

Martin Schechter—By Defts.—Direct

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The Court: The right way, I should think, would be to ask him what he did with reference—whether he had any talk with them, or what are the facts. Whether he entered into a conspiracy is a conclusion. Whether he discussed something with them, that is another thing.

Q. Did you tell your brothers that you were going to violate any law? A. I did not.

Mr. Rice: I object.

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Mr. Heller: What is the objection to this?

Mr. Rice: I object to the form of the question.

The Court: Go ahead.

Q. Did you? A. I did not.

The Court: Did you have any discussion with your brothers at all about the way the business was to be run?

The Witness: None whatsoever.

The Court: At no time?

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The Witness: No, not about the Code.

The Court: No, I asked you did you have any conversation with your brothers as to how the business is to be run?

The Witness: Well, we ran our business as usual, how the poultry business should be run.

The Court: Go ahead.

Q. What you have done is what you have been doing right along? A. That is right.

Q. For two years? A. Yes.

Q. You have been conducting the business on the same line? A. Same line.

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Mr. Rice: Just a moment. Counsel should not lead this particular witness.

The Court: He should not.

Q. Did you sell any diseased poultry or poultry unfit for human consumption on June 25 to a Mr. Stauber? A. Well, we never take any diseased poultry into our place.

4079 Q. I did not ask you that. Did you personally sell any diseased poultry to Mr. Staber? A. I never sell any poultry. All I do is charge. I think if I had the book here, I could look it up. I cannot remember June 25; but if I had the book here I could tell you whether he bought poultry on that day or he did not.

Q. We will wait until we get the books. Did you sell any diseased chickens to Mr. Wagshul on June 27th? A. Well, as far as him being in the place, I do not know, unless I will have the book; and diseased chickens, we never take them in, never had any diseased chickens.

4080 The Court: Do you wait on the customers at all?

The Witness: No.

The Court: What?

The Witness: I don't.

The Court: Speak up. Do you wait on customers at all?

The Witness: I don't.

The Court: On either of these days did you wait on Wagshul?

The Witness: No.

The Court: Or did you wait on the other man—

The Witness: My job at the place is just to charge until about 8:30. After

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8:30 I clean up the place with Sammy Cohen and then my work ends until about two or three o'clock in the afternoon when the stuff comes in. That is my duties in the place.

Q. Will you take the sales book? Look at Defendants' Exhibit H, and tell us how many sales were made during the first Monday of the week of May 16. A. May 16?

Q. Week ending May 16, the first Monday. A. May 16 or week ending May 16?

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Q. First Monday of the week of May 16. A. 16th on a Monday?

The Court: No, that was a Friday, Friday or Saturday. 15th was a Friday, wasn't it?

Q. May 16th was on a Wednesday. Take May 14th then. A. 25.

Q. 25 sales? A. That is right.

Q. And on Tuesday, May 15? A. 20.

Q. 20 sales on Tuesday? A. That is right.

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Q. On Wednesday how many sales? A. On Wednesday?

Q. Yes, next Wednesday, that week. A. That is not the 17th, is it?

Q. 16th is Wednesday. A. 12.

Q. 12 sales? A. That is right.

Q. On Thursday how many sales? A. About 80.

Q. About 80 sales? A. That is right.

Q. How many employees are there there on a Thursday? A. Thursday we get an extra man from the union. You see, that makes it three union men from Local 167. Then we got the two

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rabbis. That is five. Aaron and myself is seven. The bookkeeper is eight. That is about all.

Q. You had eight men for the 80 sales? A. That is right.

Q. On Friday how many sales? A. 30.

Q. 30 sales on Friday? A. That is right.

Q. Saturday night? A. 3.

Q. How many? A. 3.

Q. 3 sales? A. Yes.

Q. Go to the following Monday. How many sales? A. What date is Monday?

4085 Q. Just a minute. 21, May 21. A. 21?

Q. May 21, how many sales? A. I don't know. I haven't—I got the 22nd here. There must be some mistake in the date here.

Q. You have May 22nd? A. Yes.

Q. How many did you have on May 22nd? A. 35.

Q. Now, May 23? A. 26.

Q. What is that? A. 26.

Q. 26 sales. May 24, Thursday? A. 59—57.

Q. 57 on Thursday? A. That is right.

Q. On May 25, Friday? A. 36.

4086 Q. And on Saturday, May 26? A. 9.

Q. 9 sales? A. 8 sales.

Q. What did you sell the following Monday, June 4th?

Mr. Rice: If your Honor please, if counsel is going through each week, I think it would same much time if the witness would prepare a schedule showing the total sales each week or each day. I have no objection to that. It seems to me it would be a much more speedy method.

A. June 4th?

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Mr. Heller: It takes just a second and we can have it and we will be through. We are interested only in June.

The Court: Counsel was offering you an easy way, but if you want to go ahead, go ahead.

A. (Continuing.) 20. June 4th, was that? 20.

Q. June 4th? A. 20 sales.

Q. Now, on June 5th? A. 25 sales.

Q. On June 6th, Wednesday? A. 19 sales.

Q. On June 7th, Thursday? A. 55 sales.

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Q. Now, on June 8th, Friday? A. 16.

Q. On Saturday, June 9th? A. June 9th?

Q. Yes, Saturday night. A. 9.

Q. 9 on Saturday night, is that right? A. That is right.

Q. Now, on Monday, June 11th? A. 30.

Q. Tuesday, June 12th? A. 31.

Q. Wednesday, June 13th? A. 25.

Q. On Thursday, June 14th? A. 15.

Q. On the 15th, which was a Friday? A. 21.

Q. Now, Saturday night, June 16th? A. 5.

Q. Now, on the next Monday, June 18th? A. 18.

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Q. On Tuesday? A. 17.

Q. On Wednesday, the 20th? A. 15.

Q. Thursday, the 21st? A. 38.

Q. Friday, the 22nd? A. 23.

Q. Saturday night, the 23rd? A. 13.

Q. Now, the following Monday, June 25th? A. 34.

Q. On Tuesday? A. 24.

Q. Wednesday? A. 14.

Q. Thursday, the 28th? A. 58.

Q. Friday, the 29th? A. 25.

Q. Now, on Saturday night, the 30th? A. 4.

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Q. How about July 2nd? A. 16.

Q. And the 3rd? A. 35.

Q. On the 4th? A. 21.

Q. On the 5th? A. That is a Thursday, isn't it?

Q. Yes. A. 91.

Q. On the 6th? A. 23.

Q. On the 7th? A. That is all I got here. Then my brother Joe came in and we opened a different set of books.

4091 Q. Have you got the other books here? A. No, I don't think they are here.

Q. That is all you can testify to from these books? A. That is right.

Q. Now, during all these times when these different sales were made—Monday, let us take the week July 2nd—on July 2nd there were 16 sales made? A. That is right.

Q. And will you tell us how many were working for those 16 sales? A. There was Aaron Schechter and myself, that is two, and two union men—

4092 Mr. Rice: If your Honor please, I do not see the relevancy of this. It seems to be for the purpose of showing that the Schechters were not making a great amount of profit. That is certainly not an issue in this case.

The Court: Well, I cannot assume what it is to be for. I will let him tell about his business. I will overrule the objection.

A. There was 8 people working.

Q. And there were eight people working in the making of those 16 sales? A. That is right.

Q. Now, on Tuesday there were 34 sales? A. Yes.

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Q. Will you tell us how many people were working? A. The same amount.

The Court: You have this man Schimmel working on both of those days?

The Witness: I excluded him.

The Court: The three of you, Schimmel, the two laborers and the two sho-chets?

The Witness: That is right.

Q. Now, on July 4th, when you made 21 sales, how many people were working? A. We had the same number of people, eight of us.

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Q. And on Thursday, July 5th, when you made 91 sales? A. I had my brother Al with us until about ten or eleven o'clock, and we had an extra man from the union.

Q. So you had ten men working in the making of those 91 sales on that Thursday? A. That is right.

Q. And on Friday, July 6th, when you made the 23 sales— A. Eight of us, and of course my brother Alex was there for an hour or two.

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Q. Making those 23 sales? A. That is right.

Q. On Saturday nights, when you made the four or nine or thirteen sales, how many people were working? A. Saturday the man is supposed to come in from one o'clock to ten o'clock of that day, but they don't come in before sunset, when the rabbis get there to kill the chickens. After they are killed they go home. It takes about an hour or an hour and a half, and that is all there is on Saturdays.

Q. That is all there is? A. They are supposed to work nine hours, but they only work about an hour or an hour and a half. We do not keep the

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place open all day Saturday; I only let them come in when the rabbis come in, about half an hour before sunset.

Q. Did you at any time use threatening language to Mr. Alampi? A. I have not.

Mr. Rice: I object to that.

Mr. Heller: I think we are entitled to meet that categorically.

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The Court: All right, but you can ask him what statement was made. Threatening language is a conclusion. You ask him to state any conversation he had with him, anything he said to him, and anything he heard anybody else say to him, but when you ask him if he used threatening language, that is a pure conclusion. He might think it is threatening and we might not, and the reverse might be true. Let him tell what was said by himself and by anyone else, naming them.

Mr. Rice: I move to strike out the answer.

4098

The Court: Yes, I will strike it out.

Q. May I ask this question then in this form: Did you strike Mr. Alampi? A. I have not.

Q. Did you call him a son of a bitch? A. I did not.

Q. Did you throw him out? A. I did not.

Q. Did you strike Mr. Forsmith? A. I did not.

Q. Did you raise a hatchet to Mr. Forsmith? A. I never handle a hatchet in our place.

Q. Did you ever say to Mr. Forsmith that you are going to kill him? A. I did not.

Q. Did you say to Mr. Alampi, "I will kill you"? A. I did not.

Q. Are you married, sir? A. Yes.

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Q. Have you any children? A. Two.

Q. Have you ever been convicted of a crime?

A. I have not.

Q. Have you ever been in any kind of trouble?

A. No.

Q. Have you ever been arrested in your life?

A. No.

Mr. Heller: That is all.

Cross examination by Mr. Rice:

Q. Mr. Schechter, when you spoke of the number of sales that you made on a particular Thursday—

4100

A. That is right.

Q. What was the character of those sales, what kind of sales were they? A. What Thursday?

Q. Well, any particular Thursday that you testified to. We will take the Thursday, the first Thursday that you mentioned. A. What date was that?

Q. Thursday, May 17, that is the first Thursday you mentioned, you said there were 80 sales?

A. Yes, sir.

4101

Q. What kind of sales were they? A. Sales to customers, outside of a couple of what we call accommodation purchases that we purchased for Joe Schechter or my father, which I have not included.

Q. You did not include those? A. No, sir; they were not sales, they were accommodation purchases.

Q. Those 80 sales that you did include, what kind of sales were they? A. Sales to customers.

Q. What kind of customers? A. Well, customers that would walk into the place and want to buy chickens.

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Q. What kind of customers? A. You want to know who they were?

Q. What sort of business were they in? A. In the poultry business.

Q. Yes; they weren't housewives? A. Oh, no.

Q. They weren't people that came in for one or two chickens? A. No, they were not.

Q. They were people that came in for a cart-load of chickens? A. That is right.

4103 Q. People who themselves were engaged in distributing poultry, is that right? A. That is right.

Q. People that ran retail stores? A. We only sell to retailers; we do not sell to individual customers, only to butchers or the retail trade.

Q. You do a wholesale business? A. Strictly wholesale.

Q. You do a very large wholesale business, do you not? A. That is according to the weeks; our business is not steady for every week, it goes up or down.

4104 Q. You have what is known as a run-around trade? A. I would not call it that; we have a steady trade as well.

Q. But you also have a run-around trade? A. Every wholesaler, strictly wholesale business, has chicken dealers who go around, they are not steady customers.

Q. Will you tell us what a run-around business is? A. Chicken dealers will walk into my place and wouldn't like my price, and he would go out again.

Q. He is not a steady customer? A. I wouldn't call him a steady customer.

Q. He is what you call a run-around customer? A. That is right.

Q. You have a great many run-around customers, have you not? A. I wouldn't say that.

Q. You have much more run-around trade than the average wholesale establishment? A. No, we have not.

Q. Isn't it true that when your price is lower than the price of other wholesale slaughter house operators, that you get more of the run-around trade than they do, ordinarily? A. If they come in and are satisfied with the price, they buy, if they do not like it, they walk out.

Q. Your price is not very stable, is it? A. The market isn't stable. It might be fifteen cents today, the market quotation, and tomorrow eighteen cents. We got our prices according to what the market might be.

Q. You are in very keen competition with your competitors, are you not? A. I beg pardon?

Q. You are in very keen competition with your competitors? A. I do not understand that question.

Q. Do you know what competition means? A. I do.

Q. There is a lot of competition between you and your competitors, is there not? A. There is a lot of competition in every other business, the same thing.

Q. Yes, and the competition in the whole slaughter house business is very keen, is it not? A. Well, it is keen in every other business the same way.

Q. Yes, but just answer my questions as to this business. A. Well, in our business, yes, we have competition.

Q. It is very keen competition? A. I wouldn't call it very keen competition, it is competition the same as in any other business.

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Q. You try to buy just as cheaply as you can?

A. Certainly I do.

Q. And you try to cut your overhead down as much as possible? A. We have got to have union help to unload our poultry, no non-union man is allowed to help the poultry, except union men and myself.

Q. You do keep your overhead down as low as possible, do you not? A. You see, the union—

4109 Q. I am not asking you about the union. A. I can't explain it that way; I have got to explain it.

Q. Just answer my question as to whether or not you do not keep your overhead down as low as you can? A. We try as much as we possibly can, but you see, the union men count the coops, and if there is room for another man, they send in a man without asking us.

Q. Now you have answered that question the way you wanted— A. That is right.

Q. Now will you answer my question?

4110 Mr. Heller: I object to that.

The Court: He said that they did, he told you what the objectives were, and he said that they kept it as low as they could, but the union sent in another man without asking them.

Q. I see. Aside from the fact that the union sends in additional men, you try to keep all the rest of your expenses down, your bookkeeping expenses, your light, your fuel, and your other expenses? A. I imagine we have the biggest light bill in the industry.

Q. You do? A. Yes, sir.

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Q. And you are one of the biggest wholesale slaughter house operators in the industry, are you not? A. We are not.

Q. But you have the biggest light bill in the industry? A. We have.

Q. You try to operate your establishment just as efficiently as possible? A. We try to.

Q. You try to save expenses? A. Everybody would.

Q. Yes, but I am just talking about you, where you can save it? A. We save it where we can, and where we have to pay it we pay it, that is natural.

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Q. And you tried to save expenses so you can get your prices down to a reasonable level, don't you? A. If you figure it that way.

Q. Is that right? A. Yes.

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

Q. You try to offer poultry to your customers just as cheaply as you can and yet make a profit? A. As we can.

Q. That is correct, isn't it? A. Yes, that is right.

4113

Q. Let us go back to some of these sales. You say that you made 80 sales to retail detailers on Thursday, May 17? A. If I said that, that is correct.

The Court: Did you look at the book when you said it? Look at the books. Do not let us have any argument about it. Look and see.

(Witness refers to book.)

The Witness: What day was Thursday?

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Q. May 17th. What was the volume of your sales on that day? A. You mean how many pounds?

Q. Yes. A. I would have to have a pencil to figure that out.

The Court: The first question was how many was it, whether it was 80.

The Witness: Yes, that is right.

4115 Q. There 80 customers, is that right? A. Yes—

Mr. Heller: Not 80 customers. 80 sales.

A. (Continuing.) 80 sales. I did not say customers.

Mr. Rice: I object to counsel interrupting.

The Court: I know, but he did not say—

The Witness: I did not say customers. I said sales.

4116 Q. You said sales? A. Yes, sir, customers on Thursday come back three or four times.

Q. Sometimes a customer comes there and selects some poultry out of a coop and— A. Whatever he buys. You see, but he hasn't got enough poultry for that day because Thursday is a very busy day, so he comes back, kills some more chickens. He kills three or four times on a Thursday.

Q. And sometimes he comes back and buys some of the poultry he rejected the first time? A. No, he don't.

Mr. Heller: I object to counsel saying that. He did not say that.

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Mr. Rice: I am cross examining this witness.

The Court: He did not say it. Go ahead.

Mr. Rice: I did not understand your Honor's ruling.

The Court: I did not know there was an objection, but he never said any such thing. He did not say any such thing.

Mr. Rice: No, but I am asking the witness now.

4118

The Court: But you cannot put words in his mouth, even if you are cross examining him. Ask him, but if you say to him, you said so and so, and he did not say that, you cannot do it.

Q. Is it true, Mr. Schechter, that sometimes the customers come there and select poultry in the morning and come later on in the day and purchase some of the chickens that they rejected in the morning? A. They don't. If they rejected them in the morning, they would not take them in the afternoon, see.

4119

Q. You sell the rejected poultry to somebody else, don't you? A. We don't. There is no rejects there.

Q. There are no rejects? A. No. not to my knowledge, you see, because I stay in front with the scale, as I told you, all day long. I do not bother with the sales. I do not mix with the sales. I got a very—you see, my job requires me to stay near the scale all day long, on a Thursday.

Q. On Thursdays? A. Yes.

Q. You are just around the entrance? A. That is right.

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Q. You are standing at the scales? A. That is right.

Q. While the scales are made? A. That is right.

Q. All you have to do is lean around the corner and look into the market and see what is happening there? A. My eyes has got to be on the scales all day Thursday.

Q. You do not know what is happening inside? A. No, it is none of my business.

4121 Q. It is none of your business? A. Whatsoever, no.

Q. You do not know how the business is conducted inside? A. Certainly not.

Q. You do not know whether they kill straight or not? A. I do not.

Q. The customers? A. That is not my job.

Q. And you don't know? A. I don't.

Q. Do you or do you not know—— A. I don't know.

4122 Q. (Continuing.) —whether poultry was killed straight as a practice at Schechter Brothers from May 16, 1934, to July 26, 1934? A. We know we practiced straight killing but as far as I am concerned, I do not know because my position is outside.

Q. You do not know whether they killed straight? A. No.

Q. Or whether or not your establishment killed straight during that period of time?

Mr. Heller: May it please your Honor, he has made him his own witness on this.

The Court: Oh, no, he is not. He is cross examining him.

Mr. Heller: On this line of

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ing. I have not asked him anything about it. I will give him the witness in charge.

The Court: I cannot help it. I have ruled.

Mr. Heller: Exception.

The Court: Ask him what he knew about it. The man said before he did not know and he has a right to cross examine on it.

Q. You do not know whether straight killing was practiced at the Schechter establishment between May 16, 1934, and July 26th, 1934? A. I don't.

4124

Q. You don't know? A. No.

Q. And you say that the reason that you do not know is because you stood out at the scales just outside the doorway and you kept your eyes on the scales? A. That is right.

Q. And you do not know what happened inside? A. No.

The Court: Did you at any time between May 16th and the date of this indictment make a sale from the coops to any customer?

4125

The Witness: I did not, your Honor.

Q. You testified as to the number of sales on May 17th? A. That is right.

Q. 1934. A. That is right.

Q. And you said there were 80 sales? A. That is right.

Q. How long would it take you to figure up the volume? A. Oh, about 10 minutes, 5 minutes.

Q. Just on that one day? A. That is right.

Q. Have you got any other book showing the total volume of sales that week? A. Yes.

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Q. Will you look at that book? A. For the entire week?

Q. Yes. A. Well, we got some accommodation purchases, I would have to exclude them, and I would have to have a pencil just the same.

Q. I am asking you now for the total sales. A. That is what I am trying to give you, the total sales.

Q. Total sales including what you call accommodation sales. A. Including accommodation sales?

4127 Q. Yes, for the week ending May 19th, 1934. A. 48,031 pounds.

Q. Your week ends on Friday, does it not? A. That is right.

Q. Then you were giving us the total for the week ending Friday, May 18th, weren't you? A. That is right.

Q. Instead of May 19th? A. Yes.

Q. And it is 48,170 pounds? A. No, 48,031 pounds.

Q. Oh, I see. I have a slightly different figure from you. 48,031? A. That is right.

4128 Q. Now, will you tell us what was the total volume of sales made during the week ending Friday, May 12, 1934?

Mr. Heller: That is beyond the indictment.

The Court: Friday was the 11th, wasn't it?

Mr. Rice: Yes. I seem to have the 12th. That is correct.

The Court: The indictment ran from the week ending May 11th.

Mr. Heller: Wasn't it May 16th? That was my understanding.

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The Court: There have been some items on May 11th.

Mr. Heller: The report was from April 11th.

The Court: That is what he is asking him.

Mr. Rice: We are on a slightly different topic now, not the topic as to the false and fictitious reports; but I am endeavoring to show that the Schechter sales increased by about 50 per cent. immediately after the Code went into effect.

4130

The Court: That is all right.

Q. What was the total volume of sales during the week ending Friday, May 11? A. 31,682 pounds.

Q. 31,682 pounds? A. That is right.

Q. I have a slightly different figure, 31,772 pounds. Can you explain the possible discrepancy? There is just a difference—

Mr. Heller: I do not think he has the Government books here. How can he tell?

Mr. Rice: It is possible he may have an explanation for this 90 pounds difference. It is only—

4131

Mr. Heller: We will give you the 90. We will take your figure.

Mr. Rice: It is only a slight difference.

The Court: It is not of very great moment.

Mr. Rice: Not at all.

Q. Now, the Code became effective on May 16, 1934, did it not? A. That is right.

Q. And on the week ending May 18, 1934, your sales were 48,000 pounds? A. That is right.

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Q. On the previous week your sales were something like 31,000 pounds, is that right? A. No, close to 32,000 pounds.

Q. Close to 32,000 pounds? A. That is right.

Q. What were your sales the previous week, the week ending May 4, 1934, Friday? A. 34,151 pounds.

Q. 34,151 pounds compared with 48,000 the week ending May 18th? A. That is right.

Q. What were your sales the week ending Friday, April 26, 1934? A. 29,631 pounds.

4133 Q. Now, you say that this total poundage included what you called accommodation sales? A. That is right.

Q. Will you look at your profit and loss statement for the week ending May 18, 1934, that is, the first week we considered? A. Yes.

Q. And see whether or not you did not include the so-called accommodation sales in making up your profit and loss statement?

Mr. Heller: First let us have what his profit and loss is.

The Witness: What week?

4134 The Court: The week ending May 18th.

Q. You told us that your total sales for the week ending May 18, 1934, were 48,031 pounds. Now, you say that that included accommodation sales? A. That is right.

Q. Will you see whether or not you included accommodation sales in making up your profit and loss statement? A. It has got to be included.

Q. You did include it, didn't you? A. Yes.

Q. And you included it every week? A. I don't; the accountant includes it.

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Q. He included it every week? A. I suppose he did.

Q. Now, what were the sales,—or, rather, who were the stockholders of the A. L. A. Schechter Live Poultry Corporation between May 16th and July 26th? A. The stockholders?

Q. Yes. A. I don't know that we issued any stock.

Q. It is a corporation, isn't it? A. That is right.

Q. And there are stockholders? A. I don't think there was any stock issued in the corporation.

4136

Q. Have you got the stock record books here? A. I have got the man here that made the corporation for us.

Mr. Heller: Do you want them, Mr. Rice?

Mr. Rice: Yes.

Mr. Heller: I don't think we have them, but the gentleman who formed the corporation is here and can testify.

Mr. Rice: I would like to know who the stockholders were during all that time.

4137

Mr. Heller: You can put the man on the stand, Mr. Rice.

Mr. Rice: I should like to have the appropriate books submitted to this witness while he is on the stand, and then I should like to ask him the appropriate questions as to who are the stockholders or who they were during all that time.

He has already testified who the officers were, and he testified about the paying of salaries to three individuals. Now I want him to tell me who the stockholders were.

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The Court: But he has answered that there was no stock issued.

Q. Have you ever seen the stock books? A. I haven't.

Q. You are the secretary? A. Yes.

The Court: Who are the owners of the corporation?

The Witness: Alex Schechter, Martin Schechter and Aaron Schechter.

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The Court: Nobody else has any interest in it at all?

The Witness: None whatsoever.

The Court: Whether there is any stock issued or not, is that right?

The Witness: That is right.

Q. How about Joseph Schechter? A. He came in to us on July 4th or 5th.

Q. Did he pay any money in? A. He did not.

Q. He had already paid some money, hadn't he? A. He did not.

4140

Q. Wasn't he a stockholder before July 4th? A. He was not.

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

Q. Who were the stockholders before July 4th? A. We did not have no stockholders; we did not issue any stock. The corporation belonged to Alex, Martin and Aaron Schechter.

Q. Didn't those three individuals hold stock? A. No, we didn't issue any stock.

Q. Now, Mr. Schechter, you said there were never any diseased poultry in the Schechter premises? A. Never.

Q. Never? A. Never.

Q. Never during May and June, and up to July 26, 1934? A. That is correct.

Martin Schechter—By Defts.—Redirect

4141

Q. Never any diseased poultry on the premises? A. That is right.

Q. At any time? A. At any time.

Q. Not even for one minute? A. That is right.

Mr. Rice: That is all.

Redirect examination by Mr. Heller:

Q. Now, your firm also employs an accountant? A. That is right.

Q. That is, besides the bookkeeper? A. That is right.

4142

Q. Now, the week of May 11th, when you sold 48,000 pounds, was that a Jewish holiday? A. Yes.

Mr. Rice: I think you are wrong about the date, Mr. Heller.

Mr. Heller: May 11th.

Mr. Rice: No, it was the week ending May 18th that the 48,000 pounds were sold.

Q. Will you check the records and see when that 48,000 pounds were sold? A. The week ending May 18th, 48,031 pounds.

4143

Q. Do you remember when the Jewish holidays were? A. I think it was the 16th or 17th, but I am not sure.

Q. Now, will you take your books and tell us, take your profit and loss book, how many days are the Jewish holidays? A. Two.

Q. Two days? A. That is right; if I am correct it is from the 14th to the 16th, I am not positive.

Q. Look at your profit and loss book— A. May 18th?

Q. Week ended May 18th. A. That is right.

4144 *Martin Schechter—By Defts.—Recross*

Q. What does it show, a profit or less? A. Profit of \$108.

Q. Look at the next week? A. A loss of \$10.84.

Q. That is the week ending what? A. May 26th.

Q. And the next week, ending—— A. Profit of \$110.77.

Q. The next week? A. Loss of \$188.96.

Q. The next week, will you mention the weeks, please? A. Week ending June 9th, a loss of \$188.96.

4145 Q. The week ending June 15th. A. Week ending June 16th.

Q. June 16th. A. We make our books on Saturday night.

Q. Yes. A. A loss of \$85.89.

Q. The next week? A. Week ending June 23rd, net loss of \$197.06.

Q. Loss of what? A. \$197.06.

Q. \$197.06? A. Yes.

Q. The next week? A. That was the week ending June 23rd, that is as far as we went—no, the week ending June 30th, a loss of \$27.03.

4146 Q. The next week? A. Week ending July 7th, loss of \$162.78.

Mr. Heller: That is all.

Recross examination by Mr. Rice:

Q. The poultry business was in pretty bad shape? A. Beg pardon?

Q. You were losing money during some of these weeks? A. The books show.

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

Q. And the poultry business was in pretty bad shape? A. That is right.

Q. You say that the week ending May 18, 1934,

Martin Schechter—By Defts.—Recross

4147

included a Jewish holiday; what Jewish holiday was that? A. Shevoth.

Q. What is Shevoth?

Mr. Heller: I do not know that he is competent to testify to that.

Q. You say that there was the holiday of Shevoth? A. That is right.

Q. During the week of May 18th? A. That is right.

Q. 1934? A. That is right.

4148

Q. Now, will you say how much poultry you sold the following week, May 26th? A. Week ending May 26th?

Q. The week ending May 26th.

The Court: The 25th, that would be on a Friday that they ended, 18 and 7 is 25.

Q. Yes, the week ending Friday, May 25th. A. 38,876 pounds.

Q. 38,000— A. 876—I beg your pardon, 36,876 pounds.

Q. 36,876 pounds? A. That is correct.

4149

Q. That compares with 31,682 during the week ending May 11th? A. That is right.

Q. Before the Code, is that right? A. That is right.

Q. There wasn't any Jewish holiday during the week ending May 25th, was there? A. I do not think so.

Q. All right. Now, how about the next week, the week ending June 2nd? A. The week ending June 2nd?

Q. 1934. A. It can't be June 2nd.

Q. June 1st, is it? A. What date was June 1st, Friday?

4150 *Martin Schechter—By Defts.—Recross*

Q. Friday, June 1st. Can't you find that?

A. Yes, I have got quite a few figures here.

Q. Wasn't it somewhere around 44,000 pounds? A. I have a figure, 44,071 pounds.

Q. 44,071 pounds? A. That is right.

Q. That compares with about 32,000 pounds during the week prior to the Code, is that right?

A. That is right, but just a moment. In this particular week we have about 5,000 pounds purchased for Mogen David, and we have much more purchased than the previous week for Joseph Schechter.

4151

Q. How much? A. Approximately at least three to four thousand pounds; for both places, about eight or nine thousand pounds.

Q. But you had a total of 44,000 pounds for that week? A. With accommodation sales, yes.

Q. And there wasn't any Jewish holiday that week, was there? A. No.

Q. How about the next week, the week ending June 9th or June 8th? A. Week ending June 8th, 33,618 pounds.

4152 Q. No Jewish holiday that week, was there?
A. Not the week ending June 8th, no, I do not think so.

Q. How about the week ending June 15th? A. 42,500 pounds.

Q. What is that? A. 42,500 pounds.

Q. There was no Jewish holiday that week?
A. I do not think so.

Mr. Rice: All right; that is all.

Mr. Heller: That is all.

The Foreman of the Jury: May I ask the witness a question?

The Court: What is it?

The Foreman: In arriving at the profits

Martin Schechter—By Defts.—Redirect

4153

and losses for each week did you include officers' salaries as an expense to the business?

The Witness: That is right.

Redirect examination by Mr. Heller:

Q. And your total officers' salary was \$105?

A. Some weeks \$90 and some weeks \$105.

Q. Have you got the petty cash book here? A. Yes, sir.

Q. Tell us each week how much each one of you got from May 16th.

4154

The Court: What does that show?

Mr. Heller: Just to show how much he got.

A. About \$30, \$30 to \$35. Some weeks \$30, some weeks \$35. That was the salary.

Mr. Rice: I have had presented to me a Jewish calendar for the year 1934, which indicates that the so-called feast of weeks, which I am told is Shevoth, was on May 20th and 21st.

4155

Mr. Joseph Schechter: Yes, that is right.

Mr. Heller: Do you want to listen to him? I haven't any objection.

The Court: No, he is not on the stand. The jury will disregard what he says.

Mr. Heller: We are satisfied with the 20th; whatever you give us.

Mr. Rice: That is all.

Q. May 20th and May 21st, Saturday and Sunday—no, May 19th and 20th are Saturday and Sunday, aren't they? A. That is right.

4156 *Martin Schechter—By Defts.—Recross*

Mr. Heller: What were those holidays?

Mr. Rice: May 20th and 21st.

Q. Now, you don't kill on Saturday, the shohtim did not? A. No, we don't.

Q. So you would have slaughtered the poultry— A. On Friday.

Q. For that holiday? A. That is right.

Mr. Heller: That is all. That straightens that out.

4157 Mr. Rice: Just a minute.

Recross examination by Mr. Rice:

Q. Let me take a look at the books showing the volume of sales during that week. A. That is Thursday, I told you before, when we had 80 sales. We usually have a 60 on a Thursday.

Q. You say that you had 80 sales on that Thursday? A. That is right.

Q. Which is—

Mr. Rice: What date was that?

4158 The Court: 17th, wasn't it; Friday was the 18th.

Mr. Heller: May 17th.

Q. May 17th? A. That is right.

Q. Now, you had 91 sales on Thursday, July 5th, didn't you? A. 91?

Q. Yes. A. Whatever I said.

Q. Take a look—

Mr. Heller: That is right. That is what he said.

The Witnesses: Yes.

Q. You had 91 sales on Thursday, July 5?
A. That is right.

Leo Schimmel—By Defts.—Redirect

4159

Q. There was no Jewish holiday that week, was there? A. I don't think so.

Mr. Rice: That is all.

Redirect examination by Mr. Heller:

Q. Was there a strike that week on the East Side? A. That is right.

Q. Now that is why you sold more poultry then? A. The East Side and the Bronx did not take in any poultry. They were compelled to come to Brooklyn, you see, and a lot of people came down to our place. That was the only week there was a strike there.

4160

The Foreman of the Jury: Your Honor, may we have a recess?

The Court: Yes. Do not let anybody talk to you about the case, gentlemen. You may have a recess for five minutes. (Short recess.)

LEO SCHIMMEL, resumes the stand.

4161

Redirect examination by Mr. Heller:

Q. Did you make that list for us? A. Yes.

Q. And did you compute the amount of accommodation sales and the price, and to whom they went? A. That's right.

Q. And what was paid for them? A. Yes, and from whom they were purchased.

Mr. Heller: Now, Mr. Rice, do you want him to read it off or will you take a copy of the record he has made?

4162 *Leo Schimmel—By Defts.—Redirect*

Mr. Rice: I think it would expedite matters if both sides were to offer resumes.

The Court: That would save time. You can each look them over beforehand.

Q. What is the that third sheet you have there?

A. That is the total accommodation sales.

(Discussion off the record.)

4163 Q. What is the total amount of those two sheets, just the top two, accommodation sales?
A. 43,589 pounds.

Mr. Heller: All right, we offer those two top sheets in evidence.

The Witness: Read them?

Mr. Heller: No, you do not have to read them.

Mr. Rice: No objection, your Honor.

(Marked Defendants' Exhibit J in evidence.)

4164 Q. Does that exhibit indicate the price that A. L. A. was charged for the merchandise and the price that they recharged them? A. This one?

Q. Yes. A. Yes.

Q. And in each instance it is the same price?

A. It is the same price.

Mr. Heller: That is all.

Mr. Rice: That is all.

(Witness excused.)

Aaron Schechter—By Defts.—Direct

4165

AARON SCHECHTER, one of the defendants, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. Aaron, are you one of the defendants in this case? A. I am.

Q. You are one of the——

The Court: Will you speak up loud enough so that those gentlemen can hear you, because they are interested in it.

4166

Q. You are one of the brothers? A. I am.

Q. Were you in business at 858 East 52nd Street during the months of May and June? A. I was.

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

Q. With whom? A. With my brothers Alex and Martin Schechter.

Q. You didn't draw up any formal agreement when you went into business, did you? A. We did not.

Mr. Rice: I object to that as leading.

4167

The Court: Do not lead him.

Q. You trust your brothers? A. I did.

Mr. Rice: I object to that as leading.

The Court: It is leading, ask him questions.

Mr. Heller: All right.

Q. What kind of business were you conducting at 858 East 52nd Street? A. A wholesale slaughter house, live poultry.

Q. What were your duties? A. I was in

4168 *Aaron Schechter—By Defts.—Direct*

charge on the floor, I was the salesman on the floor.

Q. Just what did you do as a salesman? A. Well, I would talk to the customers, sell them poultry and give instructions to the men to kill for the customers.

Q. Who was there every morning with you? A. Sammy Cohen and Abe Danziger. the two rabbis and myself.

4169 Q. And on Thursdays? A. On Thursdays we would get an extra man, and sometimes an extra rabbi.

Q. And during all other times—— A. I would work with the same people.

Q. Before this time were you connected in any other business? A. I was in the retail business.

Q. Retail what? A. Chicken stores.

Q. Today what business are you in? A. I am in the chicken, retail chicken business again.

Q. You left 858 East 52nd Street? A. I did.

Q. When? A. About six weeks ago to be exact.

4170 Q. And went into the retail business for yourself? A. I did.

Q. During the time that you were with the A. L. A. what salary did you draw? A. \$35, \$30, and some weeks if business was bad I didn't draw any salary at all.

Q. Did you on June 25, 1934, sell an unfit chicken to a Mr. Stauber? A. I did not.

Q. Did you on June 27, sell two unfit chickens to Mr. Wagshul? A. I did not.

Q. Will you look at these books and tell us whether or not any sale of any chickens was made on June 25th to Mr. Stauber? A. June what?

Aaron Schechter—By Defts.—Direct

4171

Q. June 25th.

Mr. Rice: If your Honor please, I object to the form of that question; the books can merely show what entries were made.

The Court: That is what they will show, the entry in the book.

A. There was.

Q. And does that refresh your recollection as to how much poultry was sold to him, and the price? A. Yes.

4172

Q. How much poultry was sold to him? A. There was 211½ pounds sold at 16 cents; and there was 58½ pounds sold at 15 cents, and also 89½ pounds of broilers sold at 22 cents a pound.

Q. What is the range of prices that you sell in, what kind of chickens do you sell? A. There is Indiana poultry.

Q. When you said broiler? A. Yes, broiler?

Q. How is that distinguished from other chickens? A. A broiler is a young chicken, it is a fryer; and fowl is a soup chicken; and broilers at that time of year besides being small, they cost more money than the others.

4173

Q. What other kinds of chickens do you sell besides broilers? A. There is leghorn fowl.

Q. What kind of chicken is that? A. That is a white chicken; it has a small insides, it has got a big comb and they are not very tender.

Q. What is the range of price between those three grades of fowl? A. Well, leghorn fowl sometimes cost as low as 8 or 9 cents a pound, and colored fowl about 14, 15 cents a pound, and broilers 22, 23, 25, sometimes 26 or 27 cents a pound.

4174

Aaron Schechter—By Defts.—Direct

Q. Will you look at the book and refresh your recollection as to whether any sales were made on June 27 to Wagshul? A. There was.

Q. Tell us what was sold to Wagshul. A. 138 pounds at 16 cents; 34½ pounds of broilers at 23 cents, and also 19½ pounds of broilers at 23 cents.

Q. You were the one that sold him those chickens? A. I did.

Q. Did you sell him any diseased chickens on that day? A. Never did.

4175

Q. Does it at any time happen that a chicken dies? A. Yes, sure.

Q. What happens to that? A. It is thrown in the garbage can and disinfected.

Q. You don't sell that poultry, do you? A. I don't.

Q. All those chickens that you sold on that day, where did they come from? A. From West Washington—from 60th Street Central, or sometimes from Jersey Central, or from various railroads in New York.

4176

Q. Look at your books and refresh your recollection and tell us how many purchases were made from Philadelphia in the entire year 1934. A. I haven't got the book here.

Q. (Handing book to witness.)

The Court: Do you want the whole year 1934?

Mr. Heller: Yes, because there is only one purchase.

A. Yes, I believe there was only one purchase made in Philadelphia. That week was a very scarce week and I spoke to one of the commission merchants, that, is, my brother Alex spoke

Aaron Schechter—By Defts.—Direct

4177

to one of the commission merchants in New York, and he told him poultry is very scarce and we could not get it, and being I am single, I went to Philadelphia—

Q Just a minute. I show you Government's Exhibits 35, 34, 33 and 32, and ask you whether they represent all the poultry that you bought in Philadelphia for the year 1934?

Mr. Rice: Some of that is 1933.

Mr. Heller: 1933?

Mr. Rice: Yes.

4178

Mr. Heller: That should not have been in evidence. I understood these were the purchases made in May, 1934. I do not know what 1933 has to do with this.

Mr. Rice: Dr. Ives was asked to produce all certificates of inspection showing all inspections made for any of the Schechters during the year 1933, or the year 1934 up to a certain date.

A. There is none in here for 1933. I do not see any; I only see 1934.

4179

Mr. Rice: Let me see—

The Court: Those aren't the inspection certificates.

Mr. Rice: Oh, I beg your pardon, I thought they were.

Mr. Heller: These are the purchases from Philadelphia.

The Court: Purchase books that were offered in evidence representing two, I think.

Mr. Heller: Representing a sale from Rabinowitz to the Schechters.

4180 *Aaron Schechter—By Defts.—Direct*

The Court: There were two sales, weren't there?

Mr. Heller: I mean there are several sales slips.

Q. What does this represent, this sale? A. Well, this is the sale of the two cars of poultry that I bought off Mr. Rabinowitz.

4181 Q. You bought two carloads of poultry from Mr. Rabinowitz and these are the charge tickets for those two carloads, is that correct? A. Yes, sir.

Q. Were the two carloads purchased at one time by you? A. Yes, they were.

Q. What is that? A. They were.

Q. One purchase? A. Yes.

Q. And they were shipped in separate trucks to New York, is that correct? A. Yes.

Q. Do you know about how many baskets of that poultry were purchased? A. Well, two cars would be about 500—there is about a hundred and thirty and forty baskets in a car, short, spindle coops.

4182 Q. What is the total, did you say? A. It would be—no, let us see. It would be about over 500 baskets.

Q. Those 500 baskets came to your place of business, did they not? A. They did.

Q. And they represent the merchandise purchased by these Government exhibits? A. That is right.

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

Q. Was that good and healthy poultry? A. The finest poultry that can come into New York.

Q. Out of those 500-odd baskets I ask you whether this represents a bill for inspection of

Aaron Schechter—By Defts.—Direct

4183

346 baskets of those 500 some odd baskets? A. They do.

Mr. Heller: I offer that slip in evidence.

Mr. Rice: No objection. That is already in evidence as a Government exhibit.

Mr. Heller: I would like to have it marked as a Defendants' Exhibit.

The Court: All right.

(Marked Defendants' Exhibit K in evidence.)

4184

Q. Out of the balance of the poultry that came in from Philadelphia, in excess of the 346 baskets, were 53 purchased for Mogen David as an accommodation?

Mr. Rice: I object to the leading.

The Court: Do not lead.

Mr. Heller: I will withdraw the question.

The Court: Ask him questions, but do not lead.

Mr. Heller: Yes, sir.

4185

Q. How many baskets of the balance were purchased for the sole use of Schechter Brothers?
A. I do not get that question.

The Court: Read it.

(Last question repeated by the reporter.)

A. Will you put that question in a plainer form so I can understand you?

Q. I am referring to the balance of one hundred some-odd baskets which were not inspected. How many of those were purchased for the

4186 *Aaron Schechter—By Defts.—Direct*

fit of the Schechter Brothers? A. There was 59 baskets purchased for the Mogen David Live Poultry Company.

Q. What sort of a sale was that? A. An accommodation sale.

Q. Now, the poultry that was inspected, do I understand you to say came from the same carload? A. Exactly.

Q. No question about that? A. No.

4187 Q. Will you tell us why those few baskets were not inspected? A. It came in too late and the Joint Inspection Service gives service until about seven o'clock only in the evening, and that load came in about nine o'clock, and we could not get any inspection on it and we needed it for Monday morning's killing.

Q. Now, Jack Damsky, was he one of the truckmen? A. Yes.

Q. And he brought in the load? A. He did.

4188 Q. I show you this check and I ask you whether this is in payment of the trucking charges? A. This is in payment of the 50 baskets by the Mogen David Live Poultry Market, Inc.

Mr. Rice: No objection; it is already in evidence in Damsky's testimony.

Mr. Heller: I want this in evidence because Damsky said that Joe Schechter paid him and this is to show that somebody else paid him.

The Court: You are offering it in evidence?

Mr. Heller: Yes, your Honor.

Mr. Rice: No objection.

(Marked Defendants' Exhibit L in evidence.)

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4189

Q. Did you at any time say you intended to violate the law? A. I did not.

Q. Did you ever threaten to kill Mr. Forsmith?

Mr. Rice: I object to that.

The Court: Overruled.

A. I did not.

The Court: What you ought to do is ask him what was said and what was done. On that day that Mr. Forsmith was there, let him tell what was said and what was done, who did it. You know, he is your witness.

4190

Mr. Heller: I intended to go into the details, your Honor, after getting a categorical denial first.

Q. Did you at any time stop Mr. Alampi from coming into the premises? A. I never did.

Q. Tell us what happened during the time Alampi was there.

Mr. Rice: What date?

4191

Q. From the day that he came in, June 22nd, from that first day on. A. Mr. Alampi—the first day he came in I asked him who he was and he told me that he was a representative of the Code Authority, and I asked him what business did he want, and he said he was placed on the premises to investigate the conditions of the slaughter house. Well, he showed me a badge that he had—no, I don't think he had a badge the first day, I think he got a badge the second day. He took a notebook and a pencil and he marked down everything that occurred in the

4192

Aaron Schechter—By Defts.—Direct

place. He asked to look at the charge books, which he showed him, and he spoke to customers. He left, I believe, about four o'clock that day, in the afternoon, or so, whenever the poultry was in the place. He came back the next day and he had a badge already, and the same thing occurred, he was taking down notes, and he was marking down things and looking at charge books and the prices, and then the same thing occurred, and the poultry came in, and he went home. The next day he came in and he had his notebook and pencil, and he started arguing with the customers, you know,—

4193

Q. That was on June 27th? A. June 27th, yes, he started arguing with the customers and he in fact insulted one of the customers. He told the customer that he is full of shit, and "I am the Code Authority, and I got a right to do anything I want, and if you don't like it, get out." Well, that hurted me a little bit, to hear that, so I called him aside and I said, "Mr. Alampi, please try and restrain yourself from using language like that, because I will lose my trade, the result will be that you will chase me out of business." At the end of the killing, the customers went away. I told him, I said, "If you want to come in here like a gentleman, come on in, but otherwise do not come in." The next day he was there, and he got in front of the customers and he watched them kill, right on top of them, you know, and he annoyed the customers, and it was a busy day, Thursday is, and then he got into an argument with one customer, and I heard him say, "You son of a bitch, you are full of shit. I am the Code Authority and I can do anything I want." I was busy, and I do not want to start anything at that

4194

Aaron Schechter—By Defts.—Direct

4195

time, so I tried to quiet him down a little bit. Well, when the killing was over on that day, I had an order to deliver. As I went out he said to me, "Abe, where are you going?" And I said, "I am going to deliver an order." He said, "Do you mind if I come along?" and I said, "Sure, come along." Well, we rode to the customer, I believe it was a butcher on Avenue A, and when we were going there I told him, "Why don't you try to be nice?" I said him, "You should not act like that in my place, and I positively will not tolerate the language that you are using, and I don't want you to come in the next day." I said to him, "If Mr. Peterson wants to send somebody else down, it is O. K. with me." Well, he went away, and he came back the next morning. I saw him and I said to him, "Mr. Alampi, didn't I tell you yesterday to tell Mr. Peterson that if he wants an inspector down here in my premises he should send somebody else?" and he said, "Well, they sent me down here." I said to him, "Well, you cannot stay. I told you to tell Mr. Peterson if he wanted anybody down here to send somebody else." With that he went away, and then he came back in a few minutes with an officer. The officer and he came in, and I explained to the officer what had happened in my place, and the officer says to me, "Well, why don't you let him in? He is the Code Authority." I said, "I will not. I am not going to let anybody in here to ruin my business. This is my business and my place, and I am not going to let anybody in who will ruin it." The cop then said to me, "Well, all we can do then is to go back to the precinct and ask my superior officer what to

4196

4197

4198 *Aaron Schechter—By Defts.—Direct*

do.” With that, he went away, and I never seen him again.

Q. Now, did you ever use threatening language toward him? A. I never did.

Q. Did you ever strike him? A. I never did.

Q. Did you ever lift your hand to him? A. I never did.

Q. Now, about how many days was he there before you told him that he could not come back again? A. Four days.

4199 Q. Now, will you explain how—what happens to chickens when the customers buy them? Do you know what straight killing is? A. Yes.

Q. Explain it, please. A. Straight killing is supposed to be to kill off the coop—the run of the coop as it goes.

Q. Now, what kind of chickens are in the particular coops? A. All different kinds, some are small ones, some large ones, thin-breasted, some fat, some lean, all different sorts of chickens. There are about forty chickens in a coop.

4200 Q. Now, from May 16th on, how did it operate in your business? A. Well, in this way: A customer would come in either the day before or the morning before the killing, and we would agree on a price, and if it was his turn next, he would go to the man, and he would mark up his coops, and he could say, “This is my coop,” because, you see, he would have the number on the coop, like 969 or No. 304, or whatever number that is, that is his number, and he would mark that number on his coop, after he selected his coop, and when his turn came he would go over to the man and start killing. The man would open up the coop with an ax and he would take out four or five chickens and hand

Aaron Schechter—By Defts.—Direct

4201

it to her or to him, and they in turn would examine the chickens and hand it to the rabbi to be slaughtered.

Q. Do they reject chickens at any time? A. Very seldom; on very rare occasions.

Q. What happens when they reject chickens? A. Well, I am on the floor and the customer starts to kill, and in case he wants to reject a chicken, I go over and I look at the chicken before it is put back in the coop, and if I see that the chicken could be killed, I give it to the rabbi and I let him kill it.

4202

Q. Well, did it happen during this time that you had to put some chickens back? A. I did.

Q. Tell us why. A. Well, there were some customers that started killing, and on one occasion a man would kill off about fifteen or twenty chickens, and then he would want to reject a chicken, and I would go over and examine the chicken, and it would be a thin-breasted chicken, and I would take it out of his hand and hand it to the rabbi, and he would grab the chicken back from the rabbi before he could kill it, and he would say, "Abe, I don't want this chicken." I would ask him why and he would say, "Well, I am paying here for top price poultry, and I have no trade for that type of poultry, and if I kill that chicken off, it is a thin-breasted chicken, and I am liable to lose about fifty or sixty cents," and I said, "I am sorry, but we are under the Code, and that is straight killing," and then he would say, "Well, all right, if that is the way you feel about it, I will leave you 15 or 20 chickens, and I will go elsewhere."

4203

Q. And under those circumstances you took

4204

Aaron Schechter—By Defts.—Cross

them back? A. I had to, because I was losing trade.

Q. Did you at any time have a talk with your brothers together or separately about violating any law? A. Not about violating the law.

Q. Did you have conversations about your business? A. Every day.

Q. Were you ever convicted of a crime? A. Never.

Q. Have you ever had any trouble in your life? A. No.

4205

Q. Were you ever arrested? A. No.

Cross examination by Mr. Rice:

Q. You say you didn't like Alampi's conduct in the Schechter premises? A. Not that I didn't like it, you misunderstand me. I said he was annoying my customers and insulting them.

Q. And you didn't like his conduct? A. His conduct outside of my business I do not know.

Q. You didn't like his conduct at your premises? A. Yes, the way he insulted my customers.

4206

Q. You didn't like the way he talked to your customers on one occasion? A. On several occasions, yes.

Q. On two occasions? A. Yes.

Q. On two occasions he used an unbecoming expression to a customer, is that correct? A. I don't know, two, maybe three occasions.

Q. You have testified as to two occasions, already, have you not? A. Yes.

Q. Any others? A. Yes.

Q. When he used that same expression? A. Yes.

Q. When? A. Well, it was on a Thursday—

Aaron Schechter—By Defts.—Cross

4207

Q. Who was the customer? A. 371 Brighton Beach Avenue, Benny Sandler—

Q. Who was the first customer? A. Izzy Cohen.

Q. And who was the second one? A. Wagshul.

Q. When was that? A. On a Thursday.

Q. Who was the third? A. Benny Sandler.

Q. He used the same expression to Benny Sandler? A. Yes, sir.

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

4208

Q. Any other occasions? A. No.

Q. Did he use any other bad expressions? A. No, not that I know of.

Q. And you didn't use any bad expressions at all, did you? A. No, none whatsoever.

Q. You didn't call him any bad names? A. Never did.

Q. You never called anybody a son-of-a-bitch? A. As far as I can remember, no.

Q. You never called Forsmith a son-of-a-bitch? A. Never did.

Q. Never told him he was a crook? A. Never did.

4209

Q. Never said that Peterson was a crook? A. I never spoke to Mr. Peterson.

Q. You never told Forsmith that Peterson was a crook? A. Never did.

Q. You never said the whole Code Authority was a bunch of crooks? A. Never did.

Q. You never use any harsh language? A. At what time?

Q. To anybody any place, is that right? A. I do not think so, no.

Q. You never use curse words, do you? A. Very seldom.

Q. Have you ever called anybody a son-of-a-bitch? A. Well, I do not remember; as far as

4210 *Aaron Schechter—By Defts.—Cross*

I can remember I never did; maybe I did but I do not know.

Q. You never remember using any harsh expressions like that to anybody? A. No, I don't remember.

Q. You felt that Alampi was objectionable, that this particular man was objectionable because you felt he was insulting your customers? A. No, just at those particular occasions, otherwise we got along swell.

4211 Q. Otherwise you got along swell? A. Yes.

Q. He just used that bad expression on three occasions? A. Yes.

Q. Otherwise he never used any bad expressions? A. No.

Q. He is a very gentle fellow, isn't he? A. Looks to be.

Q. Very meek? A. As far as I know, I haven't known him long.

Q. Didn't he impress you as a very meek, mild, gentle sort of fellow? A. I don't know what meek means.

4212 Q. Very gentle? A. Yes.

Q. Very kindly? A. Kind?

Q. Yes. A. I don't know.

Q. Weren't you surprised when he used that expression to your customers? A. No——

Mr. Heller: Just a minute, does it make any difference whether he was surprised or not?

The Court: This is cross examination.

Q. It sounded rather unusual to find Alampi use that expression, didn't it? A. I do not know.

Aaron Schechter—By Defts.—Cross

4213

Q. Being a very gentle fellow? A. Maybe he uses those expressions at all times, I don't know hmi, only the short time he was there.

Q. You heard him use it on the witness stand the other day, didn't you? A. Yes, I did.

Q. You heard him testify about this occasion? A. Yes.

Q. You heard him volunteer it without even being asked by Mr. Heller? A. Yes, sir.

Q. He told us what sort of expression he had used on one occasion, didn't he? A. Yes.

4214

Q. And he said that you had used a much more vile expression that he would repeat, didn't he? A. I didn't use them, Mr. Rice.

Q. You didn't hear him say that? A. Beg pardon?

Q. Isn't it true you had used much more vile expressions than he had? A. Never, no.

Q. Never? A. No.

Q. You said nothing you wouldn't care to repeat? A. Why, I care to repeat it, yes, but I never used anything like that, I care to repeat it, of course, why not.

4215

Q. Did you feel that Alampi was objectionable on your premises? A. No, he wasn't objected.

Q. Did you feel that Peterson ought to send somebody else down there? A. No, except on the occasion when he insulted my customers, so I told Mr. Alampi, let him go to Mr. Peterson, it is immaterial to me if Mr. Peterson come himself.

Q. You told Alampi to tell Peterson he ought to send somebody else? A. Yes.

Q. That wouldn't use vulgar expressions to your customers? A. Yes, sir.

Aaron Schechter—By Defts.—Cross

4216

Q. And Alampi came back the next morning, didn't he? A. He did.

Q. And you wouldn't let him in the place? A. Of course not.

Q. And you called him a lot of names, didn't you? A. I did not.

Q. And you threatened him? A. No, I did not. In fact I spoke to him very nice. I told him, "Please, Mr. Alampi, I told you before you should tell Mr. Peterson to get somebody else."

4217

Q. And Mr. Peterson didn't send anybody else? A. He did not.

Q. He sent Alampi back? A. He didn't.

Q. And you didn't call Mr. Peterson up to complain? A. I beg pardon?

Q. You didn't call Mr. Peterson to complain, did you? A. I did not.

Q. You never spoke a word about this to Mr. Peterson, did you? A. I did not.

Q. You didn't ask that somebody else be substituted for Alampi, did you? A. I told Mr. Alampi to go up to the office and make a report of that statement, I told him to get somebody else.

4218

Q. In other words you told Alampi to tell Peterson that he wasn't the sort of fellow that you wanted on the premises? A. Absolutely.

Q. And when Mr. Alampi didn't do that you didn't call Mr. Peterson back, did you? A. Well, it was six o'clock in the morning and I do not think Mr. Peterson would be in his office at six o'clock in the morning.

Q. You didn't call him later, did you? A. I didn't call him later, no; I didn't hear of him any more.

Q. You didn't make any statement to Mr. Peterson about this occasion, did you? A. I never had occasion to meet Mr. Peterson.

Aaron Schechter—By Defts.—Cross

4219

Q. You never talked about it at all? A. I never did.

The Court: Have you ever talked to him at all?

The Witness: No.

Q. Did you report this to anybody else in the Code Authority? A. No.

Q. And your brothers did not? A. No.

Q. Nobody reported it? A. No.

Q. Nobody complained about Alampi? A. What do you mean complained?

4220

Q. Nobody complained to the Code Authority about Alampi's conduct? A. No.

Q. You say as to this poultry that came from Philadelphia that was not inspected, it came in about nine o'clock? A. Yes, sir.

Q. You didn't call up for inspection, did you? A. Well, what do you mean I didn't call up?

Q. You didn't call up Dr. Ives' office and ask for an inspector at nine o'clock, did you? A. The office is closed at nine o'clock.

Q. Don't you know, as a matter of fact, that you could get an inspection at nine o'clock? A. I do not know.

4221

Q. You do not know? A. No.

Q. You didn't try to get it, did you? A. I tried to get it and the office was closed.

Q. Did you call up? A. Yes, of course, and the office was closed.

Q. Did you call up? A. Yes.

Q. You called up that night? A. I called up.

Q. Did you know when you called up that the office was closed? A. Yes, there was no answer.

Q. Did you know before that that the office would be closed? A. I did not.

4222

Aaron Schechter—By Defts.—Cross

Q. Did you know what time that poultry was coming in? A. Well, it was supposed to come in on time.

Q. What time was it supposed to get in? A. About six o'clock.

Q. And you had not made any arrangements for inspection, had you? A. Well, we are supposed to stop at Wallabout Market and have it inspected.

4223

Q. And you never told the driver to stop, did you? A. Of course, he knows that. I told it to him in Philadelphia, to have it inspected.

Q. You told him to stop? A. Certainly.

Q. You were here the other day when the driver testified, Damsky? A. Yes.

Q. You heard him testify that nobody told him to stop for inspection? A. I told him to stop.

Q. You heard him testify to that, didn't you? A. I don't know; maybe.

Q. You don't remember hearing him testify to that? A. Maybe I did, but I told him to stop.

4224

Q. You know he did not stop at Wallabout Market? A. What?

Q. You know he did not stop at Wallabout Market? A. I don't know. I was in Philadelphia.

Q. That poultry was not inspected the next day, was it? A. We needed it for the morning's killing. We didn't want to be left without poultry.

Q. Just answer my question. Was that poultry inspected the next day? A. Well, I am just telling you.

Q. Was it, yes or no? A. No.

Q. Was that poultry ever inspected in New York, yes or no? A. No.

Aaron Schechter—By Defts.—Cross

4225

Q. You say on some occasions your customers do reject some of the chickens? A. On some occasions, yes.

Q. And sometimes they do not kill straight, is that right? A. I did not get your question.

Q. Sometimes your customers during the period from May 16, 1934, to July 26th,— A. Yes?

Q. (Continuing.) —sometimes they did not kill straight, is that right? A. On a few occasions, where I had to argue with the customer, either to lose the customer and let the killed chicken remain, or let them reject that one bird, that was a thin-breasted bird.

4226

Q. They just rejected one bird out of a coop? A. Probably one.

Q. Wasn't it true that sometimes, in fact, wasn't it true that generally your first customers rejected one-third of the birds that they selected? A. Never did.

Q. Isn't it true that when they ordered three coops of poultry they normally rejected about one coop? A. At the most that I can remember is maybe two or three birds; by that, I mean three coops; and sometimes kill them off as they go, the three coops.

4227

Q. Did you hear Cohen testify here? A. I did.

Q. Did you hear Danziger testify here? A. I did.

Q. Didn't you hear them testify that when a customer ordered about three coops, that he rejected about one coop? A. Never did.

Q. You heard him testify to that? A. I did.

Q. And you say that it was just on rare occasions when the customer rejected one bird? A. One chicken.

4228

Aaron Schechter—By Defts.—Cross

Q. One chicken out of a coop? A. One chicken out of a coop.

Q. What did you do with that one chicken?

A. And sometimes none.

Q. What did you do with that one chicken?

A. Sold it.

Q. You later sold it, didn't you? A. Certainly.

4229

Q. Then you did violate the straight killing provision even on your own statement, didn't you? A. Well, I would not say that exactly. It was—the chicken was a good bird but it was a thin-breasted bird, and if he paid a high price, he could not sell—he would have to sell that chicken probably below cost and lose money. Therefore, when he rejected that bird I probably sold that bird a couple of cents cheaper, but that bird was a good bird, and I would eat it myself.

Q. And it is your understanding that the straight killing provision prohibits that, does it not? A. It does.

Q. So you were violating the straight killing provision?

4230

Mr. Heller: He has said what he did.

Q. (Continuing.) Is that right?

Mr. Heller: He said what he did.

The Court: Yes.

Mr. Heller: He said under what circumstances he did it. Now, counsel can draw his own conclusions.

Mr. Rice: I am satisfied with the answer.

Mr. Heller: So am I satisfied.

The Court: He said it.

Aaron Schechter—By Defts.—Redirect

4231

Mr. Rice: And I do not mean to say I accept the testimony of this witness at all.

Mr. Heller: Oh, I see.

Mr. Rice: That is all.

Redirect examination by Mr. Heller:

Q. Wait a moment. One question. All the other poultry besides these sales, as evidenced by the Philadelphia purchase, all the rest has come from Washington Market? A. Yes.

4232

Q. All inspected poultry? A. Yes.

Q. No question about that? A. Yes.

Q. The only poultry that was not inspected was less than a quarter of the two carloads? A. That is right.

Q. Is that right? A. Correct.

Q. And the rest came out of the same carload? A. Absolutely.

Q. Would you consider that as a sample inspection?

Mr. Rice: I object to his leading.

The Court: You do lead him. He is your witness, you know.

4233

Mr. Heller: Yes, sir.

Q. Were chickens killed any different before the Code came into effect? A. They were not.

Mr. Heller: That is all.

(Witness excused.)

4234 *Alexander Schechter—By Defts.—Direct*

ALEXANDER SCHECHTER, one of the defendants, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. Are you connected with the A. L. A., and for how long? A. I am, for—with the A. L. A. since January 1, 1934.

4235 Q. Are you an officer of the corporation? A. I am.

Q. What office? A. I am president.

Q. What work did you do during the months of May and June? A. I used to do the buying for the A. L. A. Poultry Corporation.

The Court: I cannot hear you. Speak up.

The Witness: I was the buyer for the corporation.

4236 Q. What were your duties as buyer? A. I used to come down Monday, Tuesday and Wednesday about 7:30 or 8 o'clock in the morning, look around, what do we need for the next morning, pick up the checks, go downtown, buy my poultry, take care of it and ship it home.

Q. And you did that during the months of May and June? A. May, June, until about the 24th or 25th.

Q. Did you have anything to do in the place? A. Thursdays I used to come down five or six o'clock, give them a little hand, look around, what we need for the next morning's killing, and go away. I used to stay until about ten or 11 or sometimes I used to go away nine in the morning, or eight in the morning, when we need poultry for the same day's slaughtering.

Alexander Schechter—By Defts.—Direct

4237

Q. Where did you buy that poultry? A. I bought all of my poultry at West Washington Market, New York Central, Jersey Central, Erie, Lackawanna or various places, various railroad poultry freight terminals.

Q. What kind of poultry did you buy there? A. Bought between the top market grade, all according; there was quotations like, fancy, Indiana, western, average, leghorn fowl, ducks, springs; all kinds.

Q. What is the variance in the price between the different poultry? A. It was—there is times in the year, like this time of the year, we have two or three markets, like fancy, Indiana, then we have western, then we have average poultry. The various prices between the top and the bottom is about two or three cents difference.

4238

Q. Do you remember what happened on June 1? A. Yes.

Q. Tell us what happened on June 1, 1934. A. It was on a Friday. I came down to the place about 11 o'clock, I walked in, saw a man in the building, standing in front of the office, I walked right in the office, I met my two brothers, Aaron and Alex—Martin, and I asked who the man was. He says he is from the Code Authority, sent down as accountant to look over our books.

4239

I says, "Has he got any credentials?" "No."

Mr. Rice: I cannot hear the witness.

A. (Continuing.) "Has he got any credentials to identify himself, whether he is sent down from the Code Authority?"

He says, "No; the only thing you could is call up Mr. Peterson. He will identify me." Then my brother Joe walked in. He was at that time

4240 *Alexander Schechter—By Defts.—Direct*

visiting the doctors for treatment for his foot. He asked the same question. He got the same answer. The only way that he could identify himself was by calling Mr. Peterson's office. We gave him the phone and he called up Peterson and my brother Joe talked to him. I do not know what the conversation was between them. I know that my brother Joe asked him "Why do you want to examine my books?" and I do not know what the answer was, but anyhow I know that my brother said to him, "I have to ask my counselor, and if he tells me that you have the authority to look at my books, I will show them to you."

4241

Q. And what did Joe do at that time with reference to your business—that is, did he have any connection with your business? A. None whatsoever; he had a business of his own at 991 Rockaway Avenue.

Q. And did he guarantee the accounts of your business? A. Oh, yes.

Q. And after that conversation took place did you get in touch with me? A. I did.

4242

Q. And did you hear, on June 1st, Joe, say over the 'phone, "I am violating the Code every day, and I intend to do it"? A. Not to my knowledge.

Q. And you got in touch with me? A. I did.

Q. And what I did you don't know anything about? A. Nothing about it except that you called me up and said that there is a hearing sometime in June.

Mr. Rice: Just a minute. Are we going into the attorney-client conversation stage?

Mr. Heller: Absolutely not.

The Court: No.

Alexander Schechter—By Defts.—Direct

4243

Q. I told you about a conference? A. Yes.

Q. Now, did you go with me on June 18th to Mr. Peterson's office? A. Yes.

Q. You and your brother Joe? A. Yes.

Q. What took place over there, if you remember? A. Over there; we came up there about four, between four and five, I don't remember exactly the time. We sat outside for about 15 or 20 minutes. Mr. Peterson was busy inside. Then Mr. Forsmith came out and he said, "All right, you can come in," and I and my brother and the counselor, we went inside. There was sitting there Mr. Loeb, Mr. Dale, Mr. Peterson, Forsmith, and a fellow with eyeglasses, I think his name is Mr. Wexler and a stenographer was sitting there at the next table. We sat down, and the first question I was asked was, which firm I am connected with, and I told them the A. L. A. Schechter Live Poultry Corporation. Then I was asked who was the officers, and I told him. I told him the kind of business we are doing, and I explained to him. Then they asked me, Joe Schechter, who is he connected with, and then the two lawyers, Mr. Loeb and Mr. Heller, were arguing some law points which I do not understand.

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4245

Q. Now, was the question asked you by Mr. Peterson, whether or not you were selling culls to niggers? A. I have no nigger trade, I only do a wholesale business with Jewish people, dealers and butchers.

Q. Thereafter did your firm make reports in accordance with my suggestion? A. Yes, they did.

Q. And did you permit Alampi to come to your premises? A. I did.

4246 *Alexander Schechter—By Defts.—Direct*

Q. Do you remember when the accountant for the Code Authority—Mr. Justice—do you remember him at your place of business? A. Yes, he was there.

Q. For how long? A. He was there for more than two weeks, wasn't it, Mr. Justice?

Q. Your best recollection, please. A. He was there more than a week, I know, and he left for a few days and he came back again.

Q. Did he have somebody with him? A. Yes, he had another gentleman with him.

4247 Q. And did you offer him the books? A. Oh, yes.

Q. What did you do for him? A. Well, I helped him. In case he needed me or the bookkeeper, I always helped. If he does not know what is what, and I knew something about it, I would help him and show him and the other gentlemen would too.

Q. And that was right up to July? A. July, right.

Q. Do you remember the day when Mr. For-smith came in? A. I do.

4248 Q. June 28th? A. I do.

Q. Tell us what happened on that morning. A. Well, it was a slaughterer's day, and I had about 50 coops left in my premises, so I was not in a hurry to go to the market to purchase for the same day's killing. It was about 9:30 on a Tuesday morning. He walked in with Dr. Gardner, the Board of Health inspector. They came in my premises and they looked through the coops, and as they walked down, Mr. For-smith called me over and asked me to open up one of the coops, that he wants to look at the poultry. There was a coop of leghorn fowl and

Alexander Schechter—By Defts.—Direct

4249

there was another crate where there was about 10 or 12 leghorn fowl. I opened up the coop and he looked at the 12 birds, and he killed about three or four, and he asked me to put them in the waste basket and put disinfectant on them, which I did. He was about to proceed out in the front—that is, Dr. Gardner, I am talking about—and he was stopped by Forsmith, who said, “Aren’t you going to write them a ticket?” He hesitated for a moment, and they both went into a conference, and then about two minutes later he started to write me a ticket. I said, “Why, Dr. Gardner, you know the conditions in every slaughter house in Greater New York. On this day, a slaughter house with 100 coops, on a Thursday, and you can look through them and find more than three, especially leghorn fowls,” because at that time it was selling for eight or nine cents market, it was a very low price, and I said, “You are a retailer,” I said to Forsmith, “You are a retailer, and you are a member of the industry.” I said, “As a member of the industry you are only doing business about fifteen coops a week, and probably you have five coops on your premises.” And I said to him, “Further, I can walk into your place and I could look through and I could find more than three of those kind of leghorn fowl right now.” He said, “I am not trying to do anything to you,” he said, “I am going to all of the slaughter houses.” I said to him, “Well, you are not walking out of here until I get justice. Dr. Gardner did not want to give me out a ticket; for some reason or other you stopped him, and you made him write up a ticket.” I said, “Are you trying to ride us?” and he said, “No, you can come with me

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4252 *Alexander Schechter—By Defts.—Cross*

and I will convince you, I will do the same thing in every market." He said, "I have got to stop over to my brother's place. Do you want to come along?" Well, we stopped off there. It was about ten o'clock already, or a little after ten, and then I changed my mind and I said, "Well, what is the difference? If he feels that way about it, I cannot do nothing about it," so I left him there and I went back to my place of business to take care of it because I had to go downtown to buy some poultry.

4253 Q. Now, did you ever raise a hatchet to him?

A. No, I never did.

Q. Did you hold him? A. No; he can go as he pleases.

Q. Did you threaten him? A. No.

Q. Were you ever convicted of any crime? A. No.

Q. Were you ever arrested? A. No, sir.

Q. You are a married man, are you? A. Yes.

Cross examination by Mr. Rice:

4254 Q. Mr. Schechter, at this conference on June 18th— A. Yes, sir.

Q. You were asked whether you had been killing straight? A. I do not remember.

Q. Do you remember? A. No, we weren't discussing straight killing at all.

Q. Nobody discussed straight killing? A. No, sir, not with me.

Q. As a matter of fact didn't you admit at that conference that you were not killing straight and that you could not kill straight? A. They never asked me the fact about straight killing, and I never said anything.

Alexander Schechter—By Defts.—Cross

4255

Q. It wasn't even mentioned? A. No, sir, not straight killing.

Q. How about the sale of diseased chickens, was that mentioned? A. No.

Q. Didn't Benjamin Forsmith at this conference ask you how you got rid of your diseased chickens? A. Benjamin Forsmith never said anything to me, the only one talks to me was Mr. Loeb, and then the two counsel were talking about some matters which I didn't understand.

Q. Didn't you tell Benjamin Forsmith and the other people at this conference that you got rid of your diseased chickens by selling them to the colored trade? A. I do not buy diseased chickens, and I do not sell diseased chickens.

4256

Q. Just answer the question. A. No.

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

Q. Or anything like that? A. No, sir.

Q. As a matter of fact you do sell to some retailers who do have a colored trade, do you not? A. I do not know, I am in the wholesale business.

Q. You would not say that the retailers who buy your inferior chickens do not have a colored trade? A. I do not know what trade they have.

4257

Mr. Heller: There is no testimony that any retailer buys any inferior chickens, and we are not concerned with what they do with them.

The Court: He has answered, he says he does not know.

Q. You would not say that your retail customers do not have a colored trade? A. I do not know.

Q. You do not know? A. I do not, I am in the wholesale business.

4258 *William E. Casey—By Defts.—Direct*

Q. You wouldn't say that some of your chickens do not go to the colored trade, would you? A. I couldn't tell you, Mr. Rice.

Q. You wouldn't say one way or the other, would you? A. I do not know anything about the retail business, I am in the wholesale business.

4259 The Court: We will stop now and take a recess until two o'clock. Gentlemen, do not allow anybody to talk to you about the case, do not form any opinions until it is finally submitted to you.
(Adjourned to 2:00 P. M.)

Brooklyn, N. Y., October 29, 1934.

Met pursuant to adjournment at 2:00 P. M.; present as before.

ALEXANDER SCHECHTER, resumes the stand:

4260 Mr. Rice: If your Honor please, I will waive further cross examination of this witness.
(Witness excused.)

WILLIAM E. CASEY, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. What is your occupation, Mr. Casey? A. Agent, New York Central Railroad, 60th Street Station.

William E. Casey—By Defts.—Direct

4261

Q. What duties do you perform? A. I have the supervising of all the work done at the station.

Q. Do you have such a thing as waybills at your place? A. We do.

Q. Do you know whether they are available for inspection to everybody? A. They are not.

Mr. Rice: Just a moment, your Honor. I do not see what purpose this is going to serve, excepting to contradict a statement brought out on cross examination of Mr. Tottis. I submit that it is a collateral issue.

4262

The Court: I won't let it go any further. They are not open to everybody. You brought it out on cross examination. It is purely collateral.

Mr. Heller: I understand that was part of the man's qualifications, examination of the waybills as to what poultry comes in from the different states.

Mr. Rice: No, that was brought out by Mr. Heller.

4263

Mr. Heller: It was part of his qualifications.

The Court: No, it was part of your cross examination, as I remember it.

Mr. Rice: It was entirely new to me when it was brought out on cross examination. It was an additional qualification.

The Court: I will let it stand up to this point.

Mr. Heller: Then am I to understand I cannot go any further?

The Court: No. I will let that stand so that there cannot be any implication

4264

William E. Casey—By Defts.—Direct

against any of your experts that they might have gotten it. I will let it stand. He said they are not open. I let it stand only because there might be an implication that your people had not pursued it, that is all. We are not going any further than that. When you cross examine anybody as to their credibility, why you are concluded by their answer.

By Mr. Heller:

4265

Q. Does anybody work under you?

Mr. Rice: Just a moment. I object to that.

Mr. Heller: I just want to show I have another witness but I won't put him on.

The Court: All right.

Q. Anybody work under you? A. About 220.

Q. Is the gentleman directly in charge of that phase of it in court today? A. The chief clerk, yes, has charge of the office.

4266

Q. Is he here in court? A. Yes.

Q. Under my subpoena? A. He is.

Mr. Heller: That is all, thank you. You may ask the other gentleman to go home with you.

(Witness excused.)

Joseph Schechter—By Defts.—Direct

4267

JOSEPH SCHECHTER, one of the defendants, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. What is your occupation, Mr. Schechter?
A. Poultry business.

Q. Where did you have your poultry business in the months of May and June? A. Month of May?

4268

Q. May and June, 1934. A. I opened my business on May 23, 1934—

Mr. Rice: I cannot hear you.

A. (Continuing.) May 23, 1934, was open to June—July 1st or 2nd, I think the 1st. Until July 1st.

Q. At what place? A. At 991 Rockaway Avenue.

Q. Were you there before May 23? A. Yes, I was there until 1934, March 4th.

Q. You had been in business there up to March 4, 1934? A. That is right.

4269

Q. What happened between March 4, 1934, and May 23, 1934? A. I was laying in the hospital with a fractured leg.

Q. When you came back on May 23 you opened the business again? A. Yes.

Q. Where? A. At 991 Rockaway Avenue.

Q. Did you have any connection with 858 East 52nd Street between May 23 and July 3rd? A. No, only troubles.

Mr. Rice: What was that answer?
(Reporter repeated last answer.)

4270

Joseph Schechter—By Defts.—Direct

Q. What was your connection with 858 East 52nd Street? A. I guaranteed the account.

Q. That was your sole interest in that business? A. That is right.

Q. Did you draw any salary? A. No, sir.

Q. Will you tell us what happened on June 1, 1934? A. I was acquitted from the hospital beginning with April, I was acquitted with a cast—

4271

Q. You mean discharged? A. Discharged from the hospital and I had the cast on until the middle of May. At around, I think, the 12th or the 14th of May I went down to Dr. Ierson, New York Avenue and President Street, and they took off the cast—

Mr. Rice: If your Honor please, we are not interested in the condition of his leg.

Q. Just come up to June 1st. What happened? A. That is right.

4272

The Court: The condition of his leg some time during May or June might be of importance.

Mr. Rice: Yes.

The Court: Because there was some talk about canes and things of that kind.

Mr. Heller: Yes.

The Witness: That is right.

The Court: That may be important.

The Witness: Thank you, your Honor.

A. (Continuing.) I was laying home on my— at the time, in the month of May, you know, and in June I could not go out, I only went once, I went Monday, Wednesday and Friday, then three days I went to my doctor for electric treatments,

Joseph Schechter—By Defts.—Direct

4273

every day from one o'clock until three o'clock, that was the office hours from the doctor, and by going down with my car—was it on Friday, June 1st?

Q. Yes. A. On a Friday, going down from the doctor, I live in 257 Brighton Beach Avenue, going to the doctor I have to pass Kings Highway, going to Kings Highway, there is my brother's place at 858 East 52nd Street, and I stopped there because it was, I think, fifteen minutes after twelve, I had plenty of time yet to go to my doctor, and when I came into the place, walking in from the car to the office on two crutches, when I came into the office, I find my three brothers down there and another gentleman.

4274

The Court: When was this?

The Witness: That was June 1st, on a Friday, your Honor.

A. (Continuing.) When I came in, I asked the gentleman—I asked my brother who is that gentleman. They told me he is from the Code Authority.

4275

“Well, what does he want?” They tell me he wants to look up the books on account of the assessment. So I said, “Has he any credentials, can he show who he is, what he is?”

He said, “No.” Let him call up Peterson's office and find out that he is the right man to come in and can look—maybe he belongs in some of the competitors. They called up Mr. Peterson, that is what they say, it is Mr. Peterson, I think they called Canal something, I don't remember the number, what they called, but when they called up that number, I think that my

4276

Joseph Schechter—By Defts.—Direct

brother tell me that Mr. Peterson is on the wire. I went—the wire is standing—where I was standing, with the crutches, there is a desk, on the desk a telephone, near the desk is the telephone, and I was standing, laying on one crutch and I got the telephone in my hand, and I told him, “Mr. Peterson, there is a gentleman here. He said that he is coming from your office and wants to look up the records. I think with, I think with my brothers it is best to let them call up their lawyers and find out first if there is such a thing that your man has a right to look over the books, maybe it was for some competitor’s sake.”

4277

Well, he tells me, “You think it is right, call up your lawyer. Go ahead, call him up.” And that is what hapened on a Friday afternoon. I think I called you, Mr. Heller, or one of my brothers called you up.

4278

Q. Go ahead, testify what happened. A. You called up, you made arrangements, I think, sometimes, the 8th of June, and that was the 7th or 8th that was on a Friday, when I remember for sure. I could not go because my foot was swollen and I went down to the doctor, and they had to give me electric treatments, and we postponed it. You called up again and asked for a postponement, and I think that the next thing, what it was, June 8, I think that was the day, Monday, when I remember for sure, it was a Monday, and I am my brother, Alex, and you, counselor Heller, went up to Mr. Peterson’s office.

Q. Now, what happened over there? A. Well, when we came there, up to Peterson’s office, I was walking with sticks, up on the elevator. When I came down with him Benny Forsmith

Joseph Schechter—By Defts.—Direct

4279

was the first man, and he invited us in. He used the courtesy after friendship for twelve years, and he gave me a seat.

Q. Now, you say you knew him for twelve years? A. Yes, for friendship he gave me a chair that I should sit down. I sat down and I waited about twenty minutes, and then we went into the office, where the person was Mr. Peterson. He introduced me to Mr. Peterson because that was the first time I seen him. Mr. Forsmith was in and out, you know, he was not sitting there. Then there was two lawyers, I think one said the name was Dale, and the other name is Mr. Loeb, and I think there was one or two other gentlemen there sitting, and at the next desk there was a girl sitting with a book.

4280

Q. Do you remember what the conversation was between Mr. Peterson and yourself and the others? A. The first thing he asked me is what connection I got with the A. L. A. and I told him the only connection I got for the last two years is I got trouble. I have to guarantee the account, and that is all my interest, and he said, "Well, who are you connected with?" and I said, "I am connected with 991 Rockaway Avenue."

4281

Q. Did he ask you about the names of the officers? A. He asked me which three brothers belong to the A. L. A., and I told him. They are here.

Q. Was anything said about the salaries for the two concerns? A. He don't ask me nothing of that kind.

Q. Was anything discussed about straight killing? A. Nothing of that kind.

Q. Do you remember anything else that was discussed? A. Well, we were sitting down there, only he asked me about those two questions,

4282 *Joseph Schechter—By Defts.—Direct*

what I do and who I belong to. I think that they are calling him in and out because he was getting up and going out and coming back all the time, and then I heard you, Mr. Heller, you was talking to Mr. Loeb and Mr. Dale. You know—I don't remember exactly what you were talking about with them.

4283 Q. Was anything said about having to pay the assessment whether you lost or not? A. Sure; he told me—I told him, yes, sir—it was not a question for my place at 991 Rockaway Avenue because I just went in business, I haven't even sold one chicken. And they asked me I should pay and they asked me about my brothers, and it is said it is not enough that I should guarantee the account, and try everything in the world, and why, after all, should I lose my money, when the boys do not make a living, how in the world should they pay assessments? He told me it is no matter, even when you have to use the commission merchant's money, their assessment must be paid.

4284 Q. Did you at any time say to Mr. Musican that you were going to use \$7,000 of the commission merchants' money— A. No.

Q. Did you pay me \$7,000? A. No, sir, nothing of that kind.

Q. Did you pay me \$700? A. No, sir.

Q. Did any of the commission merchants ever give you any money to pay me? A. No, sir, not a nickel.

Q. Did you, on June 28th—no, on July 3rd, raise your hand to Musican? A. What day was that?

Q. Tuesday. A. Can I tell the story, Judge?

Q. Tell us what happened on July 3rd. A. Usually I cannot go into my business—you know,

Joseph Schechter—By Defts.—Direct

4285

I was going on crutches and later on sticks, you know there was a gentleman by the name of Mr. Ginsburg, an ex-market man. He don't make no living, and I pay my rent in advance for one year for 991 Rockaway Avenue. He came down and told me, "Joe, rent you have got to pay, the only thing is, try to make smaller business."

Mr. Rice: Just a minute now, your Honor. Who is this?

The Witness: This is Mr. Ginsburg.

Mr. Rice: I move to strike out any conversation with a Mr. Ginsburg.

4286

The Court: Strike out what he said to Mr. Ginsburg.

The Witness: I was laying home on the couch, because I cannot move around, and the only thing I can move around is with sticks or crutches.

Mr. Rice: Now, if your Honor please, I object to this constant repetition of his physical condition.

The Witness: Well, it was that way.

The Court: Don't argue.

4287

Q. Continue. A. Well, he told me, "You have to open up the business, how much will you make for yourself? It will be never, well, maybe twenty-five or thirty dollars, how much you can make you know." And Mr. Ginsberg, I told him——

The Court: Never mind what you told him.

The Witness: Well, the only thing I can do is call up the commission men.

Mr. Rice: Just a moment. He is still telling about a conversation with Mr. Ginsberg.

4288 *Joseph Schechter—By Defts.—Direct*

The Court: I told him he could not.

Q. Will you tell us what you did on July 3rd?

A. July 3rd?

The Court: Were you running the business there at that time?

The Witness: Mr. Ginsberg was taking care of my place.

The Court: Was it your place?

The Witness: Yes.

4289 The Court: If there was any profit who would get it?

The Witness: Well, he would give me something too, but it was not, that is the whole trouble.

The Court: Well, if there were any losses who paid them?

The Witness: I did.

Q. What happened on July 3rd? A. That was July 3rd—that was the second week in business—

4290 Q. Tuesday, July 3rd? A. Oh, I was already in business five or six weeks. Maybe I was three weeks in business when the Code Authority sent in a boy by the name of Bob, I don't remember his second name, and I seen him once testifying for a few minutes here, he was a very nice boy, and he came into the place. He don't know from a chicken, and I started in to teach him what a chicken is, and my man and myself teach him what a chicken is, what a rooster is, and what a spring is, and I asked him, "What are you here for?" and he said, "The Code Authority sent me in," and I says, "How long are you on the job?" and he said, "I am assigned to this place the first." He was there about a week, and after

Joseph Schechter—By Defts.—Direct

4291

a week or so, after the week was over, a gentleman by the name of Mr. Musican came around and he told me he was assigned to this market, and he will observe anything that is going on in the market. He came around on a Wednesday and first of all he asked me what a chicken is and what a rooster is, and what a spring is, you know how it is. I said, “Mr. Musican, what was your former business?” and he tells me he was in the lumber business. So, I explained to him what this is and what that is. He observed his business nicely. Usually he don’t bother nobody, and I don’t bother him, and nobody bothers him, and he was a very nice gentleman. Occasionally—no, he would help me to go out because there is a lunch wagon across the street from my place, and we would go in for lunch together. That was getting on until Monday—from Wednesday until Monday. Monday morning he came in—usually—usually when I opened my business I was selling 17,000 pounds, and five weeks later I came down to 9,000 pounds. I told him, “Mr. Musican, what is the use of going around to customers and getting affidavits? Come into the place, go on top of the customer, and as individual from a customer on account of that they don’t want to be disturbed by you coming into their place of business making affidavits. They don’t want to be involved in any lawsuit.” I said to him, “They can get chickens, just as good chickens, from my next door neighbors, and without any lawsuit.” He told me, he said, “Joe, there is nothing to it, pay the assessment, and everything will be hotsy totsy.

4292

4293

The Court: And that means what?

The Witness: Everything will be O. K.,
Judge.

4294

Joseph Schechter—By Defts.—Direct

Q. Was July 3rd the last day that he was there? A. Was it a Tuesday?

Q. I think so. A. I see him every day after that. He is my best friend, he has got nothing against me.

Q. When did you close your place after July 3rd? A. I think it was July 7th.

Q. That is the time you went out of business altogether? A. Yes.

Q. And the place is closed? A. That is right.

4295

Q. And in whose name is the lease for 991 Rockaway Avenue? A. My brother's name for the last eight years.

The Court: What is the name?

The Witness: Sam Schechter.

Q. I show you this lease and I ask you whether this is the lease? A. That is the lease, and Israel Sagalowitch, he is the landlord.

Mr. Heller: I offer the lease in evidence.

4296

Mr. Rice: I do not see how it is material, your Honor, inasmuch as it is admitted that Joe Schechter owns the business.

Mr. Heller: In so far as the permit is in the name of Sam, and it is the lessee's name——

The Court: I will let you show that, but he said he was running the business.

Q. In whose name is the permit? A. Sam Schechter.

Q. You always had a permit for the place? A. Yes, sir.

Q. And the lease has been under his name, hasn't it? A. Yes, sir.

Joseph Schechter—By Defts.—Cross

4297

Q. But you paid the rent? A. That is right.

The Court: You do not need the lease?

Mr. Heller: No, I will put it in for what it is worth.

The Court: You do not need it; he said it was in the name of Sam Schechter.

Q. Do I understand you to say you paid the rent in advance? A. Yes, a month at a time.

Q. Until the place was closed? A. That is right.

4298

Mr. Heller: Your witness.

Cross examination by Mr. Rice:

Q. You did some buying for the A. L. A. Schechter Poultry Corporation before you went in with it? A. When do you mean that, before I break my leg?

Q. Yes. A. Yes, sure.

Q. You did do some of the buying for them? A. Some of them, not much, I went down with my brother Alex——

Q. Then after you recovered you did some of the buying for them again, did you not? A. I recover?

4299

Q. Yes. A. Well, I wasn't down in the market until June 16th, that was the first day when I came to the market.

Q. Do you still do some of the buying? A. Do I still do it?

Q. Did you at that time? A. Some of the buying?

Q. Yes, for the A. L. A. Schechter Poultry Corporation? A. I always buy; it is my name, it is my money, everything is mine.

4300 *Joseph Schechter—By Defts.—Cross*

The Court: We are not talking about 991 Rockaway Avenue, he is talking about 858 East 52nd Street.

The Witness: You wish, your Honor, me to explain——

Q. No, just answer the question. Did you buy poultry for the A. L. A. Schechter Poultry Corporation? A. Did I buy?

4301 Q. Did you buy poultry for them? A. I buy for myself, and I give them—what do you mean I buy for them? I buy for myself, I buy ten coops, and I tell them, “Here is four for you, two for father, and four for me.”

Q. Then you did buy some for the A. L. A. Schechter Poultry Corporation? A. That is right, like I explained to you, Mr. Rice.

Q. And you say you had no interest in the A. L. A. Schechter Poultry Corporation? A. That is what I stated before, troubles I had plenty.

Q. But you had plenty of troubles? A. That is right, I am having them now.

4302 Q. What other troubles did you have? A. That is all.

Q. Just the trouble you had to guarantee their account? A. That is right, and they lose money, I have to pay it.

Q. Did you lose the money? A. I don't lose it, they lose the money.

Q. When you guaranteed the accounts did you lose the money? A. Sure, I have to make good positively, because Joe Schechter's name is good.

Q. How about Alex, Martin and Aaron Schechter? A. They haven't got a penny.

Q. They do not pay you? A. They haven't got a dime to do it with.

Q. What were you supposed to get out of the guarantee? A. What I get out? Nothing but headaches.

Q. Just nothing at all? A. Because they are brothers, one father, you know that—I am sorry there is a girl here.

Q. You say you had no other interest in the A. L. A. Schechter Poultry Corporation? A. I wish I had never even knowed them.

Q. Just answer the question. A. No, sir.

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

Q. But yet, after you closed your place, you went into the A. L. A. Schechter Poultry Corporation, didn't you? A. There is no use to be—what makes any difference when I have to guarantee this account and they are losing money, what is the use of running two places? I went in there, yes, I have got to see if I can save some of it. That is the best witness, one brother went out, one brother isn't there any more, and when time goes on there will be another brother have to go out.

Q. Don't make speeches, just answer my questions. A. O.K.

Q. You did go with the A. L. A. Schechter Poultry Corporation? A. Surely.

Q. And you are with the A. L. A. today? A. Yes, sir.

Q. You are one of the partners, are you not? A. I don't know how you get it, how you call it partners. Fine partners they are; they haven't got a dime.

Q. You heard Mr. Peterson testify, did you not? A. I heard everybody testify that I take notice of.

Q. You heard him in particular? A. No, sir, it doesn't make any difference.

4306

Joseph Schechter—By Defts.—Cross

Q. I say, didn't you hear Mr. Peterson testify?

A. No, sir.

Q. You didn't hear him? A. I hear it, yes, I was sitting and I heard him testify, like I heard everybody else testify, but I don't remember Mr. Peterson, he was on the stand the same as I am now.

Q. Did Mr. Peterson tell all of the truth about this conference on June 18th? A. You want to read the testimony, Mr. Rice.

4307

Q. Just answer my question. A. I don't know; you want to read the testimony, I tell you.

Q. Did Mr. Peterson tell anything that did not happen on June 18th at that conference? A. Mr. Rice, you want to read the testimony.

Q. Just answer my question. A. What do you mean, I should answer? How can I answer, because I don't remember what he testified.

Q. You couldn't remember what he testified? A. Of course not.

4308

Q. At the time he testified did everything sound true to you? A. No, sir, oh, he was lying like a race horse, oh, was he lying, like a race horse he was lying.

Q. Mr. Peterson was lying? A. Oh, Jesus Christ, what lying it was, like a race horse.

The Court: We do not want any more of that.

Q. Mr. Peterson was lying? A. Don't ask me.

Q. And you are telling the truth now? A. Positively.

Q. All the truth? A. (Holding up right hand vertically.) Nothing else but the truth, Mr. Rice, you know it is the truth, you know I am telling the truth.

Joseph Schechter—By Defts.—Cross

4309

Q. You heard Mr. Dale testify? A. The counselor, you mean?

Q. Yes, the counselor, a member of the New York Bar? A. What?

Q. Member of the New York Bar, a lawyer. A. Well, does it make any difference? Can he lie?

Q. He lied too? A. I don't know if he lied. You tell me the testimony and I will tell you he lied yes or no; that is not up to me, I am not in the jury box.

Q. Just answer my question. A. I am right here, there is the jurymen, they will tell you he lied yes or no.

4310

Q. Just answer my questions. You heard Mr. Dale testify? A. That is right.

Q. While he was testifying did everything that he said sound true to you?

Mr. Heller: I object to the general statement.

The Witness: I do not know what he is leading me to, he asked me something that I should remember the testimony; there is maybe 400 pages, shall I remember all this?

4311

Mr. Rice: I submit this is proper cross examination.

The Court: Yes, but he says he does not remember it.

Q. Do you remember anything untruthful that he said? A. I tell you before they were lying.

Q. How about Mr. Dale, was he lying? A. I don't remember.

Q. You do not remember any lies that Mr. Dale told on the witness stand, do you? A. I wouldn't say that.

Joseph Schechter—By Defts.—Cross

4312

Q. But you do remember lies that Mr. Peterson told on the witness stand? A. Oh, plenty.

Q. Plenty of them? A. Plenty, plenty, plenty.

Q. How about Mr. Musican, you heard him testify? A. He don't say anything wrong.

Q. Everything he said was correct? A. Once again, Mr. Rice, you want to read that. Tell me what he said. He said that I came in Tuesday, I find a different Joe Schechter. I wasn't walking down from the car, I was standing right near the door with my car. Mr. Musican came down, and they was only killing off one coop, and you have 16 birds for 5 in the family, so they make a living out of 16 birds? I told Mr. Musican, you want me to walk out of here, out of my place, and that is objected to although it is my concern. Where you work can they throw you out, that is the objection.

4313

Q. Have you finished? A. Go ahead, I am finished.

Q. Do you remember anything untruthful that Mr. Musican said?

4314

Mr. Heller: I object unless he will specify the question and answer.

The Witness: I think you are right, Mr. Heller.

The Court: It is pretty hard for the witness when he says he does not remember.

Mr. Heller: I don't remember a lot of things myself, and I am supposed to be an attorney.

The Witness: You are not on the witness stand.

The Court: Never mind about your memory, you direct his attention to

Joseph Schechter—By Defts.—Redirect

4315

tain things. He says he does not remember all the testimony.

Q. You say the health permit was in Sam Schechter's name? A. Correct, for seven years.

Q. And Sam Schechter in May, June and July, 1934, was operating a retail store, wasn't he?

A. He is away from the business already, yes.

Q. Just answer my question. A. Yes, yes, that is right.

Q. And you were operating the Schechter Live Poultry Market, Inc. at 991 Rockaway Avenue during that time? A. Correct.

4316

Q. Is that right? A. Correct, yes.

Q. And there was no permit issued to you during that time? A. No.

Q. And there was no permit issued to the Schechter Live Poultry Market, Inc.? A. No, sir.

Q. During that time? A. No, sir. You want to know why?

Q. No.

The Court: He did not ask you that.

The Witness: All right; thank you, your Honor.

4317

The Court: Just answer the question.

The Witness: O. K.

Redirect examination by Mr. Heller:

Q. Now, tell us why the permit was not issued to you or the corporation?

Mr. Rice: I object to that. That is not made admissible by my question.

Mr. Heller: We have a right to show the reason, your Honor.

Mr. Rice: That is hearsay.

Mr. Heller: If he knows.

4318 *Joseph Schechter—By Defts.—Redirect*

The Witness: Everybody knows.

The Court: No; he says he is running the business. If Sam Schechter was running the business, that would be another thing. It does not make any difference why he did not get a permit; he did not have one.

Mr. Heller: If your Honor will just let me ask that question, you will see the reason.

4319 The Court: I will hear the reason, but it is not admissible.

Mr. Heller: May I state the reason for it?

The Court: No, the reason why you did not have a permit, you did not have one.

Q. Who started the business at 991 Rockaway Avenue? A. Sam Schechter.

4320 Q. When you started business what happened with reference to the permit? A. You get a lease and you cannot get a permit, only when you have a lease, and Mr. Saglowitch never wanted to grant me the lease because there is a clause in the lease you have to put up \$300 when you resign from one party to the other, and it was no different, because it is my own brother, it was no difference, and I did not want to put no \$300 up, and that is the reason why the lease and permit went for seven years on Sam Schechter, and I was doing the business.

Q. And at the present time it is in his name? A. That is right.

Q. Were you ever convicted of any crime? A. Never.

Q. Never been in any trouble? A. No, sir.

Q. Have you a family? A. Yes.

Henry Goldsmith—By Defts.—Direct

4321

Q. A wife? A. Yes.

Q. Children? A. Yes, a boy, a very nice boy.
(Witness excused.)

HENRY GOLDSMITH, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. What is your profession and occupation?
A. I am an attorney.

4322

Q. What else? A. I was—I am an accountant also.

Q. Are you also a credit manager? A. I am credit manager for the receivers of live poultry in West Washington Market.

Q. How long have you known each of the defendants seated at the table? A. I would say 14 or 15 years.

Q. Do you know others who know these defendants? A. Hundreds of people who know them.

4323

Q. Have you had occasion to talk to these other people about the Schechters? A. Countless occasions.

Q. Do you know the general reputation in the community of the defendants, first, for peaceableness? A. I do.

Q. What is it? A. Very good.

Q. For quietness? A. Very good.

Q. For law-abidingness? A. Very good.

Q. And for honesty in business? A. Very good.

Q. Have you ever heard anything said bad against them? A. I never did.

4324 *Clyde N. Justice—By Govt.—Direct*

Mr. Heller: That is all.

Mr. Rice: No questions.

(Witness excused.)

Mr. Heller: Now, if it pleases your Honor, all with the exception of that one witness, I am ready to rest, and I will not know about that man until about 3:30.

4325 The Court: I think we understood we were going to take a recess until about that time to find out; and if you are going to call him you are going to have him here at that time.

Mr. Heller: That is right.

The Court: If you are not going to, all right.

Mr. Rice: I have one witness that I will be willing to put on out of order, if you wish.

Mr. Heller: Yes, that is all right. That is satisfactory to the defendants. I just reserve my right to call that one witness if he is available; otherwise we will rest on what we have.

4326 The Court: It is left open for you to call that one witness and make any motions you have.

Mr. Heller: Yes, sir.

CLYDE N. JUSTICE, recalled as a witness on behalf of the Government, having been previously sworn, testified further as follows:

Direct examination by Mr. Rice:

Q. Mr. Justice, over the week-end you made

Clyde N. Justice—By Govt.—Direct

4327

certain analyses of the Schechter books that are now in evidence? A. Yes, sir.

Q. I hand you a schedule which is marked with a red number 1, labeled daily sales by A. L. A. Schechter from May 16, 1934, to June 9, 1934, inclusive, with high, low and average selling prices, and average purchase price, except ducks. Will you tell us just how that was prepared?

Mr. Heller: Before we go into this, the Government Exhibit dates to April, and for that reason we have had our books rechecked to make ours conform with the April date. Those are the reports which are in evidence. They are dated from April. I do not think he ought to go into May because there is a difference in the dates.

4328

Mr. Rice: We propose to go back to those dates too in another table.

The Court: What is the date of this?

Mr. Heller: He is talking of from May 16. We ought to go back from April, from the date of the exhibit. That is what we ought to do.

4329

The Court: This is only that part of it.

Mr. Heller: He is going to try to show there is a difference between our figure and theirs.

Mr. Rice: No; I am afraid Mr. Heller is jumping at conclusions.

Mr. Heller: All right, we will see what you want.

Mr. Rice: I think we will have just exactly what you want in just a moment, Mr. Heller.

4330

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Mr. Heller: All right.

The Witness: This is a copy of their sales records.

Q. What does it show? A. It shows pounds sold and the amount, and the high price and the low price and the average sales price for each day.

Q. For each day during that period? A. For each day, yes.

4331

Q. Does it show anything else? A. It shows their average purchase price for the week.

Q. Their average purchase price for the week? A. For the week.

Q. How do you arrive at that? A. By dividing their purchases into the amount of their purchases, pounds into the amount.

Q. Was there any purchase price obtainable from their books? A. No.

Q. The only thing their books showed was the total price paid for all the poultry purchased during the week and the total amount purchased?

4332

A. The total amount of pounds and total amount of money.

Q. So you divided the total pounds into the total amount of money? A. That is right.

Q. That gave you the average price per pound paid for each class of poultry? A. No, for all poultry.

Q. For all poultry? A. All poultry.

Q. Is it divided to any extent? A. No classification.

Q. This was all taken from the Schechter—
A. Books.

Q. (Continuing.) —records? A. Yes.

Q. That are now in evidence? A. Yes.

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4333

Mr. Rice: I offer this in evidence.

Mr. Heller: I object unless he can specify the different grades of poultry.

The Court: Just what the books show. If the books show it they can look them over and find the same thing. That is what the books show, your books do not show any division.

Q. As a matter of fact doesn't this show the fowl on one side and— A. Sales of fowls and broilers but not purchases, the books don't show it.

4334

Mr. Heller: I object to it, your Honor.

The Court: Meet it with evidence. If the books do not show it they do not. This is only supposed to help the jury by relieving them of the necessity of going through the books and picking out the items. If you want to show it you can show the division.

Mr. Heller: Now I will have to send somebody back to the place and get a thousand bills to show me the items of merchandise.

4335

The Court: You offered the books in evidence.

Mr. Heller: I don't mind them analyzing my books, but I do mind the witness stating that he has divided the average purchase price without knowing the grade of poultry that was bought.

The Court: He said that is what the books show.

Mr. Rice (to the jury): Government's Exhibit 38 shows that the average pur-

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chase price during the week ending May 19th was 16.44 and the average sales price was 17.99.

The following week the average purchase price was 16.60 and the average sales price was 18.47.

The following week, ending June 2nd, the average purchase price was 17.13 and the average sales price 18.61.

4337

The following week, ending June 9th, 1934, the average purchase price was 17.39 and the average sales price was 18.11.

Now, if your Honor pleases, I should like to pass this around to the jury so that they may observe the figures in the last two columns.

Mr. Heller: They should observe every figure on the sheet.

The Court: Yes, look at it all.

4338

Q. I hand you another paper which is marked with red pencil, marked No. 2, headed, "Reports of the A. L. A. Schechter Live Poultry Corporation to the Code Authority." Will you tell us in what way that table was prepared? A. I copied this from the reports that they made to the Code Authority.

Q. That is, you copied them from Government's Exhibit 30? A. Yes.

Q. Reports to the Code Authority? A. That is right.

Q. And does the table show anything further? A. Only a recapitulation of those figures.

Q. Which is what? A. It shows the totals that they reported from May 7th to June 9th, and it shows the totals that they reported from

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May 16th to June 9th and it shows the sales record from May 16th to June 9th.

Q. And what are each of those——

Mr. Heller: Just a minute, I object to that, this is from April 30th and he is talking about June 9th.

Mr. Rice: I can assure Mr. Heller that we will have it all in.

Mr. Heller: I think we ought to have the totals of what he found from April 30th until June 11th.

4340

Mr. Rice: There are other questions in this case besides the question of fictitious reports and this testimony is being directed to the other questions.

The Court: It simply leaves open that which the Government does not cover. As long as it is not outside of the period I will overrule your objection.

Mr. Heller: Exception.

Q. This was prepared entirely upon the basis of exhibits now in evidence? A. Yes.

4341

Mr. Rice: I offer it in evidence.

Mr. Heller: If he will strike out the word sales "not" reported I will have no objection to it. What the jury wants is figures.

Mr. Rice: If we strike out the descriptions of these figures the exhibit would be rather meaningless, your Honor, and I propose to have this witness testify just what he has put down here and what the labels mean.

The Court: You have your reports and then you have these.

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Mr. Rice: I will insert the words “sales allegedly not reported.”

The Court: If you want to “sales shown by the books” and “sales shown by the reports,” but whether they reported them or not is a question for the jury. “Sales shown by the books” and “sales shown by reports” is all right.

4343 Mr. Rice: Suppose we say “additional sales shown by the books” instead of “sales not reported”?

The Court: That would be a correct statement, wouldn't it, Mr. Heller?

Mr. Rice: I will erase this then, your Honor.

Q. Is that a correct description of this last figure “additional sales shown by the books”?

A. Yes, sir.

The Court: That involves the question of accommodation sales?

4344 Mr. Heller: Certainly. If he would only take the same date that I do I would have no objection.

The Court: Well, your objection for it being received in evidence I will have to overrule.

Mr. Heller: Exception.

(Marked Government's Exhibit 39 in evidence.)

Q. Will you look at Exhibit 39 and explain the final figures? A. It shows——

Mr. Heller: Just a minute, it has already been explained. It is in evidence.

The Court: But he changed the reading on it.

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4345

Q. What are the final figures shown there? A. A recapitulation from May 16th to June 9th shows that there was reported 109,285 pounds and the sales record—

Q. And during what period of time was that? A. May 16th to June 9th, and the sales records disclose the sale of 160,073 pounds and that shows that there were additional sales on the books of 50,788 pounds.

Q. In addition to what was reported? A. Yes.

Q. Now are there any other recapitulation figures there? A. There is a recapitulation of the sales reported from May 7th to June 9th, but no comparative figures.

4346

Q. I hand you table No. 3 which you prepared over the week-end, labeled "Sales made to certain customers of the A. L. A. Schechter Live Poultry Corporation May 16th, 1934, to June 11th, 1934," and I ask you how you prepared that? A. This was taken from the sales record.

Q. And what do you mean by certain customers? A. Sales made to M. D. L. P.

Q. That is the Mogen David Live Poultry Company? A. It shows on the books as M. D. L. P., and also to Joe Schechter and sales to Sam Cohen.

4347

Q. And how big are those sales? A. One of 4 pounds and the other of 6 pounds.

Q. These are the sales that have been referred to in this trial as accommodation sales?

Mr. Heller: Just a minute. Did I hear the name of Sam Cohen, our worker included there as an accommodation sale? Cohen took the chickens.

Q. Why did you include Sam Cohen? A. Because he was an employee of the business.

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The Court (to witness): Was it on the books?

The Witness: Yes, sir, it was.

Q. The sales to the Mogen David Live Poultry Company and Joe Schechter establishment are the sales that have been referred to by the defendants' witnesses as the accommodation sales, are they not? A. Yes, sir.

Q. You were here when the defense witnesses testified regarding those sales? A. Yes, sir.

4349 Q. And you have taken all of these so-called accommodation sales during that period commencing what date? A. May 16th.

Q. To what date? A. Ending June 11th.

Q. You have taken all those accommodation sales? A. Yes, sir.

Q. And added them all up? A. Yes.

Q. What is the aggregate? A. Total 32,997½ pounds.

Q. Therefore you have taken the entire period named in the 38th count of the indictment, that is the period commencing—

4350

Mr. Heller: Just a moment, please, that is objected to. The exhibit is in evidence.

Mr. Rice: Will you concede that that is the proper period?

Mr. Heller: I concede nothing because you have no right to put that in from April, and you told me to take it up from April and now it is in from May; I am so balled up I do not know where I am.

Mr. Rice: Count 38, the count labeled false reports, alleges that the defendants made false and fictitious reports for the

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weeks commencing with the week ending May 19th, 1934, to and including the week ending June 11th, 1934. Now, we have taken that precise period in order to fit the proof to the allegations of the indictment.

Mr. Heller: May I know why that was offered from April 30th? My understanding Friday was that I was to compute it from April 30th in accordance with that exhibit, so what right has he to show this from April 30th, the week from April 30th, and May 7th when his count gives a different date?

4352

Mr. Rice: We have a right to show any particular report was false and fictitious, especially under the conspiracy count.

Q. Now, what was the total of the so-called additional sales during the period?

The Court: He gave you that, it was some thirty-odd thousand pounds.

Mr. Rice: I want to get the dates fixed.

The Court: He has given you that. Read the questions.

4353

(Record repeated as follows:

“Q. The sales to the Mogen David Live Poultry Company and Joe Schechter establishment are the sales that have been referred to by the defendants’ witnesses as the accommodation sales, are they not? A. Yes, sir.

“Q. You were here when the defense witnesses testified regarding those sales? A. Yes, sir.

“Q. And you have taken all of these so-called accommodation sales during that period commencing what date? A. May 16th.

4354

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“Q. To what date? A. Ending June 11th.

“Q. You have taken all those accommodation sales? A. Yes, sir.

“Q. And added them all up? A. Yes.

“Q. What is the aggregate? A. Total 32,997½ pounds.”)

Mr. Rice: That is enough.

4355

Q. You say you commenced May 16th, going back to Saturday, May 12th, and including Saturday the 12th, Monday, May 14th, and Tuesday, May 15th, can you give me those figures, do you get any different figures? A. I do not have any records beyond May 16th.

Q. Will you look at the Schechter books for that period of time——

Mr. Rice: May we have the books, the books showing the volume of sales for the week ending May 19, 1934?

Mr. Heller: You handled these books, you will probably recognize them yourself.

4356

Q. Will you just read into the record the volume of sales on Saturday, May 12th, Monday, May 14th and Tuesday, May 15th? A. The total volume?

Q. Yes. A. They have not been added.

Q. They have not been added. Are there any added figures at all or would you have to add them? A. They would have to be added.

Mr. Heller: Just look close, they are added, just look very close.

Mr. Rice: We would be very glad to have anybody point it out.

Mr. Heller: He is the accountant, let us see if he can find it.

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The Witness: Are these the totals for the day?

Mr. Heller: I do not know, you are the accountant, see if you can find it.

The Witness: I see certain footings on here, I do not know whether they are the total sales for the day or not, I wouldn't know.

Q. Could they be the total sales? A. They could be.

Q. What makes you doubt that they are? A. I do not doubt it, I do not have any opinion. They probably are the total sales.

4358

Q. How are the total sales shown for other periods? A. All of these have apparently sub-totals to the page.

Q. Will you read those sub-totals? A. Let me see if I can determine it, Mr. Rice, from the recapitulation.

Q. Perhaps you can determine it by comparing some of the figures in the previous exhibit. A. There are all sorts of figures here; I wouldn't want to say whether these are the totals or not.

4359

Mr. Rice: Let me see that last exhibit.

Q. Did you find it? A. I cannot.

Q. You cannot find it? A. No.

Q. Any totals for those days? A. There are figures here, but I do not know whether they are totals or not.

Q. Then will you see whether there are any sales to the Mogen David Live Poultry Company on May 12th, May 14th or May 15th, or any sales— A. Nothing on the 12th.

4360

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Q. Or any sales to Joseph Schechter on May 12th, May 14th or May 15th? A. There are not, no, sir.

Q. Any sales to either of those? A. No, sir.

Q. On those three days? A. That is right.

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

Q. Therefore, your table——

Mr. Heller: Just a minute. No “therefores.”

4361

Mr. Rice: I withdraw that. I withdraw the “therefore.”

Q. Your table, which is labeled with red pencil mark No. 3, showing the so-called accommodation sales from May 16th, 1934, to June 11th, 1934, inclusive, really shows all of such sales from May 12th? A. That is right.

Q. And not from May 16th, is that right? A. That is correct.

4362

Mr. Heller: Just a minute. I object to the form of the question. I have been accused of making speeches, but I think my friend can do it equally as well, if not a little better.

The Court: Yes, I think that is so.

Q. If you were to take——

The Court: Look at the 12th, 14th and 15th, and see if you can find any accommodations——

Mr. Rice: There are no so-called accommodation——

The Court: Let him look and see whether he can find any.

Mr. Rice: I understood he did.

The Witness: I did look.

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The Court: You asked him three different things. You look at the 12th, 14th and 15th, and see if you can find any accommodation sales on those three days.

Mr. Rice: If your Honor please, none of these sales is implicated as accommodation sales.

The Court: I understand.

The Witness: There are not.

Q. Looking at the sales which you have copied down in your table No. 3, is there anything in the books there to indicate that those sales to the Mogen David Live Poultry Corporation are accommodation sales? A. No, sir.

4364

Q. Is there anything to indicate that the sales to Joseph Schechter during that period of time are accommodation sales? A. No, sir.

Q. What do the books show? A. They appear all to be the same thing, same character of sales.

Q. How do the prices charged to Joseph Schechter and the Mogen David compare with the prices charged by A. L. A. to other customers? A. Well, the prices, all of them, vary, to other customers and to Joe Schechter.

4365

Q. Isn't this true, that on some days you find Joseph Schechter paying more than other customers?

Mr. Heller: Just a moment. I object to that. The books are in evidence and show exactly what we paid. He does not know, he was not there, he has not subdivided it into different grades of chickens.

Mr. Rice: All right; we will point out a few instances.

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Q. Will you find several instances when the A. L. A. made sales to Joseph Schechter, and compare the price charged to Joseph Schechter with the prices charged to other customers on that same day? Just pick out a few examples of that.

Mr. Heller: Unless he can say it is the same quality or same grade of poultry, the testimony would be incompetent.

4367 The Court: He testified—he does not say anything of the kind, because your books, as I understand, do not divide it; all he is testifying to is what the books show.

Mr. Heller: The books speak for themselves.

The Court: We know that, Mr. Heller, but I thought counsel had agreed it would be allowable for them to make extracts of the books to save the jury the trouble of going through all the books.

Mr. Heller: That is correct.

4368 The Court: All this gentleman is testifying to is that the books show certain things. He doesn't know what was sold, except it was poultry of some kind. He is testifying to what the books show, that is all. That is all he can be asked for, because he cannot tell what was sold other than what the books show.

Q. Just pick out a few illustrations. A. Here is one on May 23rd, shows a sale to Joe Schechter of 909 pounds at 14½¢, and it shows a sale to a customer, 969, at 12 cents.

Q. On the same day? A. On the same day.

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Q. Is there anything to indicate the quality of the poultry? A. Nothing.

Q. Nothing whatever? A. No.

The Court: That is, to either of them?

The Witness: No, sir, not to either of them.

Q. Pick out a few more. A. There was another sale on the same day of 111 pounds at 8 cents.

Q. To another customer? A. To another customer.

4370

Mr. Heller: What date was that?

The Witness: May 23rd.

The Court: What, first one or the second one?

The Witness: All of those are the 23rd, sir.

A. (Continuing.) M. D. L. P. too, Mr. Rice?

Q. Yes. A. On the 24th there was a sale to the M. D. L. P. of 166 pounds at 25 cents; on the same day there was a sale to No. 157, it looks like, at 24 cents; on June 1st, M. D. L. P. Corporation, a sale at 15 cents; on the same day, a sale to another at 8 cents, and another at 10, another at 12; on June 5th, sale to J. Schechter at 16, and a sale also to M. D. L. P. at 16; sale to another, 969, at 4 cents; sale to 317 at 15½.

4371

Q. At four cents? A. At four cents.

Q. Four cents a pound? A. Yes, sir. On June 14th, a sale to the M. D. L. P. at 12 cents, and sale to four others at 12 cents.

Q. Now, never mind picking out any more now. Did you state that table contained on a paper labeled with a red pencil mark No. 3 was

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prepared entirely from the Schechter books?

A. Yes.

Mr. Rice: I offer it in evidence.

(Marked Government's Exhibit 40 in evidence.)

4373 Mr. Rice: Gentlemen of the Jury, Exhibit 40 is labeled "Sales made to certain customers of the A. L. A. Schechter Live Poultry Corporation, May 16, 1934, to June 11, 1934." The recapitulation at the bottom shows total sales to these special customers of 32,997½ pounds.

Q. Now, what did you do with that figure of 32,997½ pounds, being all of the so-called accommodation sales during that period—what did you do with those figures? Did you make any computations from that?

The Court: Isn't that purely a matter of argument?

4374 Mr. Rice: I believe it is, your Honor, but I thought it might be simpler to have him testify as to his computation.

The Court: If he has made the computation, all right, but it is a matter of argument, I think.

Q. Have you made a computation to ascertain how much the sales during that period of time from May 16th to June 9th, 1934, exceeded the amount reported? A. I did.

Q. And those computations are in Exhibit 39, are they not? A. Yes.

Q. And that shows the total amount of poultry reported as being sold during that period of time from May 16th to June 9th was how much? A. 109,285 pounds.