether or not they were healthy? A. Before they were sold?

Q. Yes. A. No, sir.

Q. Made no examination whatsoever? A. No, sir.

Q. You waited until the killing took place?

A. That is right, sir.

Q. Take one case on the 22nd, when you claimed they did not kill straight. Give us the operation of that transaction and all the details. A. Do you want to know the exact details?

Q. Exactly what happened. A. Do you mind if I read them, as my notes—

Q. No, refresh your recollection and tell us.

A. Will I read this? Mr. Cohen——

The Court: Read that over now first.
Do not get yourself mixed up. Read it over, and then, having read it over, why, then, tell us what happened. Better read it because he will ask you a question.

A. (Continuing.) The buyer wanted some poultry, so Meyer——

Q. What was the name of the buyer? A. I only know the address, 961 Blake Avenue. He wanted some poultry, so Meyer ordered a kill for him.

2270

Q. What do you mean by ordered a killing?
A. Told the workmen to kill them.

Q. Pointing to what? A. To coop which had No. 849, which was the seventh tier high.

Q. All filled with chickens? A. That is right, full coop.

Q. Told him to fill that coop? A. That is right.

Q. And then what happened? A. And Cohen pulled the birds from the coop, handed them to the buyer, who examined the birds, and the buyer, the ones he accepted, in turn handed them to the shochet, who slaughtered them, and threw them into the barrel.

2271

Q. When you say he examined them, what did the buyer do? A. Generally pulls back its feathers, looks at the breast, and feels them; a general observation of the quality of the poultry.

Q. Then he handed them to the shochet? A. The ones he accepted.

Q. Is that right? A. The rejected——

2272 *Philip Alampi—By Govt.—Cross*

Q. How many were in the coop? A. 45 birds were emptied from the coop; 39 were accepted and 6 were rejected.

Q. You counted each and every bird as it was handed? A. That is right.

Q. Is that correct? A. Yes, sir, in that particular case.

Q. And you also took down the number of the coop? A. The coop had black number 849 on it.

2273 Q. You took that down? A. Seventh tier high.

Q. You took it down? A. Yes, sir.

Q. You counted them, whether it was the seventh or the sixth tier? A. That is right, sir.

Q. Began counting from the bottom up? A. That is right, sir.

Q. You did not observe whether it had any inspection slips while you were doing that? A. No, sir.

Q. Then you counted the exact birds given from man to man? A. That were noted there.

Q. From Cohen to the buyer? A. And from the buyer to the shochet.

2274 Q. When did you make that memorandum, immediately? A. As soon as the killing was finished.

Q. You wrote everything down on a piece of paper? A. I jotted down my notes briefly.

Q. What did the buyer do when he rejected the chickens? A. Looked at them and handed them back to Cohen, and he threw them into an empty coop.

Q. What was said when he rejected the chickens? A. Nothing, except he looked at the birds and nodded his head and threw them back into the coop.

Q. Nodded his head, no good? A. I don't know what he meant; he just nodded his head.

Q. Did you ask him what he meant? A. At that time?

Q. Yes. A. Alex remarked—I remarked to Alex what is the matter with those birds, he rejected six of them and Alex, together with the buyer, the shochet and Alex together with myself looked at the four birds and we agreed that they were O. K. but the buyer would not accept them.

Q. Do you mean that all six were healthy? A. Four were O. K. and the two that were not healthy, one had a broken wing and the other was a paralyzed bird.

Q. You four agreed that that is not a fit chicken? A. We did not agree to the fitness of the chicken. We agreed that the four birds—the four of the six—Alex and the shochet and myself said they were O. K., but the buyer would not accept them.

Q. Do you know the weight of those four chickens? A. I did not weigh them.

Q. Well, can you approximate the weight of each of those four chickens? A. They may have weighed three pounds, I don't know.

Q. Did you examine them and hold them in your hands, those four chickens? A. No.

Q. The only one that did that was the buyer? A. The buyer and Alex.

Q. You did not take them in your hands, did you? A. No.

Q. Now the same happened on the 26th and the 27th—the same process? A. On the 26th Cohen again pulled the birds and handed them to the buyer.

Q. The same process on the 26th, 27th and the 28th? A. Not the same men.

Philip Alampi—By Govt.—Cross

2278

Q. Different buyers, is that correct? A. That's right.

Q. Did you observe at what price the poultry was sold? A. What day?

Q. Each and every one of the days you were there. A. In some cases I did and in some I could not because they would not let me examine the charge book.

2279

Q. You went to the charge book, did you? A. I asked one of the Schechter boys to let me look at the charge book so I could get the facts as to what they were sold at and the number of pounds.

Q. And were you instructed to get that information? A. I was to get the price per pound and the exact number of pounds and how much poultry was slaughtered and how much was rejected.

Q. And you asked some of the customers to let you know how much they were paying for the poultry? A. I don't remember any place where I asked the customer for the price, but I did ask the Schechters.

2280

Q. You never spoke to the customers while you were there? A. I spoke to them, but I don't remember asking for prices.

Q. Do you remember getting into a heated argument with a customer where unprintable language was used? A. I would not say that. The specific instance was when Mr. Izzy Cohen, who claimed one day that I had no right to look at the books and so forth, and I said don't you keep books, Mr. Cohen, and he said no; I remember every day just how much I make and I said, well can you tell me how much you made a year ago today and he said sure, \$1.50. I said well how about two years ago today and he said sure,

\$2.50. I said I don't believe you, I think you are full of shit.

Q. You think that was a proper thing to say as an investigator for the Government? A. I am not saying that it was a proper thing to say, but one must protect himself.

Q. Well, did he attack you? A. No, he didn't attack me, but he used words worse than mine.

Q. Then words that were unprintable or rather are unprintable were used? A. I only used those words and he retaliated with words stronger than that.

2282

Q. Did you have any business with this man? A. No, sir.

Q. Was he your customer? A. He was not, sir.

Q. Were you paying him for anything? A. No.

Q. Was he paying you for anything? A. No.

Q. He owed you no duty did he? A. Owed me a duty?

Q. No duty to you. A. Well, if he was under the Live Poultry Code and we were investigating he would be under our surveillance.

2283

Q. In other words you are superior to all merchants? A. I cannot put myself in that category.

Q. You are not the boss of everybody? A. Of course not.

Q. Now Mr. Cohen, he is the only customer that you spoke to? A. I spoke to several other customers.

Q. How many customers did you speak to? A. That is impossible to remember.

Q. How many customers did you go to with affidavits asking them to sign them? A. I did not have any affidavits to sign excepting I asked Mr. Stauber of 1750 Prospect Place if he would sign

2284

Philip Alampi—By Govt.—Cross

the affidavit, that his admission the day previous, when he said that Abe Schechter forced culls on him, was the truth, the day that Seabrook condemned the birds.

Q. You wanted him to sign an affidavit that Abe Schechter forced him to buy culls? A. He said that he forced the birds on him.

Q. You mean held him by his neck and told him he had to take them? A. No.

2285

Q. Were you there when he told him he had to take them? A. I did not hear any conversation between the two of them.

Q. Well, how did you know that he forced upon him culls, who told you that? A. Stauber himself, the buyer.

Q. When did he tell you that? A. The day that Seabrook and I went to his establishment and condemned the birds.

2286

Q. Then for the first time you wanted him to tell you that he was forced to buy culls? A. He admitted on his own hook that he was forced to take these birds from Abe Schechter and I said will you put that in writing and he said come back tomorrow.

Q. Did you go back the next day? A. I did, but he was not there.

Q. And you never approached him again about it? A. No.

Q. Did you go to any other customer for an affidavit? A. No, sir.

Q. Did you make a report to the Code Authority as to the altercations you had with customers? A. No.

Q. You did not say anything to Mr. Peterson that you called a man such and such a name? A. I didn't call anybody such and such a name.

Q. You did not tell him that you used language unfit for a person to use working for the Code Authority? A. I did not use any, sir, except that one time.

Q. You don't call that unfit language? A. Presumably no when he retaliated with worse than that.

Q. Well, when you say Abe Schechter took you for a ride, now you don't mean at the point of a gun, do you? A. No, he asked me to go for a ride and as I had nothing else to do right then I was willing to take a chance and I went.

2288

Q. Now what do you mean by taking a chance? A. Well, after the reception I got that morning I figured I was taking a chance.

Q. You mean that he first threatened you? A. Yes, he threatened me and said he would kill me if I went into the place.

Q. And then you took a ride with him? A. Yes.

Q. And you were not afraid of him? A. I would not say that.

Q. He asked you to go in his car? A. Yes.

Q. Did he force you in at the point of a gun? A. No.

2289

Q. Did you enjoy the ride? A. Presumably.

Q. Did you get paid for taking that ride? A. What do you mean by that?

Q. Well, they did not deduct any money from your pay for the time you lost taking that ride?

A. No, sir, that was not losing time.

Q. Don't you call that losing time? A. That was not losing time, that was part of my investigation work.

Q. You took a ride with him, is that correct? A. Well, not exactly those words.

2290

Philip Alampi—By Govt.—Cross

Q. Then I understand you to say yesterday that he pleaded with you in the car, "Please do not go to our customers and ask them for affidavits, leave us alone"? A. And "Be a nice boy," and all that kind of stuff.

Q. He said that to you? A. He said that to me, yes, sir.

Q. Didn't he tell you that the customers were complaining about your being there, that he was losing money and losing customers, didn't he say that? A. He did, sir.

2291

Q. Didn't he say that the customers objected to being watched with notebooks? A. He didn't say anything about notebooks. He said some customers were afraid of being involved in a lawsuit, and they didn't feel that they wanted to be involved.

Q. Didn't he say that the customers for their money can go elsewhere without being watched? A. Some of the customers made that remark.

2292

Q. They did say that, didn't they? A. And Schechter boasted several times to the customers, "I want you to come to my lawsuit, we are going to have a great big lawsuit and I want you to come to it."

Q. You had not said that there was going to be a lawsuit, had you? A. It seemed that Schechter knew all about that.

Q. You didn't tell him, did you? A. I did not, I never even hinted at it.

Q. You knew about it? A. No, sir.

Q. And you didn't hint about it? A. No, sir; I did not. He did voluntarily state, "You ought to come to the lawsuit." He boasted, "There is going to be a big lawsuit. I want all of our customers to come to it."

Q. He told you that? A. Yes, sir.

Q. And the customers told you that? A. He told the customers, and I overheard the conversation.

Q. Didn't you say a moment ago that the customers said they didn't want to be involved in a lawsuit? A. That is what they said, but he said to them that there was going to be a big lawsuit and he wanted them to be there.

Q. Didn't the same customers say for their money that they could buy poultry without being watched? A. There may have been remarks to that effect.

Q. Didn't they say that they objected to being watched there with a man that has a badge on him? A. Some of them do, and some wanted it.

Q. Some wanted you to watch them? A. I won't say they wanted me to watch them.

Q. They didn't mind it? A. No, some didn't mind it.

Q. To some people you were objectionable? A. I wouldn't say I was objectionable.

Q. Your office was objectionable, for what you stood for? A. I wouldn't say that, sir.

Q. You wouldn't say that, would you? A. No, sir.

Q. Do you remember saying yesterday you went as far as calling a policeman to force your way into the place, is that correct? A. I called two policemen so that I could enter the establishment.

Q. And they wouldn't let you go in? A. They called their superior officer and talked it over, and we decided to withhold my admission until I called my office, which I did.

Q. Didn't you say yesterday that the police officer, the police lieutenant, didn't know his

2296

Philip Alampi—By Govt.—Cross

business when he said, “I can’t advise you to go in there”? A. I won’t say he didn’t know his business, but he didn’t know about that. It was so early in the morning that he didn’t have time to call the office, so we just dropped it.

Q. He didn’t know his business? A. I wouldn’t say that, but he did not know how he stood in that regard, at that particular place.

Q. Did you ever hear the expression “One’s home is one’s castle”? A. I do not believe so.

2297

Q. You do not believe so. You would permit anyone to go into your home, would you? A. No, sir.

The Court: Have we had anything about homes here?

Mr. Heller: This is in effect a home, a man’s business.

Q. If a man came into your place of business would you want to know who he was? A. I most certainly would.

2298

Q. And would you want him to show that he had a warrant or a badge or some authority? A. I would ask for his authority, and proof of it.

Mr. Heller: That is all.

Mr. Rice: That is all, Mr. Alampi.

(Witness excused.)

Jack Musican—By Govt.—Direct

2299

JACK MUSICAN, called as a witness on behalf of the Government, having been duly sworn, testified as follows:

Mr. Rice: If your Honor please, Mr. Alampi in his testimony referred to a chicken which he had traced to the establishment of Harry Stauber——

Mr. Heller: Let us get the facts correct; he said three.

Mr. Rice: Three chickens which he had traced to the establishment of Harry Stauber at 1753 Prospect Place, Brooklyn. And he also testified that Dr. Seabrook, of the Health Department, came to Harry Stauber's establishment, and then he condemned one of the chickens. Now, in lieu of calling Dr. Seabrook, counsel has agreed that his official report to the Health Department may be read into the record with certain deletions.

2300

The Court: All right. Suppose then you read into the record what you agree on.

2301

Mr. Heller: That is right. We are saying if the doctor were here he would testify to the same thing that is in this statement.

The Court: I understand. You are willing to stipulate that if the doctor was now called to the witness stand he would testify as follows.

Mr. Heller: That is right.

The Court: That that may be accepted the same as though the testimony were given on the stand.

2302

Jack Musican—By Govt.—Direct

Mr. Heller: As though he were here, yes, that is correct.

The Court: You both agree on what is to be read. Now read it so that the jury and all of us can hear it.

2303

Mr. Rice: Yes. This document is entitled, "Facts for arrest," or "Food Condemnation Report as to a chicken which was condemned on June 25, 1934, at the establishment of Harry Stauber, 1753 Prospect Place, Brooklyn." The report is made by William H. Seabrook, Doctor of Veterinary, D.V.M., Doctor of Veterinary Medicine, is that it?

Mr. Heller: I do not know; take it for what it is worth.

2304

Mr. Rice: To the Chief Veterinarian. The report says in part, "I accompanied Inspector Alampi of the United States Code Authority to the above address to inspect dressed poultry, condemned one fowl four and a half pounds. The above mentioned foods were denatured on premises with C. W. and disposed of as follows: Placed in a refuse can."

Dr. Seabrook's findings in this report are as follows: "I examined approximately 430 pounds of poultry and found same fit for human consumption, with the exception of one chicken four and a half pounds. Reason for condemnation, egg bound septicemia."

If your Honor please, counsel have agreed to one further stipulation, to this effect, that if the proper official from the Health Department were called, he would testify that he has examined the records

Jack Musican—By Govt.—Direct

2305

of the New York City Health Department and has ascertained that during the months of May, June and July there was no health permit issued to either Joseph Schechter or to the Schechter Live Poultry Market, Inc. to operate a poultry slaughter house or market at 991 Rockaway Avenue, Brooklyn, or at any other address, and that the only health permit issued to operate a poultry slaughter house market at 991 Rockaway Avenue, Brooklyn, is the permit that had been issued to Sam Schechter, and that these permits are not assignable.

2306

Mr. Heller: And that the permit was in full force and effect during the months of May, June and July.

Mr. Rice: Yes, the permit to Sam Schechter.

Mr. Heller: That is right, for 991 Rockaway Avenue.

Mr. Rice: Yes.

Mr. Heller: That is correct.

2307

Direct examination by Mr. Rice:

Q. What is your occupation? A. I am an investigator for the Code Authority, Live Poultry Division.

The Court: You are what?

The Witness: I am an investigator for the Code Authority, Live Poultry Division.

Q. You will have to speak louder. How long have you been an investigator for the Live Poultry Code? A. Since June 4th of this year.

2308

Jack Musican—By Govt.—Direct

Q. What did you do prior to that time? A. Just prior to that time I was with a statistical organization, downtown New York.

Q. What are your functions as an investigator for the Code Authority? A. I am assigned in the field for the purpose of observing and reporting compliance on the part of the members of the industry with provisions of the Code.

Q. Approximately how many markets have you investigated since June 4, 1934? A. About a hundred and fifty.

2309

Q. About a hundred and fifty? A. Yes, sir.

Q. You visited the market operated by Joseph Schechter and the Schechter Live Poultry Market, Inc., 991 Rockaway Avenue, Brooklyn? A. Yes, sir.

Q. What was the date of that visit? A. My first visit was June 27th.

Q. What did you do on that occasion? A. I had been given five weekly reports that had been sent in unaddressed and unsigned.

Mr. Heller: Speak a little louder.

2310

A. (Continuing.) I said that I had been given five weekly reports that had been sent into our office unaddressed and unsigned. The envelope showed that they had come from 991 Rockaway Avenue, and I brought those two premises, 991 Rockaway Avenue, to be signed, and the address filled in was stipulated.

Q. I hand you five large reports and ask you whether these are the reports which you took to 991 Rockaway Avenue, Brooklyn, on June 27th?

A. They are.

Q. What is the nature of these reports?

Jack Musican—By Govt.—Direct

2311

Mr. Heller: I object to that. They are not in evidence.

The Court: No.

Q. Who gave you these reports? A. Mr. Dale of our office.

Q. Mr. Dale, the associate counsel of the Code Authority? A. Yes, sir.

Q. What were your instructions? A. To have those reports signed and the address filled in where specified.

Q. Did you follow that instruction? A. Yes, sir. 2312

Q. Who signed these five reports? A. Joseph Schechter.

The Court: Did you see him sign them?

The Witness: Yes, sir.

Q. One of these reports is dated May 25, 1934; the next one, June 1, 1934; next one, June 8th; next one, June 15th, and the next one, June 22, 1934? A. Yes, sir.

Q. You are sure that these are the reports that you took to Joseph Schechter's slaughter house market? A. Yes, sir. 2313

Q. Did you have anybody sign them? A. Joseph Schechter signed them in my presence, and Irving Musig, the bookkeeper, who told me he had made these reports at the instance of Joseph Schechter, filled in the address where it was necessary on each of the reports also in my presence.

Q. Did he make that statement in the presence of Joseph Schechter? A. Yes, sir.

Q. Did Joseph Schechter look at the reports as he signed them? A. Yes, sir.

2314

Jack Musican—By Govt.—Direct

Q. Did he examine the reports? A. Yes, sir.

Q. Will you look at the reverse side of those reports and see whether or not Joseph Schechter's signature is there? A. Yes, sir.

Q. You saw him affix all of these signatures?

A. Yes, sir.

Mr. Rice: I offer these reports in evidence.

Mr. Heller: May I know for what purpose? He is not being charged with non-compliance with reference to reports.

2315

Mr. Rice: Yes, your Honor.

Mr. Heller: Not he.

Mr. Rice: Yes. In the first count, charging conspiracy, all of these defendants are charged with conspiracy to file fictitious and false reports.

Mr. Heller: The conspiracy charge and all the other charges; at 858 East 52nd Street, is the one they failed to file; then those that they did file, they claim were wrong. As far as Joseph Schechter and his corporation, there is nothing said.

2316

The Court: Wait a minute. Let us see about that.

Mr. Rice: If your Honor please, it is quite immaterial whether the overt act—

Mr. Heller: I withdraw my objection. I have no objection to them going in.

The Court: Wait a minute. Let us get it straight.

Mr. Heller: You will find that I am correct, but I will consent that they go in.

The Court: Look at subdivision E on page 8.

Mr. Rice: That is it exactly.

Jack Musican—By Govt.—Direct

2317

Mr. Heller: Subdivision E?

The Court: Subdivision E on page 8, with reference to everybody that is in the conspiracy count.

Mr. Rice: And, of course, your Honor, it is immaterial that this is not one of the overt acts mentioned in the conspiracy count.

Mr. Heller: I haven't any objection anyway, so it can go in.

The Court: All right, received without objection.

2318

(Marked Government's Exhibit 29 in evidence.)

The Court: That does not relate to any substantive charge?

Mr. Heller: It does not. That is why I raised the objection.

The Court: Relates to the conspiracy only.

Q. Did you have any conversation with Joseph Schechter other than you have stated on that day? A. Not very much on June 27th.

2319

Q. What did you do after you got his signature on June 27th? A. I remained on the premises just a few moments because I had some other assignments that morning.

Q. You went to others slaughter house markets? A. Yes.

Q. On the following day where did you go? A. The following day—

Q. The following day is June 28, 1934. Do you recall the day of the week? A. That was Thursday.

Q. Thursday? A. Yes, sir.

Q. Where did you go on Thursday, June 28th? A. I was assigned to the slaughter house of the

2320 *Jack Musican—By Govt.—Direct*

Schechter Live Poultry Market, Inc. and arrived there at 5 o'clock Thursday morning.

Q. Did you also go to the A. L. A. Schechter Poultry Corporation, 858 East 52nd Street? A. Yes, later in the day.

Q. Later in the day? A. Yes.

Q. Then tell us what you did on June 28th at 991 Rockaway Avenue? A. I observed the killing and the method of doing business at that slaughter house. At that time we were trying to get compliance——

2321

Mr. Heller: I object to what he intended to do.

The Court: Yes.

Q. Just tell us what you did and what you saw and what you heard. A. I found that the business as transacted at 991 Rockaway Avenue was not in compliance——

Mr. Heller: I object to that and move to strike it out.

2322

The Court: Yes. Won't you please stop stating conclusions and state the facts?

The Witness: I see.

A. (Continuing.) The method of killing at 991 Rockaway Avenue was as follows——

Q. Just a minute, Mr. Musican. You are not permitted to testify as to your conclusions. A. Yes.

Q. That they were violating any provision of the Code. Just tell us what you saw, just the facts. A. Can I say the method of killing?

Q. No, not the method of killing. A. I see.

Q. Just tell us what you saw. A. Business was transacted in the following manner——

Q. Who was there? A. Joseph Schechter was on the premises when a customer came in to purchase poultry. Joseph Schechter and that customer made arrangements as to prices and details of quality and quantity. Max Ginsberg, an employee, was the man who drew the birds from the coop and handed the birds to the customer. The customer in each case examines every individual bird. If he accepted the bird, he handed it to the shochet, a shochet by the name of Hyman Cohen. If he rejected the bird, he handed it back to Max Ginsberg, who put it in that coop that was open and nearby, and which served for the purpose of putting in these rejected birds.

2324

Q. Did you observe any particular transactions on that day? A. I observed two particular transactions that day.

Q. Will you describe them fully? A. The first one took place at about 7:30.

Q. In the morning? A. That morning. Three men came into the slaughter house, represented themselves as employees of Jack Kleinman, a man who operates several chicken stores—

2325

Mr. Heller: I object to this as our statement, and I move to strike it out.

Mr. Rice: It is merely to identify the customer.

The Court: He is going along, making a lot of statements. I do not hear him at all. Speak a little louder so I can hear you. What was that answer?

(Reporter repeated last answer.)

A. (Continued.) In Brooklyn.

Mr. Heller: I move to strike that out.

2326

Jack Musican—By Govt.—Direct

Q. Was Jack Kleinman himself there?

Mr. Heller: I object, your Honor.

The Court: Unless he knows it. They represented themselves as employees of a certain man he says.

Mr. Rice: It is quite immaterial to us, your Honor, who they were, we are simply identifying the customer for the sake of the defendants.

2327

The Court: But he said the man operated a lot of stores and we are not interested in that unless he knows of his own knowledge. You can strike that out.

Q. Now who came in there? A. Three men came in there. Their order was charged to Jack Kleinman of 1507 Kings Highway.

2328

Q. In your presence? A. Yes, and in the presence of Joseph Schechter, and Max Ginsberg drew from one of the coops—from two of the coops, 241½ pounds of colored fowl. The price charged was 18 cents. There was about 50-odd birds accepted and there were 15 birds rejected, which were placed back in one of the empty coops, but 2 of the rejected birds were placed in a spindle basket by a fellow known to me only as Harry, who was helping about the place that morning.

Q. Now you say that chickens were drawn from two coops and the customer received about 45 chickens? A. No, 50 odd.

Q. He rejected 15? A. Yes.

Q. And did you observe the condition of the 15? A. The 15 chickens as far as I could see from where I was standing were all right.

Q. You say 2 of the 15 were placed in a spindle basket? A. Yes, they were re-examined and placed in a spindle basket by a fellow known to me as Harry.

Q. And did you observe the condition of those 2? A. One I did particularly.

Q. And what was its condition? A. I did look at one and it looked sickly, and the comb was very discolored.

Mr. Heller: I object to what it looked like. Let him describe it.

Q. You are not a poultry expert, are you? A. No.

Mr. Heller: I object to his characterization then if he is not an expert.

Q. You never had any experience in the poultry line prior to June 4th? A. No, sir.

Q. Now will you describe what the one chicken looked like? A. The one chicken seemed to me to be very sickly—

The Court (to witness): No, not what it seemed, tell us what you saw.

The Witness: It was a colored fowl, deep red, and the neck was very thin and the comb was very much discolored.

Q. Was he fat? A. The bird weighed about five pounds.

Q. Do you know what happened to the 15 rejected chickens? A. They were later sold to Mr. Kleinman himself at about 10 o'clock in the morning.

Q. All of them? A. All of them—13, I beg your pardon, because 2 had been placed in the spindle market.

2332

Jack Musican—By Govt.—Direct

Q. That is Jack Kleinman or his representatives came back for a second purchase of chickens, and Kleinman himself returned? A. Yes, sir, Kleinman himself returned at ten o'clock.

Q. Now how many chickens did he buy then? A. At that time he bought 379 pounds, about something over 100 chickens.

Q. Taken from how many coops? A. About from 2½ coops.

2333

Q. Did he receive all of them? A. No, these birds had been rejected previously by his representatives and by other customers who had purchased during the morning, they were known as broken fowl. It was from these coops of broken fowl that the 379 pounds were purchased by Jack Kleinman. He accepted over 100 pounds—105 I think and he rejected 24 of these birds.

Q. Did you observe the condition of the 24 he rejected? A. To my knowledge they were all right.

Q. Do you know what happened to the 24 rejected birds? A. No, sir, I do not.

2334

Q. Now when he came back the second time to make a purchase, you say he took with him about 105 birds? A. Yes.

Q. Included among them were 13 of the birds that had been rejected the first time? A. Yes.

The Court: Did he reject them or his representatives the first time?

The Witness: His representatives had rejected them the first time.

Q. Now do you know whether or not separate charge slips were made out for the two purchases? A. Separate charge slips were made out for the two purchases, yes, sir.

Q. And was Joseph Schechter present on both of these occasions? A. Yes.

Q. All of the time? A. That's right.

Q. And did he see what was going on? A. Yes.

Q. And did he make any protest against the rejection of the birds? A. Not in that particular case.

Q. Not in that particular case? A. No, sir. The price incidentally was 16 cents, 2 cents lower than the original purchase.

Q. We are not interested in the price at this time. Now did you observe any other instances where customers were permitted to reject chickens at No. 991 Rockaway Avenue? A. Yes, sir, but I did not make any tally.

2336

Q. Oh, on that particular day? A. Except for the two mentioned here I did not make any other tallies.

Q. You just recorded these two particular transactions? A. Yes.

Q. But you saw other instances? A. Many others.

Q. Other instances of the same kind?

2337

Mr. Heller: I object to that, your Honor.

Mr. Rice: I withdraw the question.

Q. You saw other occasions when the customer rejected birds?

Mr. Heller: I still object, your Honor, the question is leading.

Mr. Rice: Very well, I will withdraw the question.

2338

Jack Musican—By Govt.—Direct

Q. Tell us what else you saw on that particular day. A. In every case the procedure is the same. The employee takes the poultry out of a coop and hands it to the customer and the customer examines the bird and if he approves it he hands it to the shochet and if not he hands it back to the employee and that bird is a rejected bird.

Q. And these transactions were all in the presence of Joseph Schechter? A. Yes.

Q. Now did you record any transactions of this character on the following day?

2339

Mr. Heller: I object to that, your Honor. We are being charged here with two offenses as I understand it from the indictment—straight killing. We certainly should not go into any others, we are not charged with others.

Mr. Rice: Oh, yes you are, you are charged with it in the conspiracy.

Mr. Heller: The substantive counts are two occasions, your Honor.

2340

The Court: Of course it makes it hard for the jury and for me to follow, if our attention is not directed as to what charge the testimony covers, but nevertheless they are not limited to the overt act.

Mr. Rice: I wish to state for your Honor's benefit and counsel's benefit that the transaction as to Jack Kleinman is charged in Count 27.

The Court: I just located it after much difficulty.

Mr. Rice: Also as to part of Count 1, your Honor, the conspiracy count.

The Court: Certainly.

Q. Now on the following day, Friday, June

29th, did you observe any transactions at No. 991 Rockaway Avenue? A. Yes, sir.

Q. Now what particular transaction? A. A transaction of about 320 pounds of colored fowl, the customer in this transaction was also Jack Kleinman. A number of birds were accepted, 76 I believe and the number of birds rejected were about 10.

Q. Now what happened to the rejected birds? A. The rejected birds, 3 were placed in a spindle basket and 7 were returned to one of the coops. Max Ginsberg, later in the day, re-examined those birds and found 2 very bad ones which he killed them off himself.

Q. And the rest of them? A. The rest of them I do not know their disposition.

Q. Was Joe Schechter there at the time that Jack Kleinman made the purchase? A. Yes.

Q. And at the time that he rejected some of the birds? A. Yes.

Q. Now, on July 2nd, that is a Monday, is it? A. Yes.

Q. You were there again? A. Yes.

Q. Did you observe any transactions between Joseph Schechter and customers? A. Max and Irving Gold, two brothers, came in and purchased about 170 pounds between them. One brother purchased 95 pounds, Max Gold, he accepted about 20 birds and rejected about 12. The other brother purchased 75 pounds, rejected about 8 birds and accepted—rejected about 8 birds and accepted about 16.

Q. Joseph Schechter was there during that entire time? A. Joseph Schechter was there. At one time during that purchase Joseph Schechter attempted to argue with Max Gold regarding several rejected birds.

2344

Jack Musican—By Govt.—Direct

Q. And then what happened? A. Max Gold won his point.

Q. Just what happened? A. Max Gold said that——

Q. Max Gold rejected the birds? A. Max Gold rejected the birds, and when Joseph Schechter argued with him about the condition of the birds he said that he could not use them, and he turned them back.

2345

Q. Did you ever see Joseph Schechter argue on this point at any other time? A. Not that I recall.

Q. This was the only case that you have mentioned? A. Yes, sir.

Q. Was there ever anything said by either the customer or Joseph Schechter as to the unfitness of the birds for human consumption, the birds which were rejected? A. No, sir.

Mr. Heller: I object to the form of the question, asking for a conclusion.

Mr. Rice: I am asking whether anything was said.

2346

Mr. Heller: You didn't say that.

The Court: Let him tell all that he heard, and then we can determine.

Q. Have you told us everything that you heard on these occasions? A. On Thursday morning about——

The Court: That was when?

The Witness: Thursday morning, the 28th.

The Court: Yes.

The Witness: By seven o'clock I telephoned to investigator—about seven o'clock I telephoned to Investigator Lenhardt who was at a nearby establishment

Jack Musican—By Govt.—Direct

2347

to come over there and assist me in regards to my assignment. He arrived about an hour later. When he came to the premises he and I were standing near the spindle basket that I mentioned earlier, which at that time contained some birds. I asked him to look at those birds——

Q. You asked Lenhardt to look at the birds?

A. At those birds.

Q. Who was present? A. Joseph Schechter was in the slaughter house at the time.

2348

The Court: I know, but was he there where you were?

The Witness: Not the particular spot where I was.

The Court: All right.

Q. Was he there later? A. Just a minute, I am sorry——

The Court: Do not give us the conversation if he wasn't present, give us any facts that you observed.

2349

Q. Was Joseph Schechter there later? A. Yes, sir.

Q. All right, what happened when Joseph Schechter was present? A. Joseph Schechter came over to where we were talking, Lenhardt and I were talking, and he pointed to the spindle basket and he told us that the birds in the spindle basket were very poor quality and he would sell them later to poor people at 10 cents a pound.

Q. Did he say what kind of people he would sell them to? A. I think he mentioned poor people.

2350

Jack Musican—By Govt.—Direct

Q. Did you observe the birds in the spindle basket? A. Yes.

Q. Did you consider them as a layman fit for human consumption?

The Court: He is not an expert, he said so.

Q. Will you describe the birds that you saw? A. With my knowledge of poultry I could not very well describe them.

2351

Q. Did Joseph Schechter say anything else? A. Not up to the time of July 2nd, that we covered.

Q. Did he say anything about the quality of the birds? A. Not in descriptive terms, just poor quality birds.

Q. Do you know whether any inspector from the Health Department was there later in the day? A. Well, at about a quarter of eleven Mr. Forsmith of our office and Dr. Gardner of the Department of Health arrived on the premises. In making an examination of the premises they came upon——

2352

Mr. Heller: Who was present at that time and place when this occurred?

The Witness: I was present.

Mr. Heller: How about the defendants?

The Witness: Joseph Schechter, yes, Joseph Schechter was present.

Q. Mr. Forsmith and Dr. Gardner of the Health Department arrived? A. And made an inspection of the premises.

Q. How long after Joseph Schechter had made the statement to the effect that these poor quality birds were to sold at 10 cents a pound to poor

people did they arrive? A. A good two hours after.

Q. Two hours later? A. Yes, sir.

Q. What happened? A. In the course of their examination Dr. Gardner and Mr. Forsmith came upon this spindle basket. Dr. Gardner did not like the looks of the birds, he took them out for a detailed examination. Two birds he said were O. K. and he had them put back in one of the coops. Seven birds he asked them to kill off, and after a careful examination condemned six of those birds as unfit for human consumption.

Q. Are you sure that these six birds that Dr. Gardner condemned as unfit for human consumption were the birds that Joseph Schechter said he was going to sell to poor people? A. Yes, sir.

Q. You are positive of that? A. Yes, sir.

Q. No mistake as to the identity of those birds? A. No, sir.

Q. What happened after that? A. Well, that is all I covered until July 2nd.

Q. On that same day, June 28th, yes, June 28th, that is a Thursday? A. That is right.

Q. On that same day did you go to any other market? A. I went to the A. L. A. Schechter Corporation slaughter house at 858 East 52nd Street.

Q. What did you do there? A. I had in my possession seven reports, weekly reports that had been mailed in to our office which were unsigned and unaddressed.

Q. I hand you seven reports designating the name A. L. A. Schechter Live Poultry Corporation, 858 East 52nd Street, Brooklyn, the first one being dated April 30th, 1934, the second one May 7th, 1934, the third one——

2356

Jack Musican—By Govt.—Direct

Mr. Heller: Will you pardon me for a moment? If those are our signatures we will concede them.

Mr. Rice: Just a minute, I would like to have these identified for the record. The third one dated May 13, 1934, the fourth one dated May 21, 1934, the fifth one May 28th, 1934, the sixth one June 4th, 1934, and the seventh one June 11, 1934.

2357

Q. Are these the reports that you brought with you?

Mr. Rice: That relates to the 38th count, your Honor.

The Court: Yes.

A. Yes, sir.

Q. And what did you do with these reports after you got there? A. I asked for an officer of the corporation. One of the employees pointed out Mr. Meyer Schechter. I asked him if he were Meyer Schechter, and if he were an officer of the corporation, and he said he was.

2358

Q. Did you ask him whether he was Meyer Schechter? A. Yes, sir.

Q. Did he sign these reports in your presence? A. We went into the office and he signed the reports, signing them as Louis Schechter.

Q. Meyer Schechter signed these reports as Louis Schechter? A. Yes, sir.

Q. Are you sure of that? A. Yes, sir.

Q. Was somebody else present? A. Not in the office.

Q. Not at that time? A. No, sir.

Q. Where did you get these reports which you brought over there? A. Mr. Dale of our office, counsel for the Code Authority, had given

Jack Musican—By Govt.—Direct

2359

them to me, to have them signed and the address inserted.

Mr. Rice: I offer them in evidence.

Mr. Heller: No objection.

The Court: Received.

(Marked Government's Exhibit 30 in evidence.)

The Court: Who is Meyer Schechter, is he here?

Mr. Rice: Meyer Schechter—

The Court: Wait a minute, I am asking the witness. Who is Meyer Schechter, is he here?

2360

The Witness: Yes, sir.

The Court: Point him out.

The Witness: He is the gentleman in the light suit sitting third from the left on the left-hand side of the table.

The Court: That is the defendant Martin Schechter?

The Witness: He was known to me as Meyer Schechter all the time.

The Court: That is the defendant Martin Schechter?

2361

Mr. Heller: Yes.

The Court: I do not want to interrupt, but I wanted him to be identified.

Mr. Rice: Yes, I am very grateful.

Q. What is the next time that you visited the establishment after June 29th, Friday? A. July 2nd.

Q. You have already told us about that? A. Yes, sir.

Q. Then when is the next time after July 2nd? A. It was the morning of July 3rd.

2362 *Jack Musican—By Govt.—Direct*

Q. The following day? A. Yes, sir.

Q. Where did you go? A. I went to 991 Rock-away Avenue premises.

Q. What happened there? A. I arrived there about 8 o'clock—

Mr. Rice: This, your Honor, relates to Count 37.

The Court: Yes, thank you.

Mr. Rice: Page 43.

2363 A. (Continuing.) I arrived there about 8 o'clock. I met a different Joe Schechter, he was angry, and immediately—

Q. You mean you met the same defendant, Joseph Schechter? A. But he acted entirely different than he had acted toward me on the occasion of my previous visit.

Q. Just tell us what happened there. A. He was angry, and immediately I came into the slaughter house he said, "What are you doing here?" I told him it was my regular assignment for that morning.

2364 Q. Tell us just what he said and the way he said it, using as nearly as possible the words that he used. A. He said to me, "On account of you and your bunch, I have lost several of my best accounts." He says, "What are you watching for? If you are watching for straight killing, I don't kill straight."

Q. Just one moment. He said, "If you are watching for straight killing, I don't kill straight"? A. "If you are watching for straight killing, I don't kill straight."

Mr. Heller: Counsel knows what he said. Why repeat and try to emphasize the witness' answer?

Q. Go ahead.

Mr. Heller: That is not fair.

The Court: No; let him answer the questions.

Q. Go ahead, give the whole conversation. A. And then he said that we were all a lot of squealers; if the matter ever came up into court, he would show us up. He told me that he preferred that I don't stay on the premises, that I take a walk for myself; if I don't take a walk for myself, he would put me out. If he could not put me out himself, he would get somebody to put me out. I asked him if he would put those accusations in writing, and his statement regarding straight killing in writing.

2366

Q. What did he say? A. And he said no. And he says—he repeated again, “Take a walk for yourself,” in a very threatening tone, so I walked out of the premises.

Mr. Heller: I move to strike out the words “threatening tone.”

The Court: Yes, strike it out.

2367

Q. What did he say? Just tell us what he said. A. He said, “Take a walk for yourself,” and I walked out of the premises and sat down in his own car that was parked right in front of the slaughter house, and a few minutes later he came out and joined me. He was considerably cooled off by that time. And he told me that he had had difficulty, had had a difficult time getting those particular accounts he had mentioned away from a competitor—from a competitor of his, and now he had lost those accounts back to that same competitor. He told me he had written a complaint to Washington and that

2368

Jack Musican—By Govt.—Direct

he had spoken to one of the Department of Agriculture men. He told me that he would welcome a case coming up in court, and that he was keeping back one week's money that was due the commission men from whom he had purchased poultry——

Q. Just a moment. What was that last part?

A. He told me that he was saving——

Mr. Heller: Speak up. We cannot hear you.

2369

Q. Speak louder. A. He told me that he was keeping back one week's money that was due the commission men from whom he purchased poultry.

Q. That is Joe Schechter? A. Joe Schechter, in the automobile, as I am sitting there with him, and that he was prepared to use that money in the event it was necessary to fight us in court.

Q. You are sure that he told you that? A. Yes, sir.

Q. Did he say anything else about fighting a case? A. Not particularly, sir.

2370

Q. Tell us everything that was said. A. I don't recall anything additional at the time.

Q. Did anything else happen? A. I cannot recall anything else.

Q. Going back to this occasion on June 28th—— A. Yes, sir.

Q. (Continuing.) —Thursday, when Benjamin Forsmith and Dr. Gardner came to Joe Schechter's place, was anything said about disinfecting the chickens after they had been condemned? A. Joseph Schechter refused to disinfect the birds.

Q. What did he say? A. He said that if the birds were disinfected he could not return them