

Jack Musican—By Govt.—Cross

2371

to the source—to the purchaser and get credit for them.

Q. Were they finally disinfected? A. Not in my presence, but when I arrived at the premises several hours later they were disinfected.

Q. I hand you a statement which bears a signature reading Joseph Schechter, President of Schechter Live Poultry Market, and ask you whether you have seen that paper before? A. Yes, sir.

Q. Who wrote the body of that? A. I did.

Q. Who signed it? A. Joseph Schechter, as President of the Schechter Live Poultry Market, Inc.

Q. In your presence? A. Yes, sir.

Q. On what day? A. On June 27th. I dated this June 26th in error.

Q. In error? A. Yes.

Q. But it was actually signed on—— A. June 27th.

Q. A Wednesday? A. Wednesday morning, June 27th, on the occasion of the signing of the other reports.

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Mr. Rice: I offer this in evidence.

Mr. Heller: No objection.

(Marked Government's Exhibit 31 in evidence.)

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Mr. Heller: Let the jury see this.

The Court: We will take a five-minute recess. Gentlemen of the jury, do not let anybody talk to you about the case.

Cross examination by Mr. Heller:

Q. Mr. Musican, you came into the employ of the Code Authority on June 4th? A. Yes.

Q. Prior to that time what was your business? A. I was working for the statistical organization.

2374 *Jack Musican—By Govt.—Cross*

Q. What was the nature of business? A. Stock Exchange.

Q. Prior to that time what was your business? A. I was in the real estate business.

Q. Have you ever been in the lumber business? A. Yes.

Q. You never had any chicken experience? A. No, sir.

Q. Prior to this time? A. No, sir.

Q. What is your pay, sir? A. Thirty-five dollars a week.

2375 Q. For doing investigating work? A. Yes, sir.

Q. For the Code Authority, for the chicken business? A. Yes, sir.

Q. Under the jurisdiction of whom? Who is your immediate superior? A. William Wright.

Q. Who? A. William Wright.

Q. You take your orders from him? A. Yes, sir.

Q. He is the chief investigator? A. Yes, sir.

Q. The first time you came to 991 Rockaway Avenue was when? A. On a Wednesday morning.

2376 Q. June what? A. June 27th.

Q. That was for the purpose of having the reports signed? A. Yes, sir.

Q. You had no difficulty in getting them signed, did you? A. No, sir.

Q. He signed them immediately? A. After I explained that they wanted them signed and the addresses put in.

Q. And he signed them? A. Yes, sir.

Q. Put the addresses in there? A. Yes, sir.

Q. Gave them to you and you brought them back to your firm? A. Yes, sir.

Jack Musican—By Govt.—Cross

2377

Q. You observed conditions as they existed on that day, is that correct? A. Not particularly.

Q. And you came back the next day? A. Yes, sir.

Q. Did I understand you to say you visited about 150 slaughter houses since your employment? A. Yes, sir.

Q. Can you mention a few of the names and addresses of firms in the vicinity of Schechter Brothers? A. Yes, sir.

Q. Will you list them, please? A. There is Meyer Oster on Rockaway Avenue; there is Abraham Frenzel, known now as Frenzel & Company, Inc., on Thatford Avenue; there is Abraham Pearlman on Thatford Avenue; there is Johnny Block on Stone Avenue; the New Lots Live Poultry Market on Junior Street; Lena Koslow on Junior Street; David Hirsch on Powell Street; Morris Hillman on Powell Street.

Q. That is all right. Now, you say in all those places you went to the method of slaughtering chickens is different than at 991 Rockaway Avenue? A. At all?

Q. Yes. A. Yes, sir.

Q. At no place did the customer select chickens? A. I do not understand your question then in the first place; I meant that all were different.

Q. You found in other places that the butchers selected their chickens? A. There were other places that I visited where the butchers selected the chickens.

Q. Quite a number of them? A. Not many of them.

Q. In your limited investigation? A. In certain sections of the city.

Q. Butchers would come in— A. Yes, sir.

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2380

Jack Musican—By Govt.—Cross

Q. And pick their chickens? A. Yes, sir.

Q. Reject some? A. Yes, sir.

Q. Slaughter the rest? A. Yes, sir.

Mr. Rice: If your Honor please, I do not see how it is material to inquire into the fact as to whether others were also violating the Code. Perhaps there were some others violating at times.

Mr. Heller: On the question of whether the regulation is a reasonable one.

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The Court: I do not see how it is material.

Mr. Heller: I understood your Honor held it is not a question of law, it is a matter of fact that arises here.

The Court: I cannot agree with you. The matter of fact is whether something is merely incidental, or whether it is something that is substantial that interfered with interstate commerce; that is what I said, mere incidental things—

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Mr. Heller: But as I recall, in part of your opinion your Honor has stated that you cannot determine as a matter of law whether the regulation is reasonable or unreasonable; that is a fact.

The Court: I do not think I said that.

Mr. Rice: If your Honor please, I object further on the ground that this is not proper cross examination.

The Court: No; he is making him his own witness. But however, that other people may have violated the law, is not proof and it is not proof that it is reasonable or unreasonable. That may be met by expert testimony, I do not know.

Mr. Heller: All right.

Jack Musican—By Govt.—Cross

2383

The Court: But you are making him your own witness.

Mr. Heller: I am satisfied to be bound by the answers.

The Court: Yes, you will be bound. But it isn't a question of whether other people were violating the law or not; that isn't the question.

Mr. Heller: All right.

Q. Your second visit was on June 28, 1934?
A. Yes, sir.

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Q. 5 A. M. in the morning? A. That is right.

Q. You observed conditions on that day, is that right? A. Yes, sir.

Q. You made a memorandum of what transpired? A. Just notes.

Q. You did make notes, did you not? A. Yes, sir.

Q. When did you look at your notes since that time? A. I do not understand that question.

Q. Did you ever look at your notes since June 28th before you testified here today? A. Yes, sir.

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Q. When was the last time that you looked at your notes? A. Yesterday.

Q. You refreshed your memory yesterday? A. Yes, sir.

Q. Memorized dates? A. The dates I had fixed.

Q. Memorized the number of chickens that were sold and rejected? A. That is right.

Q. Memorized the poundage? A. It wasn't a question of memorizing, it was a question of refreshing my memory as to the figures.

Q. Memorized the prices? A. Yes, sir.

2386

Jack Musican—By Govt.—Cross

Q. Now, when Jack Kleinman's employees came in to purchase, I understood you to say that 13 chickens were rejected that were good, healthy for human consumption, and two were thrown in a separate little basket, spindle basket? A. I said 13 birds were rejected, and to the best of my knowledge they were O. K.

Q. As far as you know? A. Yes.

Q. You have no experience? A. No; I didn't even examine the birds.

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Q. Right. In other words, the butcher didn't want to take those 13 chickens? A. Yes.

Q. They were replaced in the coop? A. Yes.

Q. And those same chickens were resold to the same man in the afternoon? A. Yes, sir.

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

Q. And two chickens that were rejected, the working man of Mr. Schechter placed in a spindle basket at one side? A. That is right.

Q. And that accumulated to 9 chickens; didn't you say that? A. Yes.

Q. And you are definitely sure that Mr. Schechter told you that he meant to sell them to poor people? A. Yes.

Q. And in the next breath he said he would rather take them down and return them to the commission merchant so he would get credit? A. Not at that time.

Q. A little later? A. That was after the birds had been condemned by Dr. Gardner, that he made that assertion.

Q. Didn't he say he did not want them to denature them? A. He did not want them to denature them, he would rather take them back, and he could not do it if they were disinfected.

Q. Because he wanted to get credit? A. Yes, sir, that is what he said.

Q. That was two hours after he told you he meant to sell them to poor trade? A. Yes.

Q. Now, while you were there were they sold to the poor trade? A. No.

Q. Did anybody come in except the wholesale buyers to buy chickens? A. No.

Q. You didn't see them offer them for sale to poor persons, did you? A. No, but there was an employee who had told me during the morning the same thing.

Q. An employee? A. Yes.

Q. He told you the same thing? A. Yes.

Q. That he meant to sell them to the poor trade? A. No, that the birds were very, very bad; that they would be sold at a lesser price to poor people.

Q. To a poor person? A. Yes.

Q. You did not know whether they were very, very bad or very, very good? A. I am merely stating—

Q. Something he told you? A. A statement given me.

Q. Is that correct? A. Yes.

Q. But you did not see an actual sale, did you?

A. No.

Q. You did not see him offer them to any one? A. No, sir.

Q. You did not see anyone offer 8 cents per pound for those chickens? A. No.

Q. You were permitted to do all you wanted to do that day, were you not? A. Yes.

Q. On the following day you came there? A. Yes.

Q. Right up to the time when Joe Schechter was a changed Joe Schechter? A. Until July 3rd.

2392

Jack Musican—By Govt.—Cross

Mr. Rice: Speak up, Mr. Musican. We cannot hear you.

The Witness: I am sorry. Until July 3rd I was there—

Q. You were welcome? A. I don't—I cannot say I was welcome, but I was not abused.

Q. Or molested? A. Or molested.

Q. You could do anything you wanted; he permitted you to examine the books? A. I did not ask for the examination of any of the books. There was a question sometimes of the charge ticket, that I was permitted to look at.

Q. He allowed you to look at the charge ticket? A. Yes.

Q. And let you make a record of it? A. Yes.

Q. He even signed a paper that you gave him, Government's Exhibit 31? A. He gave me the facts, I wrote them down, and he signed them.

Q. Who gave you the facts? A. I wrote them down and he signed it.

Q. He took your word for what you put down there? A. No.

2393 Q. You asked him to read it? A. Irving Metenik, the bookkeeper, read the statement that I had written and then handed it to Joe Schechter and he signed it.

Q. He gladly signed it? A. He signed it.

Q. And he gave it to you? A. Yes.

Q. Isn't it a fact that on several of the occasions Joe Schechter was sitting in the car when you spoke to him? A. Only the specific one I mentioned.

Q. Do you know whether he carried crutches with him at that time? A. No.

Q. You know that? A. He did not carry crutches.

Q. And he walked on his own momentum? A. He walked on his own.

Q. He had no stick with him? A. No.

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

Q. On July 3rd when he said, "I am losing customers," did he show you any books as to what business he did? A. No, sir.

Q. Did he show you figures, showing whether or not he lost business? A. No.

Q. Did not? A. No, sir.

Q. Did you at any time tell him that "all you have to do is to pay your assessment and we will take all the inspectors away from here"? Did you make that statement? A. No, sir.

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Q. Anything to that effect? A. No, sir.

Q. Did you write on a piece of paper any figures to tell him what his assessments are when you made that statement? A. No, sir.

Q. I show you this paper and ask you whether this is in your handwriting? A. Yes, sir.

Mr. Heller: I offer it in evidence.

Mr. Rice: No objection.

The Court: Received.

2397

(Marked Defendants' Exhibit F in evidence.)

Mr. Rice: Will you let the jury see that, Mr. Heller?

Mr. Heller: Oh, yes, that is what we want to do, certainly.

Q. When you said you made no writing, you were in error, is that correct? A. I misunderstood your question.

Q. You did not understand what I was saying? A. As to whether I had mentioned the matter of paying assessments and computed amount that he had to pay, I misunderstood the question.

2398

Jack Musican—By Govt.—Cross

Q. Where did you get these figures? A. These figures are copied from the reports that he had already sent in.

Q. You made the copy? A. Sir?

Q. You copied it yourself? A. At the time I believe that he gave me those—that he signed the reports for me, he asked me how much he would have to pay on those reports, if he mailed a check for them, and I computed those figures for him on the basis—

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Q. Right there and then? A. I think so. I am pretty sure.

Q. Didn't you say on direct examination all you came for was to get the paper signed, explained they were unsigned? A. Yes.

Q. That you then went away? A. Yes.

Q. That is all the business you had there? A. Yes.

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

Q. You had forgotten about this incident entirely? A. I did not come to ask him for a check, sir, or for any money.

Q. You made that out at his suggestion? A. He asked me—

Q. At his request? A. (Continuing)—how much he would have to pay if he sent a check in for that report and I computed from the reports the amount he would have to pay.

Q. Is that your work? A. Sir?

Q. Do you do that kind of work? A. Yes.

Q. In the office? A. In the field and in the office.

Q. Does the office send out statements? A. Regarding the amount due?

Q. Yes. A. We cannot, because they are computed from the report sent in to the office.

Jack Musican—By Govt.—Cross

2401

Q. If the reports are filed, does the office send out statements? A. The report is generally accompanied by a check.

Q. The customer makes it out himself? A. Yes.

Q. He computes it by himself? A. Yes.

Q. And then he sends in a check? A. With the report.

Q. In this instance he did not know what was due? A. I cannot say whether he knew or not. He merely asked me to compute the amount due on the reports that he had signed for me.

Q. Then no conversation took place with reference to the fact that the inspectors would be taken away, he would not be arrested as long as he would pay this amount? A. No, sir.

Q. No such conversation? A. No such conversation.

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

Q. On July 1, when you said he was a changed man, you said you went into his car. A. July 3rd.

Q. You went into his automobile? A. Yes, sir.

Q. Sat right down in it? A. Yes.

Q. Did not keep you off from his automobile, did he? A. No, sir.

Q. Did not ask him whether you could go and sit in it, did you? A. No.

Q. It was not your property, was it? A. No.

Q. You still thought he was a good fellow, didn't you? A. I cannot answer that very well, as to what my thoughts were.

Q. Do you remember any occasion which—do you remember an occasion when you called at one of the butcher stores and asked him for a statement? A. No, sir.

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2404 *Jack Musican—By Govt.—Cross*

Q. Never went to any butcher? A. No, sir.
 Q. Poultry dealer? A. Yes, sir.
 Q. Did you ask him something about Mr. Schechter? A. No, sir.

Q. Not a word about him? A. Not a word about him.

Q. Anything in connection with his business?
 A. No, sir.

Q. Sure about that? A. Positive.

Q. Do you know a Mr. Rabinowitz, New Lots Avenue? A. No, sir.

2405 Q. You do not know the man? A. No, sir.

Q. You do not know the man? A. No, sir.

Q. Is the address familiar to you, 510 New Lots Avenue? A. No, sir.

Q. Did you ever go to 9602 Church Avenue?
 A. Yes, sir.

Q. Did you ask him to teach you something about the business? A. Never spoke to anybody there, just passed by the premises.

Q. That was a retail butcher shop? A. From the outside it looked like a butcher shop.

2406 Q. You knew he was buying from Mr. Schechter? A. This was the man I knew to be Harry, whom I testified about previously. They told me he was a butcher at 9602 Church Avenue.

Q. Who told you that? A. He himself and Max Ginsberg.

Q. They told you that themselves? A. Yes.

Q. That he was a butcher they sold to? A. He was not purchasing that morning that I was there.

Q. Some other morning? A. That was the only morning that I encountered him, on June 28th, Thursday morning. I never saw the man since.

Jack Musican—By Govt.—Cross

2407

Q. You did encounter—— A. Harry, this butcher.

Q. At whose premises? A. At Schechters' place, 991 Rockaway Avenue.

Q. Never went to his place and asked him for an affidavit? A. I never—I just passed the place in my automobile on the occasion of going to the A. L. A. Schechter Corporation, the same day.

Q. You just passed through Church Avenue? A. Just passed through Church Avenue.

Q. Went in that direction? A. Went in that direction towards A. L. A. Schechter Corporation.

2408

Q. Now, you said that you knew Schechter as Abe Schechter and that he signed his name as Louis Schechter? A. Meyer Schechter; he signed his name as Louis Schechter.

Q. Did you ask him why he did that? A. His story was something to the effect that his grandfather's name was Meyer, and he had been named, according to the Jewish faith, after his grandfather, and people who knew his grandfather called him Meyer.

Q. And you were satisfied with that explanation? A. The explanation was incidental to the signing of the paper.

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Q. He volunteered the statement? A. Yes, sir.

Q. And you asked him nothing about it? A. I asked him why he signed as Louis when he was known as Meyer, and he gave me that reply.

Q. That is the explanation he gave you? A. Yes.

Q. Now, did you ever display—or rather, tell me, did you have a badge on your lapel when you were there? A. The badge was on my vest.

Q. And did you see a man by the name of Morris Rabinowitz at No. 508 New Lots Avenue? A. No, sir.

2410 *Jack Musican—By Govt.—Redirect*

Q. Were you ever at that address? A. No, sir.

Q. And ask that man for an affidavit? A. I don't know the man, I never saw him, and I never went to that address.

Q. Wasn't he the man that you claim selected his chickens? A. Rabinowitz?

Q. Yes. A. No.

Q. You make no such claim? A. No, sir.

Redirect examination by Mr. Rice:

2411

Q. Now, as I understand it, you made some computations on the back of a feed bill for the benefit of Joseph Schechter? A. It was about the time that he signed the reports that he asked me how much he would have to pay on those reports if he sent a check in, and to whom to send the check if he sent it.

Q. And these are the figures on the back of this feed bill? A. Yes.

Q. It is Exhibit F? A. Yes.

Q. Now, just what are those figures? A. The total poundage as reported in the signed copies of the Schechter Live Poultry Market and merely computed for the purposes of determining the amount due thereon.

Q. By the signed copies you refer to the copies of—or rather, you refer to the reports in Exhibit 29 which you say Joseph Schechter signed on that day? A. That is right.

Q. And those reports show the volume of sales reported by Joseph Schechter's establishment? A. That is right.

Q. And you took the volume as reported in Exhibit 29? A. Yes.

Jack Musican—By Govt.—Redirect

2413

Q. And the basis of these volumes, on that basis you computed the amount of assessments due for those particular five weeks from Joseph Schechter's establishment, is that correct? A. Yes, sir, that is correct.

Q. And your conclusion, therefore, was that Joseph Schechter owed only \$3.35 for the week of May 25, 1934? A. Yes.

Q. And under the assumption that his report of a volume of 16,757 pounds, contained in Exhibit 29, was correct—

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Mr. Heller: I object to counsel's characterization; there is no proof that it is incorrect.

Mr. Rice: I said on the assumption that it is correct.

Mr. Heller: The papers are all in evidence, your Honor.

Mr. Rice: Yes, I say assuming it is correct.

The Court: That is right.

Q. In making these computations you assumed that the volume reported by Joseph Schechter was the correct volume of his poultry sold that week? A. Yes.

2415

Mr. Heller: If your Honor pleases, I don't want any inference before the jury that it was not.

The Court: He wants to know whether he had knowledge.

Q. You don't know whether he actually sold that volume of poultry reported? A. No, sir.

Q. You did not examine his books? A. No.

2416 *Jack Musican—By Govt.—Recross*

The Court: You took it as true?
 The Witness: Yes, your Honor.

Q. Now, taking it as true, you figured that Joseph Schechter's assessments for the week of May 25th would be only \$3.35? A. Yes.

Q. And for the next week \$3.45? A. Yes.

Q. That is all that these figures are? A. Yes.

Q. And that is all the computations you made?

A. Yes.

2417 Q. And that is all the writing you ever did at Joseph Schechter's establishment? A. Yes.

Mr. Rice: If your Honor pleases, I now ask the jury to re-examine these exhibits.

The Court: Yes.

(Defendant's Exhibit F and Government's Exhibit 29 handed to the jury.)

Recross examination by Mr. Heller:

Q. Did Mr. Schechter have a bookkeeper there?

A. Yes.

Q. And did he have an assistant? A. An assistant what?

Q. Did this bookkeeper make up these records for you? A. The records I had seen?

Q. Yes. A. He said that he had. Joseph Schechter made those reports, and since they were in his handwriting, he inserted the addresses for me.

Q. Now, so far as the records showing the sale of merchandise, as evidenced by Exhibit 29—
 A. Yes.

Q. (Continuing.) —Exhibit 29 was made by the bookkeeper for Mr. Schechter? A. Yes, as told to me by the bookkeeper of Mr. Schechter.

Jack Musican—By Govt.—Recross

2419

Q. But the computation was made by you?

A. The computation as to what?

Q. As to the amount due, that was made by you in your own handwriting? A. When they asked me how much would have to be paid—

Q. Who asked you? A. I am not sure now.

Q. You still say you don't know a man by the name of Morris Rabinowitz? A. Yes.

Q. You do know him? A. I don't know him.

Q. Of No. 508 New Lots Avenue? A. I don't know Morris Rabinowitz.

Q. Are you sure about that? A. I may know the individual, but I don't know him by that name.

Q. Did you ever give that name and address to somebody at the Code Authority? A. No.

Q. Did you ever give it to Mr. Rice? A. Not to my knowledge.

Q. Are you sure about that? A. Pretty sure about it.

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Mr. Heller: Will your Honor look at Count No. 28?

The Court: Yes; but they are proceeding on Count No. 27 first, and then 38 and No. 1.

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Mr. Heller: Do I understand that they have not gone into 28?

Mr. Rice: That is right; we have not gone into Count 28 yet, so far as I know.

The Court: That is the way I understood it.

(Witness excused.)

2422

Samuel Cohen—By Govt.—Direct

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

Direct examination by Mr. Rice:

Q. What do you do for a living, Mr. Cohen?

A. I am employed at the Schechter Brothers Live Poultry Market.

Q. At present? A. At present.

Q. In what capacity? A. As an inside man.

Q. What is that? A. A man that takes care of the poultry, that hands out the poultry to the butchers and does general work.

Q. General manual labor? A. Yes, sir.

Q. And are you a member of any labor union?

A. Yes, sir, I am.

Q. What labor union? A. Local 167, Chicken Drivers' and Chauffeurs' and Helpers' Union.

Q. And is that union a part of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers? A. Yes, sir.

Q. And did you say how long you had worked for Schechters? A. About seven months, six or seven months.

Q. That is, the A. L. A. Schechter Live Poultry Corporation? A. Yes.

Q. At 858 East 52nd Street, Brooklyn? A. Yes, sir.

Q. In May of 1934? A. That is right.

Q. In May, 1934, Schechter Brothers were operating the market at that address? A. Schechter Brothers.

Q. What Schechter Brothers? A. Schechter Brothers.

Q. What particular Schechter Brothers? A. Alex.

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Samuel Cohen—By Govt.—Direct

2425

Q. That is Alex; which one is Alex? A. The man on the end.

Q. The man in the back? A. The first man, that is right.

Q. You mean the man in the back? A. That is right.

Q. And who else? A. Meyer Schechter.

Q. Which one is he? A. Sitting alongside of him.

Q. The second man from the back? A. Yes, sir.

Q. And who else? A. Abe Schechter.

2426

Q. Which one is he? A. The third man.

Q. The second man from the front? A. That is correct.

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

Q. They were operating the live poultry slaughter house market at that address in May? A. Yes, sir.

Q. And also in June? A. That is right.

Q. And in July? A. Yes, sir.

Q. Throughout that period? A. Yes, sir.

Q. Do you know who Joseph Schechter is? A. Yes, sir.

2427

Q. Which one is he? A. The first man on the right there.

Q. What was he doing in May and June, 1934?

A. What has he been doing?

Q. What was he doing from May 16, 1934, up through July, 1934.

Mr. Heller: That question is too broad, your Honor; he might have gone to the movies some nights, I do not know.

The Court: Well, do you know what business he was in?

The Witness: Yes, sir, live poultry business.

2428 *Samuel Cohen—By Govt.—Direct*

Q. At what address? A. He has been at 991 Rockaway Avenue.

Q. Was he at 991 Rockaway Avenue at that time? A. Not from about May 16th.

Q. What time, what period of time was he there? A. Where?

Q. At 991 Rockaway Avenue. A. Up to about May 1st—up to about May, I do not know exactly what day.

Q. You mean up to May 1, 1934, Joseph Schechter was operating at 991 Rockaway Avenue? A. Yes, that is right.

2429 Q. And then did he suspend his business for a while? A. Yes, sir.

Q. For how long? A. I do not know, sir.

Q. When did he go back to 991 Rockaway Avenue? A. I can't remember.

Q. Just about when? A. I don't know.

Q. Some time in June? A. Probably.

Q. May or June? A. Probably in May.

Q. Probably in May? A. Yes.

Q. How long did he stay there? A. For about two weeks.

2430 Q. Then what did he do? A. Then he came in at 858 East 52nd Street.

Q. And Joe Schechter is now one of the proprietors at 858 East 52nd Street? A. That is right.

Q. Along with Alex and Martin Schechter, is that right? A. That is right.

Q. Now, in May, June and July, what did Alex Schechter do at the place at 858 East 52nd Street? A. In May, June and July he has been on the floor, a salesman.

Q. Alex? A. Taking care of the market.

Q. What do you mean by that? A. Well, as a

Samuel Cohen—By Govt.—Direct

2431

boss taking care of sales, taking care of the place of business.

Q. Who did the purchasing? A. Joe Schechter.

Q. Joe Schechter? A. That is right.

Q. He was doing the purchasing at that time for the A. L. A. Schechter Poultry Corporation? A. That is right.

Q. What did Martin Schechter do during that time? A. Charging poultry.

The Court: What?

The Witness: Charging poultry at the scale. 2432

Q. He is the man that stood at the scales? A. That is right.

Q. When a customer came in and purchased poultry? A. That is right.

Q. That is, a retailer or a butcher, when they came in? A. That is right.

Q. What did Aaron Schechter do during this period of time? A. He was a salesman in charge.

Q. A salesman? A. Yes, sir.

Q. Were they all active on the premises? A. Yes, sir. 2433

Q. In those capacities? A. Yes, sir.

Q. Do you know Martin Schechter by any other name? A. Yes, sir.

Q. Martin Schechter being the second man from the last? A. That is right.

Q. What other name did you know him by? A. Meyer Schechter.

Q. Meyer Schechter? A. That is right.

Q. Have you seen him sign under any other name? A. Yes, sir.

Mr. Heller: I object to that, your Honor; we are not being charged with using different signatures.

2434

Samuel Cohen—By Govt.—Direct

The Court: He may want to identify him.

Mr. Rice: We have described him under all three names.

The Court: He may want to identify him, that is all.

Q. Have you seen him sign any other name?

A. Yes, sir.

Q. What other name? A. Louis Schechter.

Q. Louis Schechter? A. Yes, sir.

2435

Q. On what occasion? A. I do not know, sir.

Q. Has he ever signed any checks for your salary? A. Yes, sir.

Q. Under that name? A. Yes, sir.

Q. Then he uses three names, Louis, Martin and Meyer, is that correct? A. I guess so.

Q. And Aaron Schechter, have you known him by any other name? A. Yes, sir.

Q. What name? A. Abe Schechter.

Q. You have heard him called that? A. Yes, sir.

Q. Mr. Cohen, is there any other member of Local 167 working at Schechter Brothers? A. Yes, sir.

Q. Was he working there in May, June and July, 1934? A. That is right.

Q. What is his name? A. Abe Danziger.

Q. Abe Danziger? A. That is right.

Q. You were working there all that period of time? A. Yes, sir.

Q. Right up to date? A. Yes, sir.

Q. Both of you? A. Yes, sir.

Q. Did you keep track of the amount of poultry brought into Schechter Brothers during May and June, 1934? A. Yes, sir.

Samuel Cohen—By Govt.—Direct

2437

Q. For what purpose? A. For—there has been—

Q. Speak up a little louder so that the jury can hear you. A. We keep this record for the Local.

Q. That is, you keep track of the amount of poultry brought into the Schechter Live Poultry Market for the union? A. Yes, sir.

Q. For what purpose? A. To see if there is enough work for another man, or to see if there isn't enough work to take a man off.

Q. That is, you keep track of the amount of—
A. Poultry sold

Q. Poultry they handle, to see whether or not they can use another member of your union? A. That is right.

Q. As a workman? A. That is right.

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

Q. Do you keep track of the actual amount of poultry handled by the Alex Schechter Poultry Corporation? A. That is right.

Q. You keep track of that? A. Yes, sir.

Q. You keep strict account of the amount sold? A. Yes, sir.

Q. And strict account of the amount brought in? A. Yes, sir

Q. Do you make any reports? A. Yes, sir.

Q. What sort of reports do you make? A. A weekly report.

Q. What is done with that report? A. It is turned in to the local union.

Q. Is it part of your duties as a member of the union to make such a report? A. Yes, sir.

Q. And you turn it in each week? A. Yes, sir.

2438

2439

2440 *Samuel Cohen—By Govt.—Direct*

Q. Did you make such a report for the week commencing May 25, 1934? A. Yes, sir.

Q. I hand you a card which is labeled "Rugby," and has certain figures on it, and ask you whether or not you have seen that before? A. Yes, sir.

Q. What is that? A. Stock card.

Q. A stock card? A. A weekly report card.

Q. That is the weekly report card that you make out and turn in to your union? A. That is right.

2441 Q. And that is kept as part of the union files? A. That is right.

Q. Does anybody look over that besides yourself? A. Well, my co-worker.

Q. Your co-worker, Abe Danziger? A. That is right.

Q. He looks over it every week? A. Yes, sir.

Q. And he helps check the accuracy of it? A. That is right.

2442 Q. This card is headed "Rugby." Why is it headed Rugby? A. Well, it has been the Rugby, it has been the A. L. A.; it was called the Rugby and it was called the A. L. A.

Q. That is, the Rugby Live Poultry Market is the same as the A. L. A. Schechter Poultry Corporation? A. And also Schechter Brothers.

Q. And also Schechter Brothers. Does this card show the amount of poultry brought into Schechter Brothers during the week commencing May 25th, that is, Friday, May 25th, 1934; am I correct in my date? A. I have no date on there, Mr. Rice.

Samuel Cohen—By Govt.—Direct

2443

Q. You have no date on there. Do you recall what date that report was for? Now think carefully. A. I can't recall that.

Q. You can't recall? A. No, sir.

Q. Can you remember any day of the week designated in that card? A. Yes.

Q. What day? A. Starting Friday.

Q. Your reports always start on a Friday? A. That is right, Friday to Friday.

Q. How many baskets of poultry were received that Friday, if any, at A. L. A. Schechter Poultry Corporation?

2444

Mr. Heller: What month and date?

Q. (Continuing) On that particular Friday.

Mr. Rice: We will arrive at that.

The Court: Let us see what date it is.

Q. Do you know which Friday this is? Would you like to look at a calendar? A. Yes.

Q. (Handing calendar to the witness.)

The Court: What Friday was it?

The Witness: May 25.

2445

Q. This was Friday, May 25? A. That is right.

Q. And is this the report showing the amount of poultry received at the A. L. A. Schechter Poultry Corporation during the week commencing May 25, 1934? A. Yes, sir.

Q. Will you tell us how much poultry was received at Schechters on Friday, the 25th? A. 18 coops of poultry.

Q. Was it 18 coops received? A. Yes, sir.

Q. How many coops of poultry were on hand at the close of business? A. Seven coops.

2446*Samuel Cohen—By Govt.—Direct*

Q. Is that the total inventory at the end of the previous week? A. At the end of the previous week seven coops.

Q. There were seven coops of poultry left on hand as of what time? A. I would say after the shochet went home, after 12.

Q. After 12 noon on Friday, May 25, 1934, is that correct? A. Yes, sir.

Q. Is it your custom to count the inventory at that particular time of each week? A. Yes, sir.

2447

Q. For what purpose? A. To carry it on the next week.

Q. So that you can find out how much poultry has been sold next week? A. Yes.

Q. You take the inventory at the beginning of the week? A. That is on Friday.

Q. Yes, Friday noon, and then you take the inventory of the amount of poultry left at the end of the week the following Friday? A. Yes, and ducks, if there is any left, to be carried on the following week.

2448

Q. You say there were seven coops of poultry left at the close of the Friday killing? A. Yes.

Q. On May 25? A. That is right.

Q. How much poultry was brought in on Friday? A. 18 coops.

Q. Was any poultry brought in on Saturday, the following day, that is May 26th? A. No, sir.

Q. Was any brought in on Sunday, May 27th? A. Yes, sir.

Q. How much? A. There was about—two loads of poultry came in—about 82 baskets.

Q. About 82 baskets? A. Yes.

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

Samuel Cohen—By Govt.—Direct

2449

Q. Do you know where that poultry came from? A. Philadelphia.

Q. On Monday, May 28th, was any poultry brought in to Schechter's market? A. No, sir.

Q. Were you there on Monday? A. Yes, sir.

Q. Until what time? A. Four o'clock.

Q. And then you left at four o'clock? A. Yes, sir.

Q. Do you know how much poultry was on hand when you left? Did you count the amount that was on hand when you left? A. Yes, sir.

Q. Do you know whether any poultry came into the place on Monday, May 28th, between the time that you left and prior to the following morning, Tuesday, May 29th? A. Yes, sir.

Q. How much came in? A. 42 coops, and 59 baskets.

2450

The Court: What is that?

The Witness: 42 coops and 59 short baskets.

Q. 42 coops? A. Yes.

Q. Do you know whether it was exactly 42 coops that came in? A. Yes.

2451

Q. Did it come in in 42 cooops? A. I don't know whether it came in in 42 coops, but I know for a fact that there was 38 empty coops on that truck and when I got there next morning I counted 42 additional coops.

Q. Do you know how much came in on Tuesday, May 29th? A. 38 coops.

Q. 38 coops? A. That is right.

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

Q. Wednesday, May 30th? A. Wednesday, May 30th, was Decoration Day, if I am not mistaken.

2452

Samuel Cohen—By Govt.—Direct

Q. Yes, how much came in then? A. We were not there when the poultry did come in.

Q. Do you know whether any poultry came in prior to Thursday morning? A. Yes.

Q. May 31? A. Yes, sir.

Q. How much? A. 62 coops.

Q. Did any other poultry come in on Thursday, May 31? A. Yes, sir.

Q. How much? A. 18 coops.

Q. How much on Friday?

2453

The Court: What?

The Witness: 18 coops.

Q. Any on Friday? A. I cannot recall the Fridays.

Q. What is that? A. I cannot recall the Fridays.

Q. That is not on the card? A. No.

Q. That would be for the next week? A. For the next card.

Q. Are all of these figures shown on this card that I handed to you? A. Yes, sir.

2454

Q. And this is kept as a regular record? A. That is right.

Q. Of the union? A. Yes, sir.

Q. And it is part of your duties as a member of the union to keep the record? A. That is right.

Mr. Rice: I offer this in evidence.

Mr. Heller: The witness has already testified to what the contents are, and the best evidence is the witness' testimony.

The Court: Yes; he had a right to use it to refresh his recollection.

Mr. Rice: Do you object?

Samuel Cohen—By Govt.—Direct

2455

Mr. Heller: Yes.

The Court: He had a right to use it to refresh his recollection and he has.

Mr. Rice: I thought it might come in to corroborate him as a bookkeeping entry.

The Court: If counsel objects, I will have to sustain the objection.

Mr. Rice: It is quite immaterial.

Q. Now let us go back to Saturday, May 26th. You have that day in mind? A. Yes.

2456

Q. That is the day you said how much poultry came in? A. None.

Q. But did any come in on Sunday? A. That's right.

Q. How much? A. 82 baskets.

Q. How do you know that 82 baskets came in on Sunday? A. I counted the empty baskets.

Q. You counted the empty baskets? A. That's right.

Q. When did you count them? A. On Monday.

Q. Did anybody else count the empty baskets on Monday? A. My co-worker.

Q. Did you examine the 82 baskets? A. Yes, sir.

2457

Q. And what did you see? A. Empty baskets.

Q. Do you know what had happened to the chickens that had come in in those 82 baskets? A. I don't get that question.

Q. Were there any other chickens in the premises? A. Yes.

Q. Any chickens in addition to those you had seen there on the previous Saturday? A. Yes.

Q. And where were they contained? A. In coops.

2458

Samuel Cohen—By Govt.—Direct

Q. Approximately how much did you see in coops in addition to that you had seen there the previous Saturday? A. I haven't counted them.

Q. Well, would it be about the amount that 82 empty baskets would hold? A. I cannot recall.

Q. But did you satisfy yourself at that time that 82 coops had come in on Sunday—I mean 82 baskets? A. Yes, sir, 82 baskets.

Q. And did you look for the inspection labels on the 82 baskets? A. That's right.

2459

Q. And what did you see? A. None.

Q. How do you remember there were no inspection labels? A. They were practically new baskets.

Q. You are sure that there were no inspection labels? A. That's right.

Q. Of any sort? A. No.

Q. Not even old inspection labels? A. No.

Q. Do you know where that poultry came from? A. Philadelphia.

Q. How do you know? A. I was told.

Q. By whom? A. By Meyer Schechter and Sol.

Q. Now the additional poultry you saw on Monday morning in the coops did you examine those coops? A. Yes.

Q. And had you seen those coops before? A. Yes.

Q. And did you examine them for inspection labels? A. That's right.

Q. Now on Monday morning was May 28th, wasn't it? A. Yes, that's right.

Q. What inspection labels did you see on those coops into which the poultry had been put? A. May 23rd.

2460

Samuel Cohen—By Govt.—Direct

2461

Q. You saw inspection labels dated May 23rd?

A. Yes.

Q. Had you seen those inspection labels previously? A. Have I seen those?

Q. Had you seen the May 23rd inspection labels prior to Monday, May 28th? A. Yes.

Q. When had you seen them? A. On Friday.

Q. And those coops were empty at that time?

A. That's right.

Q. And they had been used on May 23rd to bring in poultry—the previous week? A. That's right.

2462

Q. That's correct, is it? A. Yes.

Q. Now the same inspection labels, dated May 23rd, were on those coops on Monday, May 28th?

A. Yes, sir.

Q. And were there any other inspection labels, old labels scraped off? A. No.

Q. None after May 23rd? A. No.

Q. Did Danziger also examine these 82 baskets? A. That's right.

Q. And the coops into which the poultry had been put? A. Right.

2463

Q. And do you know who purchased these 82 baskets of poultry in Philadelphia? A. I don't know, sir.

Q. Do you have any information on it? A. Not to my best knowledge.

Q. Do you know who went to Philadelphia in connection with the purchase? A. Yes.

Q. How do you know? A. I seen them come back.

Q. Well, who did you see come back from Philadelphia and when? A. It was on Saturday night about eleven o'clock.

2464

Samuel Cohen—By Govt.—Direct

Q. Who came back? A. Mr. Joe Schechter and Mr. Sol Wagshul.

Q. That is one of the customers? A. That's right.

Q. Now you say that you saw them come back from Philadelphia on Saturday, May 26th? A. Yes.

Q. You saw Joseph Schechter? A. That's right.

Q. Any other Schechter brother? A. I know that Abe Schechter went there but he did not come back to the market.

Q. Do you know when he did come back? A. Probably the same time that they came back.

Q. How do you know that Abe Schechter went to Philadelphia on Saturday, May 26th? A. Because Sol Wagschaul just told me he dropped Abe Schechter off at the house.

Q. Did anybody else say anything about Abe Schechter going to Philadelphia? A. No.

Q. Did Joe Schechter say anything about having been to Philadelphia? A. Not directly.

Q. What did he say indirectly, if anything? A. They had a tiresome trip.

Q. And he told you about the tiresome trip? A. Well, Sol is the one that told me about the tiresome trip.

Q. What did Joe Schechter tell you? A. Nothing.

Q. Nothing else? A. No.

The Court: How do you know he went to Philadelphia?

The Witness: Sol Wagschaul just—

The Court: But did either of the Schechters tell you?

The Witness: No, sir.

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2466

Samuel Cohen—By Govt.—Direct

2467

Mr. Heller: I move to strike out all of the testimony with reference to the trip to Philadelphia.

Mr. Rice: Just a moment. We will connect it up. We have not exhausted the witness yet.

The Court: I will let you ask him further, but unless the Schechters told him, he cannot testify; he cannot tell what the other man told him.

Q. On Saturday morning do you know where Abe Schechter went? A. On Saturday morning?

Q. Yes. A. I do not.

Q. Did you see Abe Schechter on Saturday? A. No, sir.

Q. When did you see him? A. I haven't seen him at all on Saturday.

Q. Did you see him Sunday? A. No, sir.

Q. On Monday morning? A. Right.

Q. Did he say anything about the trip to Philadelphia or a trip to Philadelphia? A. He didn't say anything about a trip to Philadelphia,

2469

but—he did not.

Q. Did he say anything at all? A. I can't recall.

Q. Did he say anything about the 82 baskets?

A. Not that I can remember.

Q. Did Joseph Schechter say anything about the 82 baskets that had been purchased? A. No, sir.

Q. Did he say anything about having been to Philadelphia? A. No, sir.

Q. Did he say anything about having had a tiresome trip to Philadelphia? A. Not that I can remember.

2470

Samuel Cohen—By Govt.—Direct

Q. Not that you can remember. How about Alex Schechter, did he say anything? A. No, sir.

Q. Did he say anything about his brother's being in Philadelphia?

Mr. Heller: He has said none of them said anything; he has mentioned all the names.

The Court: Well, he can ask him.

2471

A. Ask me that again?

Q. Did Alex Schechter say anything about his brother going to Philadelphia or being in Philadelphia or having been there? A. I can't recall that, sir.

Q. You do not recall? A. No.

Q. You remember any of the Schechter brothers saying anything about going to Philadelphia? A. About going to Philadelphia?

Q. Yes. A. Not about going to Philadelphia, but being in Philadelphia.

Q. Who did say that? A. Meyer Schechter.

Q. What did he say?

2472

Mr. Heller: When was that?

Q. Yes, when was that? A. At about eleven o'clock at night, Saturday night.

Q. You were in the premises then? A. That is right.

Q. What did you hear Meyer Schechter say? A. He got a call from some part of Pennsylvania.

Q. You heard what he said, you heard what Meyer Schechter said? A. Yes, sir.

Q. What did he say?

Samuel Cohen—By Govt.—Direct

2473

Mr. Heller: Was this over the telephone?

The Witness: Yes, over the 'phone.

Mr. Heller: I object unless there is testimony to show who was on the other side.

The Court: You can't tell what the other party said; he can only tell what he heard Meyer say.

Q. What did Meyer Schechter say? A. Meyer Schechter told him that he is going to go out.

Q. Out where? A. Out towards Philadelphia.

Q. Meyer Schechter told the person on the other end of the wire that he was going out to Philadelphia? A. Towards Philadelphia, yes, sir.

Q. Did he say what for? A. He told me the trucks broke down or the trucks got stopped.

Q. Meyer Schechter told you that the trucks got stopped? A. Yes, one of the trucks got stopped.

Q. Did he say where they were stopped? A. Yes, Langhorne, Pennsylvania.

Q. Did he tell you where they were coming from, or going to? A. He told me they were coming from Philadelphia.

Q. He said that? A. Yes.

Q. That was eleven o'clock Saturday night? A. That is right.

Q. May 26th? A. Yes.

Q. Then you say that 82 baskets came in from Philadelphia on Sunday, May 27th? A. That is right.

Q. You testified—

2474

2475

Mr. Heller: He did not say that. He said he found them there.

2476

Samuel Cohen—By Govt.—Direct

Q. You found 82 baskets? A. That is right.

Q. When you got there first thing Monday morning? A. That is right.

Q. And the poultry that had come in those baskets wasn't there when you left on Saturday, May 26th? A. That is right.

Q. Is that correct? A. Yes.

Q. On Monday, May 28th? A. Right.

Q. Was any other poultry brought into the Schechter place? A. No, sir.

Q. Was any poultry sent for? A. Yes, sir.

2477

Q. On that day? A. Yes, sir.

Q. What did you do on that day? A. I got there around ten after six Monday morning.

Q. What did you do? A. There was a load of 38 empty coops on the truck.

Q. Who put the 38 empty coops on the truck? A. I don't know.

Q. You found them on the truck? A. That is right.

Q. How did you know there were 38? A. I counted them.

2478

Q. What is the manner of counting the number of coops? A. Five times seven.

Q. That is, they were seven high? A. Yes, sir; three on a tier.

Q. Five deep? A. That is right.

Q. That makes 35 and 3— A. On top of the cab.

Q. On top of the cab; there were 38 coops? A. Yes.

Q. You remember that distinctly? A. Yes.

Q. What happened to those 38 empty coops? A. I helped Meyer Schechter tie up that load.

Q. Was anybody else there? A. No.

Samuel Cohen—By Govt.—Direct

2479

Q. What did Meyer Schechter say? A. He is going to Philadelphia.

Q. Do you know whether he went? A. I take it for granted that he did.

Mr. Heller: I object to what he took for granted and move that it be stricken out.

The Court: Strike it out.

Q. Did you see Meyer Schechter leave? A. Yes.

2480

Q. And that was after he said he was going to Philadelphia? A. Right.

Q. What time did you leave the place Monday night? A. Four o'clock.

Q. And the poultry had not yet arrived at four o'clock? A. No.

Q. Do you know whether any poultry arrived between four o'clock Monday afternoon and Tuesday morning, when you arrived there? A. Yes, sir.

Q. How do you know? A. Well, I got there Tuesday morning and I counted the poultry that I had left Monday night, and I found additional poultry.

2481

Q. You had counted that which was at the premises when you left Monday night? A. Yes.

Q. And when you got there Tuesday morning you counted again? A. Yes.

Q. In order that you could determine how much poultry arrived the next morning? A. Yes, between Monday night and Tuesday morning.

Q. How much poultry did arrive between Monday night, May 28th, and Tuesday morning?

2482

Samuel Cohen—By Govt.—Direct

Mr. Heller: If your Honor pleases, he has got the dates in and the amounts of poultry that came in day by day.

The Court: What is the question?

(Question repeated by the reporter.)

The Court: You have already got that.

Q. Now, you sent out 38 empty coops that morning? A. Yes.

Q. And the next morning you found 42 additional coops and 59 baskets in the place? A. Yes.

2483

Q. How were the 42 coops packed, tight or loose? A. Loose.

Q. And the 38 coops of poultry had been loosened in the 42 coops?

Mr. Heller: I object to that characterization, your Honor.

Mr. Rice: Very well, I withdraw the question.

2484

Q. What is the practice in the Schechter market when they bring in coops of poultry from out of town? A. I did not have the experience, with the exception of that week, so I don't know.

Q. Well, what is the practice when they bring it in from any place in coops? A. If the poultry is packed, we loosen them up into additional coops.

Q. How do you do that? A. We take a few out of each coop.

Q. Now, if you have 38 coops coming in, you might take a few out of each coop and make up three or four additional coops, is that it? A. Yes.

Q. So you have 42 coops instead of 38? A. Right.

Samuel Cohen—By Govt.—Direct

2485

Q. And you found 42 coops there Tuesday morning? A. Right.

Q. And did you examine those 42 coops? A. I don't recall.

Q. Did you see any inspection labels on the 42 coops—

The Court: We will take a recess until two o'clock P. M. Gentlemen of the Jury, do not discuss this case among yourselves or allow anyone to discuss it with you, and return here at two o'clock sharp.

2486

(Recess until 2 P. M.)

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

SAMUEL COHEN, resumes the stand:

Direct examination (continued) by Mr. Rice:

Q. Mr. Cohen, you have testified that when you got to the place early Tuesday morning, May 29th, 1934, you found 42 additional coops of poultry and 59 baskets of poultry in the premises. A. Yes, sir.

2487

Q. Did you look at those 42 coops and 59 baskets to see whether or not they had inspection labels? A. Yes, sir.

Q. What did you find? A. Labels had been on there dated—

The Court: On what?

The Witness: On them coops.

Q. On the 42 coops? A. That is right.

Q. Look over this way, Mr. Cohen, so the jury

2488

Samuel Cohen—By Govt.—Direct

can hear you. A. Labels had been on there dated May 23.

Q. May 23? A. That is right.

Q. You found inspection labels dated May 23? A. That is right.

Q. On the coops? A. On the coops.

Q. Did you find any other labels? A. Old labels.

Q. No labels more recent than May 23rd? A. That is right.

Q. How about the 59 baskets? A. No labels at all.

Q. No labels at all? A. That is right.

Q. You are sure about it? A. Yes.

Q. Did your fellow worker, Abe Danziger, also look at the 59 baskets and the 42 coops? A. That is right.

Q. At the same time? A. Right.

Q. Do you know what happened to those 59 baskets of live poultry? A. Yes, sir.

Q. Will you tell us what happened? A. About 10 o'clock—

Q. The same day? A. Right.

Q. Tuesday, May 29? A. Right. After we got through with the butchers, my co-worker, Abe Danziger backed the truck into the driveway and we started laying the baskets, five at a time, loading them on the truck.

Q. You and Abe Danziger loaded 59 baskets of poultry on the truck? A. And another man with us.

The Court: Was there any poultry in them or were they baskets that were empty?

The Witness: Poultry in them.

2489

Q. No labels at all? A. That is right.

Q. You are sure about it? A. Yes.

Q. Did your fellow worker, Abe Danziger, also look at the 59 baskets and the 42 coops? A. That is right.

Q. At the same time? A. Right.

Q. Do you know what happened to those 59 baskets of live poultry? A. Yes, sir.

Q. Will you tell us what happened? A. About 10 o'clock—

Q. The same day? A. Right.

Q. Tuesday, May 29? A. Right. After we got through with the butchers, my co-worker, Abe Danziger backed the truck into the driveway and we started laying the baskets, five at a time, loading them on the truck.

Q. You and Abe Danziger loaded 59 baskets of poultry on the truck? A. And another man with us.

The Court: Was there any poultry in them or were they baskets that were empty?

The Witness: Poultry in them.

Q. About how many pounds of poultry are contained in a basket? A. I have no idea.

Q. About how many, usually? A. About 13, 14 heads in a basket.

Q. About 60 pounds? A. A little more.

Q. Sometimes more and sometimes less? A. Right.

Q. Depending on the weather? A. Depending on the size of the fowl.

Q. Then would the 59 baskets of poultry weigh somewhere around 3,500 pounds? A. I really don't know.

Q. I mean, just the poultry in the baskets. A. Right.

Q. About that amount? A. Yes.

Q. And did you weigh those 59 baskets on that day? A. I did.

Q. Did you weigh the net amount of the poultry or the gross amount, with the baskets? A. With the baskets.

Q. And you did not weigh the amount of the tare? A. That is right.

Q. Do you remember what the gross weight was, including the tare, including the weight of the baskets? A. I do not.

Q. You don't remember? A. No, sir.

Q. You made a notation of it at that time, did you not? A. I did.

Q. Do you recall whether it was around 4,800 pounds, including the baskets? A. I just cannot recall the weight of it. I have weighed it, but I just cannot recall the weight of it.

Q. Who told you to weigh it, and load it? A. Meyer Schechter.

Q. Who else was there at the time? A. Al Schechter was there and Abe Schechter was there.

Samuel Cohen—By Govt.—Direct

2494

Q. They were all three there? A. Right.

Q. Were they all three in the presence of Meyer Schechter when he told you to weigh and load the coops? A. I just cannot—

Q. Or the baskets? A. I cannot recall that.

Q. But they were there that time? A. Right.

Q. Do you know whether they knew that the poultry was being weighed? A. Yes, sir.

Q. All of them? A. Right.

Q. How do you know that? A. They were around the premises.

2495

Q. Do you know whether all three of the Schechter brothers knew that the poultry was being loaded on the truck? A. Yes, sir.

Q. How do you know that? A. They saw us load it.

Q. What were your instructions in addition to that from any one of the Schechter brothers? A. I don't quite get that clear, Mr. Rice.

Q. Was there anything else said as to what was to be done with the 59 baskets of poultry? A. Not that I know of.

Q. You did not hear anything further? A. Yes, sir, I did hear it. I can recollect.

Q. Who said it? A. Abe Schechter.

Q. What did he say? A. There was a colored doctor that came in that day—

Q. What is his name? A. Dr. Seabrook.

Q. From the Health Department? A. Right. And we were just about finishing loading up that truck, and Dr. Seabrook walked in and he asked him for an inspection ticket.

Q. He asked who for an inspection ticket? A. He asked Abe Schechter.

Q. Did he look at the baskets first? A. Yes.

Q. Then he turned to Abe Schechter? A. That is right.

Q. And asked him for an inspection ticket?
 A. Or first he walked through the market, looked through the market, then he came to the back of the market, whereby we have another extension to the market, and that is where the 59 baskets were, and when he came over to them 59 baskets, he asked Abe Schechter for a ticket.

Q. And that was during the loading of the 59 baskets? A. Yes.

Q. Who was present when he asked Abe Schechter that? A. Myself and my co-worker.

Q. Abe Danziger? A. Right.

Q. How about Alex or Martin? A. I cannot recall that.

Q. What did Abe Schechter say when Dr. Seabrook asked him for the inspection ticket? A. He told him that load is going down to Wallabout Market.

Q. Did he say anything else? Did he say what it was going down to Wallabout Market for? A. I cannot recall that.

Q. What do they do at Wallabout Market? A. They inspect poultry.

Q. Did he say why that poultry was going to Wallabout Market? A. I cannot recall that.

Q. He did not say anything about sending the poultry down to Wallabout Market for any particular purpose?

Mr. Heller: I object to this.

The Court: He said he doesn't remember. Now, search your memory. Can you remember anything about what was said?

The Witness: No, your Honor, I cannot remember.

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Samuel Cohen—By Govt.—Direct

Q. You don't recall whether or not he said why it is going down to Wallabout Market for inspection? A. I won't commit myself; I don't remember.

Q. What is your best recollection? A. Our understanding is this: That the poultry that—

The Court: Oh no, no.

Q. What is your best recollection? A. That the poultry went down for inspection to Wallabout Market.

Q. Do you mean that Abe Schechter said that? A. I would not say whether he did or not; I cannot remember.

The Court: Strike that out.

Q. Dr. Seabrook was asking him for the inspection ticket? A. Right.

Q. And what did Abe Schechter say? A. He told him he sent them down to Wallabout Market for inspection.

Q. Do you know whether or not that poultry actually went to Wallabout Market for inspection? A. I do not.

Q. Abe Danziger was there at the time? A. Right.

Q. What did Abe Danziger do? A. What he done?

Q. Yes. A. During what time was that?

Q. After the poultry was loaded on the truck, these 59 baskets were loaded on the truck, did any of the Schechter brothers say anything to Abe Danziger? A. Not then.

Q. Later on? A. Yes.

Q. Who said it? A. He pulled the truck out of the driveway.

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Q. Who did? Danziger did? A. Right. He pulled it up to the front. We had tied up that load in order that the baskets would not fall off. During that time Dr. Seabrook had left. Danziger was on the truck. I haven't seen Seabrook around and he has left the place, or what I don't know.

Q. Now just a minute, you did not see Dr. Seabrook there? A. No, I don't know what became of the load of poultry or where it went to.

Q. Who went with the poultry? A. Abe Danziger.

Q. And he drove the poultry somewhere away? A. Yes.

Q. And you don't know what happened to it after that time? A. Right.

Q. Now did you hear Alex Schechter say anything to Danziger after the 59 baskets were loaded on to the truck? A. I did not.

Q. After they were tied on? A. I did not.

Q. You did not hear Alex say anything to Danziger as to what he should do? A. Not that I remember.

Q. You don't recall whether or not Alex Schechter told Danziger to wait a while?

Mr. Heller: If your Honor pleases, we have been all over that. He said he did not know what happened after they were loaded.

The Court: But he can help the man to refresh his recollection.

The Witness: I cannot remember, Mr. Rice.

Q. Do you know what happened to the 82 baskets of poultry which you said did not bear inspection

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Samuel Cohen—By Govt.—Direct

labels, which was brought in on Sunday, May 27th? A. What happened to them?

Q. Yes, during the course of the week? A. They were reloaded into empty coops.

Q. And what happened to them? A. Then the New York Live Poultry Trucking truck—I don't remember what date it was, whether it was Monday or Tuesday—came around and we loaded it on that truck.

Q. Do you know whether the 82 baskets of poultry were sold during the week? A. The 82 baskets?

Q. Yes, that came in on Sunday, May 27th. A. During the course of the week?

Q. Yes. A. Yes.

Q. Do you know whether or not all of that poultry was sold during the course of the week? A. Yes, with the exception of about a coop and a half.

Q. How do you know that? A. Well, we had about 300 pounds of stock that I remember.

Q. There were 300 pounds left over at the end of the week? A. I did not weigh it, but I should judge.

Q. About a coop and a half? A. Yes.

Q. But all the other poultry that had been brought into this place during that week was sold during that week? A. Yes, sir.

Q. Excepting this half coop or coop and a half? A. Yes.

Q. Now, were you present there every working day that week? A. Right.

Q. And all during working hours? A. That's right.

Q. And all during the time that poultry was sold? A. Yes.

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Samuel Cohen—By Govt.—Direct

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Q. What did you do? A. I handed out the poultry to the butchers.

Q. And you saw these 82 baskets of poultry sold? A. I saw the coops.

Q. You saw the chickens that had come in the baskets sold during the week? A. Yes.

Q. How about the 42 coops that came into the place May 29th, during the night? A. It was sold during that week.

Q. You have already told us what happened to the 59 baskets in your presence. A. Right.

Q. Now do you recall seeing Joseph Schechter shortly after May 16th, 1934, when the Code went into effect? A. Yes.

Q. Where did you see him? A. 858 East 52nd Street.

Q. And did you hear him say anything at that time? A. Yes.

Q. What did he say? A. That he was going back in the business.

Q. What else did he say? A. That he was going back in the business.

Q. That he was going back in the business? A. He is going back into the business.

Q. Did he say why he was going back into the business? A. Yes.

Q. What did he say? A. The week after the Code went into effect the place has made some kinds of profit.

Q. What place? A. 858 East 52nd Street.

Q. Do you know how much profit they made the first week after the Code went into effect?

Mr. Heller: I object to that, your Honor.
The books are the best evidence.

Mr. Rice: We will see whether he has any information from the Schechters.

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Samuel Cohen—By Govt.—Direct

Q. Did any of the Schechters say how much they had made during the week that the Code went into effect? A. It wasn't Mr. Schechter direct.

The Court: We don't want it.

Q. Did any of the Schechters say anything? A. No.

Q. Well, what did Joseph Schechter say on this particular occasion? A. That he is going back into the business, which I have heard him remark to a dealer while he was sitting in the car. He said he is going back in the business, leg or no leg, he is going back into the business.

Q. Did he say why? A. I don't why; there must be a reason why.

Q. Did he say anything as to why? A. No.

Q. Did he say anything about the Schechters, at 858 East 52nd Street, having made \$600 the first week after the Code went into effect?

Mr. Heller: I object to these leading questions, your Honor.

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Mr. Rice: I have exhausted his memory, your Honor.

The Court: I think so.

The Witness: He did, Mr. Rice.

The Court: (To witness.) Search your memory and try to remember what he did say.

The Witness: He did, your Honor, I can recall that.

Q. Now tell us what he said. A. Well, there was a dealer came around with his car by the name of Jack or Morris Domsky and they started kidding one another and naturally it wound up

with Joe Schechter remarking to him that if a place could make \$600 profit that week he is going back in the business. It was a Jewish holiday week and the week after the Code went into effect. During that week that the Code went into effect I mean.

Q. Now you were present at the A. L. A. Schechter Live Poultry Market during the week after the Code went into effect? A. Right.

Q. From May 16 up to the present time? A. Yes.

Q. Every working day? A. With the exception of one or two days, probably three days.

Q. Do you know what the practice of straight killing is? A. Yes.

Q. As understood by the trade? A. Right.

Q. What is the practice?

Mr. Heller: Now if your Honor pleases, we have been over the practice of straight killing so many times.

The Court: Yes, what other people say, but he is trying to qualify him. Go ahead.

Mr. Heller: Exception.

Q. What is the practice? A. Straight killing means everything in the coop.

Q. Excepting what? A. Unfit poultry.

Q. That is you have to take the run of the coop or half coop? A. Right.

Q. Excepting that you can eliminate poultry that is unfit for human consumption? A. Yes.

Q. And is that the way the term straight killing is understood in the poultry trade? A. Yes.

Q. Do you know whether or not Alex Schechter, Martin Schechter and Aaron Schechter and

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Samuel Cohen—By Govt.—Direct

the A. L. A. Schechter Live Poultry Market practiced straight killing after May 16, 1934?

Mr. Heller: I object to that as calling for a conclusion.

The Court: Sustained.

Q. What was the practice at this market on the part of these three individuals after May 16, 1934? A. One week after May 16, 1934, straight killing was in effect for the entire week.

Q. Whereabouts? A. At No. 858 East 52nd street.

Q. And that practice of straight killing continued for one week after the Code went into effect? A. That's right.

Q. Now what happened after that one week? A. They did not practice straight killing afterwards.

Mr. Heller: I object to that.

The Court: Yes, but he can state what happened on any occasion, but he cannot give his conclusion, I do not believe.

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Q. For one week after the Code went into effect did you see any poultry sold at the market at 858 East 52nd Street by the coop or half coop, without rejections?

Mr. Heller: That is objected to. Let us have the day, the time, the month.

The Court: I think that is so. I do not think you can go into a general thing like that. Let him start out and tell us any day that he saw that a sale was made, and in any particular way, not a general one.

Q. You say for one week after the Code went

Samuel Cohen—By Govt.—Direct

2521

into effect straight killing was practiced at the Schechter Market? A. Right.

Q. What happened after that? Do not use the term "straight killing," just tell us what happened. A. What happened after that week?

The Court: Tell us any particular person; do not state generally, just state the particular person. You have got to fix the day and the person. They have got to have an opportunity to meet it. Tell us of any day when you saw any selected killing done, and who and where and when.

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The Witness: There was no straight killing after that week, your Honor.

The Court: All right; strike that out. Tell us anybody that you saw who selected poultry.

The Witness: They all did, all our trade.

The Court: Give us the names and dates.

The Witness: The date I do not know.

Q. Now I will direct your attention to certain dates and certain names, Mr. Cohen. Do you recall the date of June 20, 1934, on a Wednesday—

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Mr. Rice: May we use your calendar again?

Mr. Heller: Surely.

The Court: The 20th wasn't Wednesday if the 25th was Friday.

Mr. Rice: This is June, your Honor, June 20th.

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Samuel Cohen—By Govt.—Direct

The Court: June 20th was a Wednesday. The Court takes judicial notice of that.

Mr. Rice: I am not so sure it was a Wednesday; perhaps I am mistaken.

The Court: 1934?

Mr. Rice: Yes, sir.

The Court: In 1934 the 20th of June was a Wednesday.

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Q. Look at that calendar, Mr. Cohen, and see whether you can recall the day of June 20, 1934, a Wednesday. What time did you arrive at the place that morning? A. 7 a. m.

Q. And who did you find there? A. Alex Schechter, Meyer Schechter, and Abe Schechter.

Q. Do you recall Morris and Sol Wagshul coming into the place? A. That is right.

Q. Who are they? A. They are both brothers and dealers.

Q. They are retail dealers? A. That is right.

Q. Having a store at what address? A. 969 Nostrand Avenue and 127 Sutter Avenue.

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Q. What happened? A. They started to kill poultry.

Q. How much poultry did they select? A. About three coops.

Q. Did they reject any of the three coops? A. Yes, sir.

Q. How much did they reject? A. Quite a bit.

Q. About how much? A. I would say around 30 heads.

Q. Around 30 heads? A. Right.

Q. That is about two-thirds of a coop? A. Right.

Q. Who was present at the time they selected and rejected the birds? A. They were all present.

Q. That is, Alex, Aaron and Martin Schechter? A. Right.

Samuel Cohen—By Govt.—Direct

2527

Q. Did they say anything? A. I don't recall.
 Q. Did they raise any objection? A. No, sir.
 Q. And this poultry was purchased by the Wagshul brothers? A. Right.

Q. On that occasion? A. Right.

Q. What happened to the 30 or so heads that they rejected? A. Put them back into the coop.

Q. Then what happened to them? A. Then what happened to them?

Q. Yes. A. They remained in the coop.

Q. Were they fit for human consumption? A. Yes, sir.

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Q. What happened to them afterwards? A. Well, after who?

Q. After they were put into the coop. A. They remained in the coop.

Q. Until when? A. Until the next butcher came around to kill.

Q. Then what happened to them? A. We tried to give them that fowl that was left in the coop.

Q. Were they sold? A. Yes, during the course of the day.

Q. They were all sold during the course of the day? A. Right.

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The Court: How many chickens?

Mr. Rice: 30 rejected out of three coops; that is Count 24.

Q. Who was at the scales? A. Meyer Schechter.

Q. During this whole procedure? A. Right.

Q. What was Aaron Schechter doing? A. On the floor in charge of selling.

Q. He was present during these rejections? A. That is right.

Q. And Alex Schechter was also there? A. Right.

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Samuel Cohen—By Govt.—Direct

Q. Now, on the following day—

The Court: That is 24 and 1, I suppose?

Mr. Rice: Yes, your Honor, all of our evidence, I believe, applies to Count 1.

The Court: And in addition, to certain substantive counts?

Mr. Rice: Yes.

Q. And on the following day, Mr. Cohen, on Thursday, June 21st— A. That is right.

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Q. (Continuing)—what time did you arrive at the place? A. About 3:30 in the morning.

Q. 3:30 in the morning? A. Right.

Q. Who was present? A. Who was present?

Q. Who was present? A. Nobody then.

Q. Did anybody come later? A. Yes.

Q. Who? A. The three brothers.

Q. All three, Alex, Aaron and Martin? A. Yes, about half past four or quarter to five.

Mr. Rice: That is Count 29, your Honor.

The Court: All right.

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Q. Do you remember a customer, one of the customers coming in, from 304 Troy Avenue, coming in that morning? A. Yes, sir.

Q. What was her name? A. I just can't recall it.

Q. Is it Lena Halbar? A. That is right, something like that

Q. How much poultry did she buy that morning?

The Court: What was the name?

Mr. Rice: I think it is Lena Halbar, 304 Troy Avenue.

The Court: All right.

Samuel Cohen—By Govt.—Direct

2533

Q. How much poultry did she select? A. About three coops.

Q. Did she reject any? A. Quite a bit.

Q. How much? A. A good coop.

Q. At least a coop? A. Yes, sir.

Q. What happened to the coop of rejected chickens, that is, it wasn't just one coop that she rejected, was it? A. No, she rejected out of three coops.

Q. A total of one coop? A. Practically a total of one coop.

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Q. Practically? A. Yes.

Q. And what happened to the rejected chickens? A. They stood there.

Q. They were put in another coop? A. They were put into one of the coops that I pulled them out from.

Q. Were they fit for human consumption? A. Yes, sir.

Q. What happened to them after they were put into the coop? A. Well, they remained in that coop.

Q. Until when? A. And I tried the next customer.

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Q. Were they sold to the next customer? A. Not that coop; they were sold during the course of the day.

Q. All of them? A. Practically.

Q. Were these three brothers, Alex, Aaron and Martin, present during the rejection of these chickens? A. Right, they were in the place.

Q. And during the later sale of the rejected chickens? A. Right.

Q. Did they raise any objection? A. Not that I know of.

Q. To the rejections? A. No, sir.

Q. Just what were you doing all this time? A. Handing out poultry.

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Samuel Cohen—By Govt.—Direct

Q. You were handling the chickens? A. Right.

Q. Did you hand any of them to one of the Schechter brothers? A. No, sir.

Q. Doesn't one of the Schechter brothers sometimes take hold of the chickens? A. Yes, once in a while.

Q. Which one? A. A good chicken.

Q. And did they all see what was going on during the sales of the chickens? A. That is right.

Q. Meyer was standing right near the scale? A. Meyer stands near the scale.

Q. He weighs them all? A. Yes, sir, after they are killed.

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Mr. Rice: The next count is Count 30,
your Honor.

Q. On the same day do you recall Mr. Sam Tanowitz, a customer, 3303 Church Avenue, Brooklyn? A. You have got it wrong, Mr. Rice.

Q. What? A. You have got the wrong address.

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Q. What is the address? A. 5303 Church Avenue.

Q. Oh, yes, 5303 Church Avenue. A. Right.

Q. How much poultry did he select? A. About three coops.

Q. Did he reject any? A. Quite a bit.

Q. How much? A. I just can't recall.

Q. About how much? A. A good coop.

Q. About a coop in all? A. Yes.

Q. Were all three of the Schechters present during that time? A. Yes, sir.

Q. Did they raise any objection? A. Not that I know of.

Q. What did you do with the rejected chickens? A. Remained in the coop.

Samuel Cohen—By Govt.—Direct

2539

Q. Until when? A. Until later on.

Q. Then what happened to them? A. What happened with the coop or what happened afterwards?

Q. What happened to the rejected chickens? A. Well, when we got through with all the butchers it was a routine that we would put all the poultry together and fill up the coops as they go along; where there is a few chickens we fill up the same coop, make full coops out of them. That is just what we done that day.

Q. Who helps you do that? A. Myself, my co-worker, or any one of the brothers.

Q. Do the Schechters help you? A. Yes.

Q. Which one? A. Al Schechter most of the time.

Q. Who else? A. The others I cannot recall.

Q. Did they all help you at some time or other? A. Yes.

Q. And they have done so since May 16, 1934? A. That is right.

Q. Were all of these rejected chickens fit for human consumption? A. Well, I wouldn't say all.

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Q. Were some of them? A. Yes.

Q. Were they later resold? A. Yes, sir.

Q. On the same day? A. Right.

Q. All of them? A. Pretty near.

Q. Pretty near all? A. Yes.

Q. Those that were not sold on that day were later sold, were they? A. Sold probably the next day.

Q. Were they all sold at some time or other? A. Yes.

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Mr. Rice: The next is Count 25.

2542 *Samuel Cohen—By Govt.—Direct*

Q. On Friday, the following day, June 22nd, what time did you arrive at the place? A. 6 A. M.

Q. Were any of the Schechter brothers there that morning? A. Yes, sir.

Q. Which ones? A. Meyer, Abe, and I cannot recall if Al was there.

Q. You think Alex may have been there? A. Probably he may; I just cannot recall.

Q. Was he there later in the day? A. Yes.

Q. Oh, he was? A. Yes, right after that.

2543 Q. Were they all three there when the customer from 961 Blake Avenue arrived? A. Two, I am positive, was there.

Q. Which two are you positive were there? A. Meyer and Abe.

Q. How about Alex? A. I cannot recall that.

Q. What is the customer's name from 961 Blake Avenue? A. Don't know the name, but I think it is Albaum, or something like that; I just cannot recall. I don't know the name.

Q. Did he select some chickens that morning? A. Yes.

2544 Q. How much? A. About four coop, three to four coop.

Q. Did he reject any? A. Yes, a few.

Q. How many? A. I don't recall how many.

Q. About how many? A. A handful or so. I cannot recall.

Q. What do you mean by a handful? A. Quite a bit.

Q. Half a coop? A. I wouldn't say half a coop.

Q. About how much? A. Close to it.

Q. Close to a half coop? A. That is right.

Q. Were the chickens rejected fit for human consumption? A. I wouldn't say all.

Samuel Cohen—By Govt.—Direct

2545

Q. Were some of them? A. Yes.

Q. What was done with them? A. Same thing that has been done with the others.

Q. Were they later sold? A. Yes.

Q. All of them? A. Right.

Q. Were Meyer and Aaron Schechter present during this entire time? A. Yes.

Q. Did they raise any objection? A. No. He was the first man to kill that day, if I am not mistaken.

The Court: Now, Meyer and Aaran were present? **2546**

The Witness: Right.

The Court: And Alex, you think, came in later?

The Witness: That is right, your Honor.

Q. On this particular occasion you don't remember the exact amount purchased? A. (No answer.)

Q. Do you remember whether or not there were 45 heads selected? A. I canot recall that, Mr. Rice. **2547**

Q. You don't recall the occasion? A. No, because—

Q. You don't recall an occasion when this customer from 961 Blake Avenue took 45 chickens, selected 39 and rejected 6? A. I never counted them, Mr. Rice.

Q. You have made an affidavit on this topic, have you not? A. Yes.

Q. Will you look over the bottom half of this page of the affidavit, page 13, and see if you can refresh your memory as to the number? (Handing paper to the witness.) A. It must have been

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Samuel Cohen—By Govt.—Direct

very unusual, Mr. Rice, if I mentioned the amount of heads taken out of that coop, because I never count the chickens taken out of any coop.

Q. After looking at this part of your affidavit do you recall how many chickens were selected by this particular customer? A. No.

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

Q. But you are sure he rejected some? A. Yes; not all of them.

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Mr. Heller: What is the date of the affidavit, Mr. Rice?

Mr. Rice: The date of the affidavit, that is, it was sworn to on July 2, 1934.

Q. Did you state whether or not the rejected birds were later sold? A. Yes, sir.

Q. All of them? A. Right.

Q. During the course of the day? A. That is right.

Q. And some of them were fit for human consumption? A. Right.

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Q. Do you recall what time you came to work on Tuesday, June 26th?

Mr. Rice: This, your Honor, relates to Count 31.

A. On Tuesday, June 26th? 7 A. M.

Q. Who was present at the market that morning? A. The three brothers.

Q. Alex, Aaron and Martin Schechter? A. That is right.

Q. Were they present when the customer from 5303 Church Avenue came? A. Right.

Q. That customer is Sam Tanowitz? A. Right.

Samuel Cohen—By Govt.—Direct

2551

Q. How much poultry did he select? A. Two or three coops.

Q. Did he reject any part of it? A. Yes, sir.

Q. How much? A. I cannot recall how much.

Q. Approximately how much? A. About half a coop.

Q. Were some of the rejected birds fit for human consumption? A. Yes.

Q. Were the three Schechter brothers present during the time of rejection? A. Right.

Q. And during the time of sale? A. Yes, sir.

Q. All of these transactions you have talked about were sales to retailers or butchers? A. Retailers and butchers.

Q. Retailers and butchers? A. Dealers and butchers.

Q. Did any of the Schechter brothers raise any objection? A. Not that I know of.

Q. You did not hear any objection? A. No.

Q. What happened to the rejected birds? A. Back into the coop.

Q. How long did they stay there? A. During that day.

Q. Then what happened to them? A. I cannot recall if they were sold that day, if all of them were sold.

Q. Were they sold during the course of the next few days? A. Yes.

Q. You are sure they were sold during the course of the week? A. Most surely.

Q. All of them? A. Yes.

The Court: Anything the matter with them?

The Witness: Not that I know of. There might have been one—a few of them.

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2554 *Samuel Cohen—By Govt.—Direct*

Mr. Rice: The next, your Honor, is Count 32.

Q. On the same day do you remember Saul Levine coming into the place? A. That is right.

Q. How much poultry did he order? A. About three coops, two coops.

Q. Did he reject any part of it? A. Just a few.

Q. How much? A. Not very much.

2555 Q. About how much? Less than half a coop? A. Yes, much less.

Q. Well, about how much? A. Probably about six or eight heads.

Q. Were some of the rejected birds fit for human consumption? A. I would not—I really don't know.

Q. I say, were some of them fit for human consumption? A. Yes.

Q. You understand what I mean? A. Yes.

Q. You are sure? A. Yes.

Q. Were Alex, Aaron and Martin Schechter present at the time of the rejections? A. They were always present, Mr. Rice.

Q. They saw what was going on? A. Yes.

Q. Did they make any objection? A. Not that I know of.

Q. What happened to the half a dozen rejected birds? A. Same thing, put back in the coops.

Q. Were they later sold? A. Probably.

Q. Well, were they later sold, either that day or within a few days? A. Oh, yes, within a few days.

Q. You are sure of that? A. Surely.

Q. From May 16, 1934, at the time the Code went into effect, up until July 26, 1934, that is

a period of two months or a little over, you were in the premises during that entire period you say? A. Right.

Q. Did you see any diseased birds in the place during that time? A. I did.

Q. A lot of it? A. A few.

Q. What do you mean by a few? A. Quite a few.

Q. Every day? A. Yes.

Q. Birds unfit for human consumption? A. I cannot get that question, Mr. Rice.

Q. (Question repeated.) A. Yes.

Q. Those diseased birds you saw each day were unfit for human consumption? A. Some of them.

Q. Every day? A. Yes.

Q. Do you know whether or not those birds were sold? A. Yes.

Q. Always? A. Always.

Q. Do you know whether or not Alex, Aaron or Martin Schechter or anybody in the Schechter premises ever destroyed any of the live birds? A. Never destroyed them.

Q. They never destroyed anything? A. That is right.

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

Q. Under what circumstances would they destroy a chicken if any?

Mr. Heller: I object to that, your Honor, he said they were never destroyed.

Mr. Rice: I am speaking about the live birds.

Q. You say they never destroyed any live bird during that period of time, no matter how sickly or diseased or unfit it was?

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Samuel Cohen—By Govt.—Direct

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

The Court: He said he never saw them destroy any live birds.

Q. How about the dead birds, those that died a natural death? A. What do you mean, Mr. Rice?

Q. Did they ever destroy any dead birds, birds which had died from disease or from the heat or from some other natural cause?

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Mr. Heller: I object; there is no such testimony that such a thing happened.

The Court: That's right. He will have to give us some date.

Q. Do you know whether during that period of time from May 16, 1934, to July 26, 1934, there were any dead birds brought into the Schechter premises or were there any birds died in the coops after they got there? A. Yes.

Q. Do you know what was done with such birds?

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Mr. Heller: May we have a date, your Honor?

The Court: I think we should have it identified in some way.

Q. Do you remember any occasion during that period of time? A. Right.

Q. When was it? A. It was on a Friday.

Q. On a Friday? A. Yes.

Q. And was it June 29, 1934? A. I don't know the date, but I am positive it was on a Friday.

Q. But will you look in your calendar and see just about when it was? A. What day is that?

Samuel Cohen—By Govt.—Direct

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Q. June 29th. A. Yes, that is a Friday.

Q. And was it about that time? A. About what time?

Q. About June 29th, 1934? A. Yes.

Q. And do you remember the temperature on that day? A. Yes, it was a scorching hot day.

Q. And what else do you remember as to what happened on that day? A. I came back with a load of poultry from the Brooklyn commission and when I got into the place I seen about 10 broilers hanging, and their necks were slit.

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Q. You say it was a very hot day? A. Yes, sir, and when I got back I seen about 8 or 10 broilers hanging with their necks cut and the blood dripping down—about 10 broilers with their necks cut.

Q. Do you know whether or not those chickens had died before their necks were slit? A. I don't get that question.

The Court: Read it.

Q. I say, do you know whether or not those chickens had died before their neck were slit? A. Yes, sir.

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

Q. What else did you see? A. Then I came in with my load of poultry and I found one or two dead chickens in my load.

Q. Yes? A. And I took them out and I put them on the floor and cut the neck on them.

Q. Did anybody tell you to do that? A. I didn't do that.

Q. Who did? A. Meyer Schechter.

Q. That is the third man in the gray suit (indicating defendant Meyer Schechter)? A. That's right.

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Samuel Cohen—By Govt.—Direct

Q. Who told you—what did he do? A. He done it himself.

Q. The chicken was dead? A. Right.

Q. And what did he do with the chicken after he cuts its neck? A. He hung it up.

Q. Along with the others? A. Along with the others.

Q. And those others came from Danziger's load? A. No, they came from a third man that was there that week.

Q. Was Danziger present during this time? A. Right.

Q. And he saw these dead chickens hanging up there? A. Yes.

Q. Then what happened? A. Well, we quit at four o'clock. Before that we weighed up the broilers and the two fowl, I don't remember what the fowl weighed, but the broilers I think weighed around 32 pounds—they were small chickens—

Q. By the way, you did not tell us how you knew that the other chickens had died before their necks were slit—did anybody tell you that?

A. Yes.

Q. Who told you? A. My co-worker, Danziger.

Mr. Heller: I move to strike out the entire testimony, your Honor.

The Court: No, but I will strike out all about their being dead before their throats were cut.

(To witness): Now, Mr. Witness, you cannot tell us anything that anybody said to you except one of the Schechters. If it is anybody else, don't tell us a thing.

Samuel Cohen—By Govt.—Direct

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Mr. Rice: This applies only to the chickens he did not see, your Honor.

The Court: Certainly.

Q. Did anybody of the Schechters say anything about those chickens? A. I cannot recall.

Q. Did you talk with Meyer Schechter? A. Right.

Q. What did he say? A. I cannot remember.

Q. Now then, what happened after that? A. We had packed them up into a bag.

Q. And who packed them up? A. Abe Danziger and myself. 2570

Q. All these chickens that were hanging up there? A. There was only a few—about 10.

Q. Did anybody tell you to do that? A. Yes, Meyer Schechter.

Q. Then what did you do? A. We locked the place up and put the bag in his car and he went away.

Q. And before he went away did he call anybody? A. Right.

Q. On the telephone? A. Yes.

Q. Who? A. One of the Wagshal brothers.

Q. And then he went away with the chickens in the bag? A. Yes, and we went home.

Q. Were the chickens weighed before they were taken out? A. I think they were.

Q. Why do you say you think they were? A. Yes, they were.

Q. They were weighed? A. Yes.

Q. About how much did they weigh? A. About 32 pounds of spring chickens.

Q. Mr. Cohen, what was done, or what has been done during that period from May 16th to July 26th, 1934, with poultry unfit for human

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Samuel Cohen—By Govt.—Direct

consumption? You have said that it was sold, who was it sold to?

Mr. Heller: He didn't testify to that at all, and I object to the characterization of his testimony.

Mr. Rice: He said definitely, he definitely said that it was all sold and none of it was destroyed.

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The Court: He said that, and I said that he must give us days and names. We cannot have just general statements. Let us have the dates and names. Go ahead, tell us any other occasions if you want.

Q. Do you remember any other occasions? A. I didn't get that question.

Q. Do you remember any occasions after May 16th and before July 26th, 1934, when diseased unfit poultry was sold by the Schechters?

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Mr. Heller: I object to that, there is no such testimony, and I object to counsel characterizing it.

The Court: Oh, yes, he made the general statement and I am keeping him now down to the specific date. If he does not know the date, if he can't recall it, that is one thing, but if he knows it he can give us the dates.

Q. Answer the question. A. Yes, sir.

Q. When? A. During all that time.

The Court: No, that isn't it, tell us some people to whom it was sold.

The Witness: To whom?

The Court: Yes.

Samuel Cohen—By Govt.—Direct

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The Witness: We had quite a few of them, do you want the names of them?

The Court: Yes, tell us when it was sold and about when it happened.

The Witness: Wagshal Brothers is one that buys them.

Q. They buy the unfit chickens you mean? A. That is right. Stauber, 1753 Prospect Avenue is the second one, 583 Blake Avenue is a third one. That is just about all that I can remember.

Q. How often are these unfit diseased chickens sold?

Mr. Heller: I object to that, your Honor.

The Court: How often did they sell them to these people that he has mentioned?

The Witness: Yes.

Q. Yes, to these people. A. Very often during the week.

Q. How often? A. About twice, three times a week.

Q. During all of this period from May 16th to July 26th? A. Yes.

Q. You say that they destroyed no live chickens? A. No.

Q. Sold them all? A. Nothing was destroyed; nothing is destroyed even at this present time.

Q. About how much do they sell these unfit chickens for to these particular people at the time that you designated? A. Seven, eight, nine, ten cents, whatever they can get for them.

Q. When the market is 14 cents on the regular poultry market, how much do they get, about, for this unfit poultry?

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Samuel Cohen—By Govt.—Direct

Mr. Heller: I object to the form of that question; let him state on a specific date what the market price was, and what they sold them for.

The Court: He can state as near as he can, he has given us the people.

Mr. Heller: Yes.

Q. Tell us as near as you can. A. What was the question?

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The Court: What was the difference, as near as you can give it to us?

The Witness: I can't do that, your Honor; I can't.

The Court: What was the market price during this time?

The Witness: We never follow up the market, your Honor.

The Court: Then you do not know the market?

The Witness: That is right.

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Q. Do you know about how much these people paid for these unfit chickens? A. I said from 7 to 10 cents.

Q. Did they pay 7 to 10 cents per pound or were some other arrangements made? A. Per pound.

Q. Was there any arrangement, any other arrangement made by Alex, Aaron and Martin Schechter with these customers as to the number of pounds? A. Not that I know of.

Q. Did they ever sell them at the full price for regular poultry, but cut the poundage in half?

Mr. Heller: I object to the suggestion of counsel.

Samuel Cohen—By Govt.—Direct

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The Court: Yes, he said he didn't know; you ought not to lead him. Let the witness testify.

Mr. Rice: I thought I had exhausted his memory on that.

The Court: I do not know; he said he didn't have any.

Q. What arrangements are made or what arrangements were made during that period with these particular customers by the Schechters? A. I didn't see any arrangements made by the Schechter brothers and the customers, but what I did see on some occasions on the ticket where there would be two or three hundred pounds of poultry that was unfit, he would put it down say at 14 cents, and at the same time the party on the other end would know it is half of that.

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Mr. Heller: I object to what the other party would know.

The Court: Yes, strike out what the other party knew.

Q. You said on the ticket when it was how many pounds? A. Two hundred pounds.

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Q. All right; 200 pounds sold? A. Yes, sir.

Q. What would the ticket show as to the number of pounds sold? A. Fourteen cents.

Q. But how many pounds? A. Two hundred pounds.

Q. How many pounds would have been sold on that occasion?

Mr. Heller: I object to what would have been done; let him specify it. We are met here with generalities that we will never be able to bring any witnesses on.

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Samuel Cohen—By Govt.—Direct

The Court: That is correct; the jury will disregard that. He has already told us that they put on 200 pounds at 14 cents, and then he surmises that something else happened.

Q. Do you know how many pounds were actually included in such sales?

Mr. Heller: He said 200 pounds.

The Witness: Around 200 pounds or more or less; I just can't state.

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Q. Is that the number of pounds shown on the ticket? A. Yes.

Q. Or the number of pounds actually sold? A. The number of pounds shown on the scale.

Q. On the scale? A. Right.

Q. And then do you mean that the customer paid 14 cents, or actually paid only 7? A. 7.

Mr. Heller: I object to that. He said what the ticket shows.

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The Court: Yes; he can state what he knows, but that isn't right. The jury will disregard that because he said just a moment ago that he was surmising what the customer did, he didn't know it.

Q. Well, now, do you know—

The Court: If he saw the payments made on any of those occasions, all right.

Q. Do you know what happened on these occasions? A. In reference to what?

The Court: Did you see the payment made for these unfit chickens?

The Witness: No, sir.

Q. Did you see the amount of poundage recorded on the ticket? A. Yes.

Q. Was that the number of pounds actually sold? A. Yes.

Q. Did they record the amount, did they record the precise weight on the tickets? A. Full weight, what the scale called for.

Q. But you say this unfit poultry is generally sold to these particular customers? A. That is right.

Q. During that time, at 7 or 8 cents a pounds?

A. Right.

Q. Do you know what class of people—

Mr. Heller: He only surmised that.

The Court: No, he said that long before, he said it was sold at from 7 to 10 cents a pound.

Mr. Heller: All right.

Q. Do you recall Thursday, June 28th, Sam Tanowitz of 5303 Church Avenue, came to the Schechter Market? A. Right.

Q. Who was present at that time? A. All three brothers.

Mr. Rice: This is Count 26, your Honor.

Q. Alex, Aaron and Martin? A. Right.

Q. How much poultry did Tanowitz order? A. About three coops.

Q. Did he reject any? A. Yes, quite a bit.

Q. How much, about how much? A. Close to a coop.

Q. Were there some fit poultry among the poultry rejected? A. Yes.

Q. Were all of the Schechters present at the time of the rejection? A. Right.

2590 *Samuel Cohen—By Govt.—Direct*

Q. Did they raise any objection? A. Not that I know of.

Q. What happened to the rejected chickens? A. Back in the coop.

Q. Then what happened to them? A. Sold during the course of the day or probably the next day.

Q. They were sold? A. Yes.

Q. Either that day or the next? A. Yes, sir.

Q. On that same day at what time did you arrive in the morning? A. About three thirty.

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Mr. Rice: This will relate to Count 35,
your Honor.

Q. Did you see anybody from the Code Authority there on that day, that is, Thursday, June 28th? A. On that day?

Q. Yes, on that day. A. Yes.

Q. Who? A. About five minutes to five I had seen Mr. Alampi.

Q. Alampi? A. Right.

Q. What did you see? A. I have seen he was coming into the place.

2592 Q. You say Alex, Aaron and Martin Schechter were all there? A. Right.

Q. Was there any conversation between Alex, Aaron and Martin Schechter on the one hand, and Alampi on the other, anything said? A. Yes.

Q. Tell us everything that was said? A. Plenty.

Q. Tell us everything, just the way it was said. A. (No answer.)

Q. Just tell us what happened when Alampi came in.

The Court: Wait now, we will have it.
What each one said.

The Witness: I wish you would not insist, Mr. Rice.

The Court: Come right along. Don't be bashful. Come right along.

Q. Face over this way to the jury, Mr. Cohen.
What was said? A. (No answer.)

Q. Alampi came into the place and what happened? A. He did not come into the place

Q. What happened? A. Just about when he was coming in.

Q. Yes?

The Witness: Your Honor——

The Court: Come along and tell us who said anything and what they said and what they did.

Q. There is nothing funny about this, Mr. Cohen.

Mr. Heller: Did I understand all this happened outside of the premises?

The Court: He said just as he was trying to come in.

The Witness: By the door.

Q. Did all three of the Schechters—all three of the Schechters were at the doorway there?
A. Yes.

The Court: Who first said anything?

The Witness: Abe Schechter.

The Court: What did he say and to whom?

The Witness: To Mr. Alampi.

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Samuel Cohen—By Govt.—Direct

Q. What did he say? A. Called him a son-of-a-bitch and everything else that went with it.

Q. Tell us just what was said. A. Mr. Rice, I cannot say it.

The Court: Go ahead.

The Witness: Your Honor, I will not state it.

The Court: After that preliminary, what did he then say?

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The Witness: He wouldn't let Mr. Alampi in, the three of them.

Q. What did they talk about, did they talk about Mr. Peterson? A. Yes.

Q. What was said? A. He called him all kinds of names.

Q. What did he call him? A. Bastard and son-of-a-bitch and everything else.

Q. Who called him that? A. Abe Schechter, Meyer Schechter.

Q. And Alex Schechter? A. Alex, I wouldn't recall.

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Q. Was Alex standing there? A. Probably, yes.

Q. What else did they say about him? A. To hell with the Code Authority, and going to pack up Peterson in his grip and ship him back to Washington.

Q. Anything else? A. Racketeers and everything else.

Q. Called who racketeer? A. Mr. Peterson.

The Court: Come along, let us have the story now. You have gotten through with the preliminaries that you did not want to state. Now tell us what was said. Come on along.

The Witness: Your Honor, I cannot.

Q. Tell us in your own words. It will take less time, Mr. Cohen. You just tell the entire conversation.

The Court: You have gotten through with the swear words. No go ahead and tell us the rest, what was said.

The Witness: That is the names he called him, your Honor.

The Court: All right, the names we have gotten and all that; what else did they say?

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The Witness: He was going to pack him up to Washington, or going to ship him with his grip, and called him different names, racketeering and everything else, that they are the ones that racketeer—that are racketeers in this business.

Q. That is, that Peterson and Alampi were the racketeers? A. Yes, Peterson and the entire Code Authority.

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Q. What did Alampi say? A. I really did not hear what Mr. Alampi has said to them because—

Q. Did he say he wanted to come in? A. Yes, he wanted to come in.

Q. Did he rap at the door? A. No, the door was open.

Q. What did he do, did he stick his foot in the doorway? A. Yes.

The Court: Come on and tell us. Why do we have to ask so many questions?

The Witness: Oh, your Honor, that is all I have heard, because I went in on the

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Samuel Cohen—By Govt.—Direct

inside and started killing poultry with the butchers; all I have heard are those names.

Q. Did Alampi say he wanted to come in? A. Yes.

Q. What did they say, what did Abe, Meyer and Alex Schechter say? A. Abe will not let him.

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The Court: What did they tell him? What did they say to him, if anything?

The Witness: Call him, "you son-of-a-bitch," that is what he called him.

The Court: Is that all that was said to him?

The Witness: And then he started with the Code Authority, "dirty bastards," "Mr. Peterson is going"—he is going to pack Peterson up and send him back to Washington, racketeering; and they are the racketeers, they are the racketeering people, the entire Code Authority.

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Q. Did he say anything to Alampi? A. Yes, he says, "What the hell do you know about chickens?"

Q. What did Alampi say? A. I don't know what he said. I went in on the inside then after that.

Q. Did they say anything as to Alampi? A. I don't know as to that.

Q. Did they tell him to come in? A. No, they won't let him in.

Q. What did they say about coming in? A. Keep to hell out.

Q. Anything else? A. That is all I know of.

Q. Who said that? A. Abe Schechter.

Samuel Cohen—By Govt.—Direct

2605

Q. On that same day, that is June 28th, Thursday, 1934, do you remember whether anybody else came into the place? A. Yes.

Q. Who? A. About 11 A. M. Dr. Gardner and Mr. Forsmith came into the place.

Q. Yes; what happened? A. They walked up in back of the market and they came back towards the front.

Q. What was said? A. Nothing said.

Q. Did Mr. Forsmith say, "Have you any culis here?" A. Yes.

Q. Did anybody answer him? A. I think Al Schechter answered him.

Q. Were Abe and Meyer present? A. Abe, I am not sure. Meyer was present, Meyer and Al.

Q. What did Alex say? A. Told him there is none.

Q. Told him there isn't any? A. Right.

Q. Then what was done? A. Then he walked back Dr. Gardner.

Q. Who? A. Mr. Forsmith.

Q. What did he do? A. Walked back in the back room, found about three or four chickens.

Q. Wasn't it about six or eight? A. Well, I seen him bring up three or four birds towards the front.

Q. What sort of chickens, were they healthy or unfit chickens? A. Unfit.

Q. What was done with them? A. Destroyed.

Q. Upon direction of Dr. Gardner? A. Dr. Gardner destroying them.

Q. Did they look around thoroughly to find other unfit chickens? A. They did.

Q. Forsmith and Dr. Gardner? A. Right.

Q. Did they find all of the unfit chickens in the place? A. No.

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Samuel Cohen—By Govt.—Direct

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Q. Which ones didn't they find? Speak up and tell us everything in your own words? A. Well, that is all they found, Mr. Rice, is that three or four chickens.

Q. Were there some other unfit chickens in the place? A. Yes.

Q. Tell us about it. A. There was a whole coop, a full coop stacked up on the top.

Q. Of chickens unfit for human consumption? A. Right. I would not say all of them, but the majority.

2609 Q. And Forsmith and Gardner did not find them? A. That is right.

Q. And they were not condemned? A. Right.

Q. What happened to that coop of unfit chickens? A. Killed off.

Q. And sold? A. Right.

Q. That day or the next day? A. I just cannot recall whether it was that day or the next day.

Q. Within the week? A. Within them two days.

Q. They were all sold? A. Yes.

2610 Q. What happened after—

Mr. Rice: This next related to Count 36.

Q. (Continuing) What happened after Dr. Gardner had condemned the chickens on that day? A. What happened after—then they got into an argument.

Q. Who? A. Al Schechter, Meyer Schechter, Dr. Gardner and Mr. Forsmith.

Q. What happened? A. The same thing started all over again, about the Code Authority.

Q. Well, what did Alex, Martin and Aaron say? Were they all three present? A. No.

Samuel Cohen—By Govt.—Direct

2611

Q. Which one was missing? A. Aaron Schechter.

Q. What did Martin and Alex say? A. That the Code Authority is railroading him.

Q. What else? A. Before you know it, that is, speaking to Mr. Forsmith, before you know it I will pack up that son-of-a-bitch and ship him back to Washington.

Q. Who? A. Mr. Peterson and the entire Code Authority.

Q. Who said that? A. Al and Meyer.

Q. Both of them? A. Right.

Q. What else did they say? A. Different other vile names, called—

Q. What did they call him? A. Bastard and son-of-a-bitch and everything.

Q. Who did they call that name or those names? A. Mr. Peterson and the entire Code Authority.

Q. Did they call Forsmith any names? A. Not that I know of.

Q. What did they do to Forsmith? A. They told him he is railroading them with Dr. Gardner.

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Q. What did Forsmith do?

The Court: What was that?

The Witness: He is railroading him.

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Q. What did Forsmith do? A. He went into the office with them, and he tried to cool down.

Q. Was Forsmith polite to them? A. Yes.

Q. Did Forsmith use any bad words? A. No, he told them "Don't get excited."

Q. Well, what did Alex and Meyer do after Forsmith went into the office? A. I did not follow him into the office, but I heard him hollering; what it was, I don't know.

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Samuel Cohen—By Govt.—Direct

Q. You heard them hollering? A. Yes.

Q. At whom? A. One another.

Q. You mean at Forsmith? A. Right.

Q. And did they talk to Dr. Gardner? A. Yes.

Q. Both Alex and Meyer? A. Yes. They told him that the Code Authority is railroading them, and the same thing all over again, Mr. Peterson and the entire Code Authority.

Q. Did they do anything—did Forsmith and Dr. Gardner try to leave? A. Yes.

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Q. What happened? A. I just cannot recall what happened; I know Meyer Schechter and Al, the two of them were nervous.

Q. What do you mean they were nervous? A. They were on the verge of striking somebody, Forsmith or Gardner.

Q. And why do you say they were on the verge of striking somebody? A. They were all excited.

Q. Did Forsmith and Dr. Gardner try to leave? A. Yes.

Q. And did they leave? A. They could have left.

Q. Did anybody stand around them when they tried to leave? A. Al and Meyer Schechter; he told them he won't let them leave until he takes them to his own market and shows him where he has unfit poultry in his own place.

Q. To whom did he say that? A. Forsmith.

Q. And did they stand around Dr. Gardner too? A. Yes; the four of them was around together.

Q. Did Dr. Gardner try to leave? A. They won't let him leave, they wanted to take him along.

Q. Did they ask him anything about the F. F. A.? A. I don't know that.

Samuel Cohen—By Govt.—Direct

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Q. Or about the certificate that he was making out, about finding the diseased chickens there?

A. I cannot recall now, Mr. Rice.

Q. Did you hear anybody tell Forsmith or Dr. Gardner that they could not leave until they gave the Schechter brothers an O. K.? A. Right.

Q. What did they say about that? A. Al Schechter said he won't let them go until he gives them the O. K. Dr. Gardner is going to make out a summons, and then Al Schechter got excited and told him he won't accept it and he won't let him go until he O. K.'s that ticket.

2618

(Ten-minute recess.)

Q. Mr. Cohen, did you have any conversations with Joseph Schechter between May 16th and July 26, 1934? A. Yes.

Q. This is Joseph Schechter, the first one here at the table? A. Right, once in a while.

Q. Several times during that period? A. Yes, while going home.

Q. While going home? A. Right.

Q. What did he say to you?

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Mr. Heller: Just a moment; let us have the month, the day and the place.

The Court: That is right. He has given the place and the person with whom he is talking; he will identify the time.

The Witness: I can't recall the date.

Q. Did you have a conversation with him shortly after May 16, 1934? A. Yes, sir.

Q. What did he say to you? A. While going home, he lives in my neighborhood, I have gone home with him quite a few times, and during the

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Samuel Cohen—By Govt.—Direct

time from the time we have left the market until the time I reached my house, we would talk about the Code and the Code Authority and the entire industry. He remarked he could not see where he was violating the Code, and he brought up an instance where, with Henry Ford practically doing the same thing, living up to the Code rules and not violating the Code.

Q. Did he brag to you about anything? A. Yes.

2621 Q. What did he say? A. "I don't give a damn for the Code."

The Court: I can't hear you.

The Witness: "I don't give a damn for the Code; it isn't worth anything."

Q. What else did he say? A. That is all I can recall.

Q. Did he say anything about violating the Code? A. No.

Q. Did he brag that he wasn't living up to the Code? A. No.

2622 Q. Did he boast about anything? A. Yes, sir.

Q. What did he boast about? A. About the Code, that it wasn't worth a damn.

The Court: About what?

The Witness: About the Code.

Mr. Heller: He said it isn't worth a damn.

The Court: Is that all?

Q. What else? A. That is all.

Q. Did he say anything about having a lawyer? A. Yes.

Q. What did he say? A. If there is any trouble coming he is prepared for it.

Samuel Cohen—By Govt.—Cross

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Q. Did he say anything else? A. That is all I can remember, Mr. Rice.

Q. Did he say anything about doing as he pleased?

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

A. I can't recall that.

The Court: I guess you withdraw the objection.

Mr. Heller: Yes.

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Q. Will you look at this middle paragraph on page 20 of your affidavit; read that and see whether it refreshes your memory? A. Yes, I have stated that, Mr. Rice.

Q. I do not think you have stated everything in there; did you? A. Yes.

Q. Well, tell us again. I do not believe you did. You may have thought you did. A. You ask me the question.

Q. What did Joe Schechter tell you? A. He is prepared for all the trouble, "I have a lawyer already prepared. If there is any trouble from the Code, I have a lawyer working on the case."

Q. Did he brag that he didn't care about the Code and Code Supervisor, and that he would do as he pleased? A. Yes.

Mr. Rice: That is all.

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Cross examination by Mr. Heller:

Q. Now, Mr. Cohen, you are at this moment employed by the Schechter firm at 858 East 52nd Street? A. Yes, sir.

2626

Samuel Cohen—By Govt.—Cross

Q. You intend to go back there to work tomorrow morning? A. I do not know, sir.

Q. You haven't been fired today, have you? A. I might.

Q. Has anybody told you that you shouldn't go to work tomorrow? A. No, sir.

Q. You intend to go to work tomorrow morning, do you? A. Yes, sir.

Q. You have been working right up to this moment there, haven't you? A. Right.

Q. Received your pay? A. Sir?

2627

Q. Have you received your pay? A. Yes.

Q. For the work you have done? A. Right.

Q. And did I understand you to say that you were a laborer, on direct examination? A. An inside man, yes, do laboring work.

Q. You earned as much as \$90 a week at the firm? A. Right.

Q. Have you earned as much as \$70 a week? A. Yes.

Q. What is the lowest pay you ever—what is the lowest pay you get every week on an average, what is the lowest you ever earned? A. \$55.

Q. And chickens in addition to that? A. Right.

Q. Take them home with you, don't you? A. Yes.

Q. Never any trouble about being paid for your work? A. No, sir.

Q. Have you ever—if you need an advance, you get it? A. Sometimes.

Q. During the week? A. Right.

Q. Before pay day? A. Right.

Q. You are the secretary of a union, are you not? A. Right.

Q. Do you know that there—I will withdraw

Robert Lenhart—By Govt.—Direct

2629

that. During these incidents that you speak of, when the three Schechter brothers were present, about the selection of chickns on the dates mentioned by you on direct examination, did I understand that they were the only three present with you? A. What dates was that?

Q. All the dates that you mentioned with reference to the selection of chickens.

Mr. Rice: If your Honor please, I should like to interrupt this witness' cross examination to put a very short witness on. I think it will take only a minute.

2630

The Court: If Mr. Heller does not object.

Mr. Heller: No, no, I don't object.

The Court: Do you want this witness to stay in or go out?

Mr. Heller: Yes, he may stay in.
(Witness temporarily withdrawn.)

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

2631

Direct examination by Mr. Rice:

Q. Mr. Lenhart, you were an investigator for the Live Poultry Code Authority on June 25, 1934? A. Yes, sir.

Q. On that day did you go to Joe Schechter's market? A. I did.

Q. 991 Rockaway Avenue, Brooklyn? A. That is right.

Q. Was Joseph Schechter there? A. Yes.

Q. While you were there? A. Yes, sir.

2632 *Robert Lenhart—By Govt.—Direct*

The Court: What date was that, please?
 Mr. Rice: June 25, 1934. This is
 Count 28.

Q. Were you there when Rabinowitz, a customer from 508 New Lots Avenue, Brooklyn, came to purchase poultry? A. I remember the address; the name I did not get.

Q. Was that the address of the customer? A. That is the address.

2633 Q. About how much poultry did he select? A. He looked over 24 birds and bought 20; 4 he rejected.

Q. He selected a half coop? A. That is right.

Q. And rejected 4? A. 4 of those birds were rejected.

Q. Were some of the 4 rejected birds fit for human consumption? A. In my opinion, yes.

Q. What was done with the 4 rejected birds? A. At the time they were rejected, they were put in an empty coop and later put in with other birds and offered for sale.

2634 Mr. Rice: That is all.

The Court: Wait a minute. You have not identified him very well. Do you know any identification of the customer at all?

The Witness: Only his address.

The Court: What was it?

The Witness: 508 New Lots Avenue.

Q. You don't remember whether his name was Morris Rabinowitz? A. No, sir.

Mr. Rice: That is all.

Robert Lenhart—By Govt.—Cross

2635

Cross examination by Mr. Heller:

Q. What was your employment prior to your employment with the Code Authority? A. I was employed in the State Institute of Applied Agriculture, Farmingdale.

Q. You were engaged in an institution? A. At Farmingdale, yes, sir.

Q. Farmingdale, New York? A. That is right.

Q. As what? A. I was working for the farm superintendent.

Q. You work now for the Code Supervisor? **2636**
A. No, sir.

Q. Lost your job? A. No, I quit it.

Q. Quit yourself? A. Yes, sir.

Q. At the time the selection of chickens was made did you inspect the box or crate from which the chickens came? A. Did I inspect it?

Q. Yes. A. I looked at it, yes.

Q. Did you see the label showing that the merchandise was inspected? A. No, sir, I did not.

Q. Did you look for it? A. I did not look for it.

Q. You don't know whether it was or not? A. I don't.

Q. And did you examine the birds that were rejected by the customer? A. I did.

Q. You personally? A. Yes.

Q. What did you find wrong with them? A. Nothing.

Q. They were good, healthy poultry? A. Yes, I believe they were.

Mr. Heller: That is all.

Mr. Rice: That is all.

(Witness excused.)

2638

Samuel Cohen—By Govt.—Cross

SAMUEL COHEN, resumes the stand:

Cross examination (continued) by Mr. Heller:

Q. Now, Mr. Cohen, is there anything unusual about packing or repacking of poultry, any suspicious circumstance attached to that? A. No.

Q. Sometimes the poultry is packed too tightly in a box? A. Right.

Q. Too many birds in one box? A. Right.

Q. So that you take them out and put them in another one? A. That is right.

2639 Q. There is nothing unusual about that circumstance, is there? A. No, sir.

Q. That is done every place, is it not? A. Yes.

Q. Now, Mr. Cohen, I understood you to say you were secretary of the union and that as secretary of the union you made a memorandum of the poundage of poultry purchased or sold, is that correct? A. I did not.

Q. What was your duty, what did you do? A. I have kept a record of how many coops come in.

2640 Q. That is all you did? A. Not the poundage.

Q. You did not take the poundage? A. Right.

Q. Just the number of coops? A. Right.

Q. Count the birds? A. No.

Q. Just the number of coops? A. Right.

Q. That is all you were called upon to do? A. Right.

Q. By your union? A. Right.

Q. Nothing else? A. Nothing else.

Q. They did not ask you to look to see whether there were any labels or not? A. No, sir.

Q. That was not part of your function? A. No, sir.

Q. Was there anything peculiar about the baskets that came in that forced you or compelled you to find out whether any inspection labels were attached? A. I did not get that question.

Q. Did anybody tell you to look for labels? A. Nobody told me.

Q. You did that of your own accord? A. Right.

Q. You examined each and every basket? A. Right.

Q. How much time did you take to do that? A. Just a few minutes.

Q. How many baskets did you look at? A. 82 baskets.

Q. Did you examine each and every one? A. Looked them all over.

Q. Feel every one? A. No.

Q. Turned them around? A. No.

Q. Just made a general view of them? A. Yes.

Q. Let your eyes go over it? A. Right.

Q. Then you determined for yourself they were not inspected? A. Right.

Q. You did not see the poultry come in yourself, did you? A. No, sir.

Q. You assumed they were uninspected because you did not find a label? A. That is right.

Q. Is that the idea? A. Right.

Q. You cannot say for sure whether they were there or not, except from your observation of the baskets? A. Right.

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

Q. You did not bring it in yourself? A. No, sir.

Q. Now, among your duties do you go out with a truck? A. I do.

Q. Occasionally? A. No.

2644

Samuel Cohen—By Govt.—Cross

Q. How many times a day? A. Some days I don't go out at all.

Q. Some days you do? A. Very seldom.

Q. How long do you stay away from the plant? A. A few minutes.

Q. With a truck? A. Yes, unless I go to the market.

Q. The West Washington Market? A. Right.

Q. Now, how many miles is that from 858 East 52nd Street? A. I don't know.

2645

Q. 858 East 52nd Street is in the Borough of Brooklyn? A. Yes.

Q. And West Washington Market is in the Borough of Manhattan? A. Yes.

Q. And that place is out in the sticks in Brooklyn? A. I don't know whether it is the sticks or not, but it is in Brooklyn.

Q. East Flatbush? A. The Rugby section.

Q. That is why they call this place the Rugby Market, isn't it, because the place is known as the Rugby section? A. I know it is known as the Rugby section.

2646

Q. And that is the reason that this place is called the Rugby Poultry place? A. I don't know if that is the reason.

Q. Now, most of the poultry comes in on a truck from the West Washington Market? A. Or from the New York Central Yard.

Q. Most of it? A. Yes.

Q. Pretty near all of it? A. Not all of it, but the majority.

Q. And occasionally some comes in from elsewhere? A. Yes.

Q. Those are the rare occasions? A. Yes.

Q. When the market is scarce? A. Yes.

Samuel Cohen—By Govt.—Cross

2647

Q. And when the supply is limited? A. I don't get that quite clear, Mr. Heller.

Q. Do you know whether the poultry coming into West Washington Market and the 60th Street Railroad Yard is inspected poultry? A. Yes. And also from the other railroads.

Q. Always inspected? A. Right.

Q. No question about it? A. Right.

Q. And the poultry that was sold on the occasions June 22nd, June 28th, June 25th, June 24th, and June 26th, that was inspected poultry, was it not? A. Give me one date at a time, Mr. Heller.

2648

Q. Do you know—I will put it this way: Do you know from your own knowledge whether any of the poultry sold to people that selected them, that you described on direct examination, was poultry that did not come in from the West Washington Market or the 60th Street Yard? A. Right.

Q. Everything came in from there? A. With the exception of the Friday's poultry.

Q. Which day is that, May 25th? A. May 25th.

Q. Now I am talking about the month of June. A. I cannot recall that.

2649

Q. All the poultry that you testified to on direct examination that was selected by these various customers, when they rejected some, that came out of the crates that were inspected?

Mr. Rice: Now, just a moment. Let us see whether this witness knows if this poultry was inspected. We have confined our direct examination to those instances where this witness has direct knowledge. I think a foundation should be laid to show whether or not Mr. Cohen has any direct

2650

Samuel Cohen—By Govt.—Cross

personal knowledge as to whether this poultry was inspected or not.

The Court: He can cross examine him, and if he does not know, he can so state.

Q. Do you know? A. Ask me that question again.

The Court: Read it.

(Question repeated by the reporter.)

2651

A. The date when?

Q. All the time in the month of June. A. June 6th.

Q. That is the poultry you speak of sold to Wagshaul brothers and Stomberg, that came out of a box that was selected? A. Right.

Q. But they were rejects, is that correct? A. Right.

Q. In other words, you claim that the customer came in and wanted two or three coops of chickens, rejected some and took the others, and those rejected ones were put in another box? A. Probably not in another, probably the same box.

2652

Q. The box that they came out from were chickens that had already been inspected by the Government? A. Yes.

Q. Now, do you make a study of the diseases, and their nature, in so far as they apply to chickens? A. Did I make a study of diseases?

Q. Yes. A. Well, I can tell a sick bird.

Q. You mean from experience? A. Yes.

Q. From your long time of experience? A. Yes.

Q. In other words, by examining a chicken and looking at it you can tell whether the chicken is sick or not? A. Right.

Q. And you can diagnose what disease the

Samuel Cohen—By Govt.—Cross

2653

chicken suffers from? A. I cannot diagnose the disease, but I can tell a pretty sick bird.

Q. Do you know whether it is cancer by looking at it? A. No, sir.

Q. And do you know whether it is cholera by looking at it? A. No, sir.

Q. You cannot tell that? A. No.

Q. What you can tell is probably that it has a cold? A. Yes, sir.

Q. And that is about the limit of about what anyone can tell? A. Yes.

Q. Do you know that you do not get sick from eating a chicken that has a cold?

2654

Mr. Rice: I object; this witness is not qualified as an expert witness. We have not used him for the purposes of proving the sale of any particular cull.

The Court: No, but he has testified that it was fit or unfit for human consumption, and Mr. Heller has a right to know what he bases that on.

Q. Do you know whether a person can eat a chicken that has suffered from a cold, without getting sick, do you know that of your own knowledge? A. Not only from a cold you can't.

Q. He cannot get sick, can he? A. No.

Q. So when you speak of chickens unfit for consumption you mean culls, don't you? A. Culls and—

Q. And a cull is known in the trade as a lean chicken? A. No, a poor chicken, a bad chicken.

Q. Now, what do you mean by a bad chicken? A. A sick chicken, a bad chicken.

Q. What do you mean by a sick chicken? A.

2655

2656

Samuel Cohen—By Govt.—Cross

Eyes swollen, wings broke, bruised, hernia, and stuff coming out of the nostrils.

Q. That is a cold? A. I don't know that it is.

Q. Do you know what it is? A. I know one thing, it is not a well chicken.

Q. Well, then, confining yourself to a sick chicken as one being thin, or with a broken wing, or a broken leg and a bad cold—

Mr. Rice: If your Honor pleases, that is not the witness' testimony.

2657

The Court: He did not say that.

Q. Does it make any difference whether the leg is broken or a wing is broken? A. Practically the same.

Q. Those are termed culls, or, as you call them, diseased chickens? A. Yes.

Q. Can you get sick from eating a chicken that has a hernia? A. I never tried it.

Q. You know what a hernia is in a chicken? A. Sure.

Q. What does it mean? A. A rupture.

Q. The same as a broken wing? A. No.

Q. It is in a different place? A. Right.

Q. And that is all the difference there is? A. That is all.

Q. Now, these chickens that were rejected, that you claim were diseased, or culled chickens, were put into different boxes? A. Correct.

Q. And some other customer came along and bought those chickens? A. Not all of them were diseased.

Q. Well, what you call diseased chickens? A. Naturally, these chickens that was rejected were put back in a coop.

Q. These chickens that you described as

2658

eased chickens were put back in a coop? A. I don't describe any diseased chickens.

Q. Or culls; do you wish to change your testimony?

Mr. Rice: If your Honor pleases, this witness confined his testimony on direct examination to chickens unfit for human consumption, he did not mention the word cull. It is quite possible that the word culls may have a broader meaning and include seconds.

Q. All right, those unfit chickens you described as containing those elements that you told the stenographer a minute ago—

Mr. Rice: May we have it understood that an unfit chicken is a chicken unfit for human consumption?

Mr. Heller: I can only understand it as it is claimed by this witness, unfit chicken.

Q. Now, these unfit chickens with a broken wing or a broken leg, or swollen eyes, are put in a separate coop? A. Right.

Q. Those very chickens have come out of a box that was inspected by the Government inspector? A. Right.

Q. And those chickens were sold to the people you mentioned? A. Yes.

Q. One named Wagshaul? A. Right.

Q. And one Stauber? A. Right.

Q. And the Schechters had paid for these chickens as they came in? A. That I don't know.

Q. In the course of events, they pay their bills, don't they? A. Yes.

Q. They pay you, don't they? A. Yes.

2662 *Samuel Cohen—By Govt.—Cross*

Q. Their credit is pretty good, isn't it? A. Yes, very good.

Q. And they are well-thought-of in the industry? A. Yes.

Q. Now, do you know what instructions are received both by you and your co-worker when you go to West Washington Market to get the chickens? A. No instructions.

Q. Were you ever told to cull out the bad chickens when you got down to the market? A. No, sir.

2663 Q. Did you ever do it? A. Probably one or two occasions.

Q. You do it? A. Yes.

Q. Trying to get the best there was whenever you can, to cull them out? A. Well, I do not know if he tried, Mr. Joe Schechter was the buyer.

Q. He bought all the time? A. Yes, sir.

Q. Did he buy during the month of June? A. I just can't recall whether he did or not.

Q. Try and recall whether or not Alexander was the one that made the purchases in the months of May and June, or whether it was really Joe Schechter. A. No, Joe Schechter.

Q. You are sure? A. Yes.

Q. In the month of May? A. Not up to the Code.

Q. May 16th? A. Yes.

Q. Up to that time he bought the chickens? A. Not up to that time, it was Al Schechter up to that time.

Q. And after that time Joe Schechter? A. He was buying and is still buying.

Q. Right along? A. Yes, sir.

Q. From May 16th? A. I just can't recall

whether it was May 16th, but after that time it was Mr. Joe Schechter.

Q. He bought the chickens, did he? A. Right.

Q. You were present when he bought the chickens? A. No.

Q. Then what makes you say that he bought the chickens? A. Because the three brothers remained in the place.

Q. Every day? A. Pretty near every day.

Q. And you mean Joe Schechter was away from the place? A. That is right.

Q. Do you know whether 991 Rockaway Avenue was open during the month of June? A. I can't recall that.

Q. Did you ever see him at 991 Rockaway Avenue? A. I was there on one occasion, yes.

Q. Did you find him over there? A. No, sir.

Q. Don't you know that the place was operated until July at 991? A. I can't remember.

Q. Try and recall and make sure. A. I can't because I wasn't employed there and I wasn't interested.

Q. But you were employed at 858 East 52nd Street? A. Right.

Q. My understanding is that Joe Schechter met you occasionally, once in a while, at 4 o'clock when you left for your home? A. Right.

Q. He came to 858 East 52nd Street at 4 o'clock and picked you up? A. Once in a while, yes.

Q. Occasionally during the month of June? A. Yes; I just can't remember whether it was during the month of June.

Q. Were you asked that question when you made that affidavit, did you make that statement or were you asked the question whether or not

2668

Samuel Cohen—By Govt.—Cross

Joseph Schechter was operating 991 during the month of June? A. No.

Q. When you made that affidavit? A. No, I can't recall that.

Q. You can't recall that, you wouldn't commit yourself one way or the other? A. No, sir.

Q. You are not definitely sure now that Joe Schechter made the purchases during the month of June for 858 East 52nd Street? A. I am not sure.

2669

Q. But you are sure that the other three Schechter brothers were present most of the day during the month of June when the selection was made of chickens? A. I do not get you.

Q. During the month of June you testified that selections of chickens were made by customers, you testified as to four or five instances. A. Yes, sir.

Q. During that period of time? A. Right.

Q. You are definitely sure? A. Yes.

Q. That the three Schechter brothers excluding Joseph Schechter— A. Right.

Q. Were present at the premises? A. Right, with the exception of a few times.

Q. A few times, who was absent? A. Joe Schechter was also there.

Q. Joe Schechter was there too? A. Yes.

Q. During the month of June? A. I cannot recall whether it was during the month of June.

Q. You say there were two working men there, is that right? A. Right.

Q. And who was the other gentleman? A. Abe Danziger.

Q. There were two working men outside of the Schechters? A. Yes, and then there is—

Q. And then you picked—