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Julius Kastein—By Defts.—Cross

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Q. Didn't you as a matter of fact tell Mr. Heller or one of the Schechters that this matter was taken up in the Advisory Committee of the Code Authority? A. No, sir.

Q. You did not know who told it? A. No, sir.

Q. It would not be you by any chance? A. No, sir.

Q. You talked this matter over with Mr. Heller before testifying? A. No, sir.

Q. About Dale's fee? A. No, sir.

Q. You did not discuss it? A. No, sir.

Q. Did you discuss any of your testimony with Mr. Heller before testifying? A. No, sir, never saw Mr. Heller before testifying, too.

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Q. You talked with nobody about your testimony before testifying? A. No, sir.

Q. Don't you think Mr. Heller was taking a chance putting you on the stand without talking to him first? A. That is his business.

Q. That is his business? A. Yes.

Q. You mean to say you did not talk with anybody about your testimony prior to taking the stand? A. Yes, sir.

Q. You know that there is nothing wrong about talking to your attorney, or the defense attorney, before taking the stand? A. I have not discussed this matter with anybody. I haven't seen Mr. Heller. I do not know Mr. Heller.

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Q. You have not discussed it with anybody? A. No, sir.

Q. And you had no idea that Mr. Heller was going to ask you about Dale's fee? A. No, sir.

Q. That just came out of the clear sky? A. Yes, sir.

Q. Did Mr. Heller know you attended that meeting? A. I don't know.

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Q. He just happened to guess right, is that it?
A. That is his business.

Q. I believe you testified on direct examination that quality has nothing to do with the price, is that right? A. Quality?

Q. Quality of poultry has nothing to do with the price? A. Quality always brings more money than average grade.

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Q. Well, if you go into the chicken store of a consumer and you look at one very high quality bird, you pay more for that than you do for the low quality bird? A. Certainly.

Q. And if the retailers go to the wholesale slaughter house operators and get a lower quality of bird they pay less for it? A. Yes.

Q. And they pay more for the high quality bird? A. Yes.

Q. And where they do selective killing, they pay more for the selected poultry than they would for the run of the coop? A. They probably would have to, yes.

Q. So quality has an awful lot to do with price, doesn't it? A. Yes.

3780 Q. Now, you are familiar with the practices on the part of the shippers? A. Yes.

Q. On the part of the packers? A. Yes.

Q. And the packers who ship their poultry to the New York market? A. Yes.

Q. You are familiar with their practices? A. I only know from hearsay and what is what.

Q. You know, don't you, that the packers make a practice of dumping the diseased and inferior poultry on the New York market? A. That is not true, no such thing as diseased poultry.

Q. That is common knowledge in this industry, isn't it? A. That is not true.

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Q. And anybody who knows anything about the packers knows that the packer dumps all his unfit poultry on the New York market? A. That is not true.

Q. You never even heard of that before? A. I know that the shippers ship poultry to New York, maybe inferior poultry, but nothing diseased.

Q. You never heard that the packers ship their inferior poultry to the New York market? A. They might ship the straight run.

Q. They dump their inferior poultry on the New York market, don't they. A. Maybe the undesirable birds, yes.

Q. The undesirable birds? A. Yes.

Q. And what they cannot use they send to New York? A. But that doesn't mean it is diseased poultry.

Q. You admit that it is inferior poultry? A. Inferior poultry can be used.

Q. You don't like the Code any more, do you? A. Right now?

Q. Yes. A. From past performance I cannot like it.

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Q. Well, why don't you resign from the Advisory Committee if you don't like the Code? A. I don't think it is right to resign; I am not here to run.

Q. What do you want to do, do you want to sit in there and listen to what is said? A. I am not just sitting in to listen to what is said. I paid my money; why should I resign?

Q. Well, why don't you let somebody sit in there who will be loyal to the Code? A. Who is not loyal to the Code?

Q. You are loyal, are you? A. Yes.

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Q. And you would not go around to people telling them what happened at the meetings? A. It is my duty to tell them what is what. That is what I am there for, to notify what is going on at all the committee meetings. We discuss everything, and whenever we want to have anything done we call on Mr. Peterson too.

Q. Didn't you say that the meetings were secret? A. Behind closed doors, but not secret. We have minutes and everything is recorded.

3785 Q. Now, do you want to change your testimony as to whether or not you told about an effort to employ Mr. Dale in an effort to assist me in the trying of this case—do you want to change your testimony about that? A. I don't want to change any testimony at all.

Q. You stick to that, do you? A. Yes.

Q. Are you familiar with all Code provisions? A. Yes, I have gone through them with Mr. Peterson and the rest of the Advisory Board.

Q. And you are familiar with Article 3, Section 2, relating to expected shipments? A. Yes.

3786 Q. And you are familiar with the rule reading as follows: "At or about noon on Tuesday of each week every member of the industry receiving live poultry in carloads, truck loads, exceeding 3,000 pounds, or express shipments exceeding 1,500 pounds, shall make to the Code Supervisor a written report, stating the amount of his expected shipments for the balance of the week, the actual number of cars expected, and such other information relating to receipts or kind of poultry, as the Code Supervisor shall require. No member of the industry shall sell, unload or deliver poultry received during the week which has not been reported as required above, except as

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provided for in approved rules of the Code Supervisor." Are you familiar with that? A. Yes.

Q. And that means that you must list all your expected receipts? A. We list only our freight.

Mr. Heller: I object to the question, if your Honor pleases, the rule speaks for itself.

The Witness: We list our freight receipts, but they do not enforce it so far as the others go.

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Q. You don't like the enforcement of that provision, do you? A. I like it, I think it is the finest thing we ever have done.

Q. It doesn't let you fix the prices, does it? A. We don't fix any prices.

Q. And it doesn't let you fix prices? A. That has nothing to do with the market at all.

Q. Do you know what the purpose of that provision is? A. Yes.

Q. What is it? A. That when we make a price on a Monday we should know the available supply and know what we are talking about. For instance, we know we have 150 cars to offer and we should not go about saying we have more or less, we should know just about what we have to offer.

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Q. And when you expect a car of poultry you must list it with the Code Authority? A. Yes.

Q. By Tuesday? A. Yes.

Q. And if you don't list it by Tuesday you cannot sell it that week, is that right? A. That is right.

Q. And do you know what the practice was in the industry prior to the adoption of that Code provision? A. Yes.

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Q. Was it not the practice, prior to the adoption of the Code provision, for a commission man to misrepresent the amount of their expected shipments? A. No, sir.

Q. It was not? Wasn't that the evil practice which the Code provision was designated to prohibit? A. We are commission men and we are compelled to take whatever they ship us, we receive shipments from all over the United States.

3791 Q. I asked you wasn't that the evil practice which the Code provision was designed to prohibit, yes or no? A. I want to answer.

Q. Yes or no. A. I want to answer you.

Q. Well, you answer yes or no, and then give your explanation. A. Yes. This plan was with the thought in mind that we should offer for sale only that which we listed by Tuesday, and we would have our available supply for the week, but it has nothing to do with express shipments.

3792 Q. But before the Code provision was adopted requiring you to list expected shipments, the commission man who had a load of poultry on hand could represent that he was not expecting any receipts, couldn't he? A. No, they would not do that.

Q. Oh, they wouldn't do that? A. No.

Q. And a commission man that had no poultry on hand could represent that he had a load of poultry coming in? A. It was never done.

Q. He could manipulate the price? A. No.

Q. And hurt the slaughter house man? A. No.

Q. And you commission men did not like that provision? A. Sure we like it, sure we like it; we had it on our exchange before.

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Q. And that was in the good old days when you could fix prices? A. We never fixed prices.

Q. You never allocated any customers? A. We never did that.

Q. And you were not among the commission men that were convicted a number of years ago for price-fixing? A. No, sir, I was not in that.

The Court: I must instruct the jury that we are not trying that other case. The question as to whether an individual has been convicted of a crime or not can be asked, and I will afterwards instruct you gentlemen what that means and how it can be used.

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Mr. Rice, you can ask each witness if they have been convicted of a crime, but do not keep harping about another prosecution.

Q. You are familiar with the Code provision prohibiting the sale of poultry unfit for human consumption? A. Yes.

Q. Are you familiar with the practice which existed prior to the Code on the part of commission men, to give a weight allowance in lieu of culling? A. Yes.

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Q. You are familiar with that? A. Yes.

Q. And that practice existed? A. That practice would be——

Q. Did it exist, yes or no? A. We never sold culls; I want that distinctly understood.

Q. Did the practice of giving a weight allowance in lieu of culling exist prior to the Code? A. No.

Mr. Heller: May we have the counsel's definition of what he means by a cull?

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The Witness: I want it distinctly understood that no poultry unfit for human consumption is sold. It is all killed before we have access to the car. The inspectors go through and kill all that poultry before we get the car. We did make allowances for poor fowl, but we do not sell culs.

3797 Q. What sort of allowances would you make?
A. We would give them a pound to a coop; it was a custom in the industry. If a man bought 30 coops of fowl we would give him 30 pounds off, as a custom.

Q. And sometimes would you give him two pounds off the coop? A. I never gave more than one pound.

Q. Other commission men would sometimes give two pounds off a coop? A. I don't know what they done.

Q. You don't know the practice on the part of the other commission men? A. Yes.

3798 Q. All you know is your own business? A. Yes.

Q. Are you familiar with the practices of the other commission men? A. Yes.

Q. And was it not the practice to give at least two pounds off per coop, which was a weight allowance? A. I know that they only gave one pound per coop.

Q. And that practice was called the practice of giving a weight allowance in lieu of culling? A. Not culling, in lieu of some poor fowl. It was a custom.

Q. And you said the conditions in the live poultry industry have been very bad in the past year, is that right? A. Yes.

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Q. And conditions in other industries have been bad? A. Not as bad as our business.

Q. That is right. Now, your business has been worse off than other businesses, is that right? A. Yes.

Q. And you are aware there has been an economic depression? A. Yes.

Q. A national economic depression? A. Yes.

Q. And you are aware of efforts of the administration to correct conditions in the industry generally? A. Yes.

Q. In the poultry industry? A. Yes.

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Mr. Rice: That is all.

Redirect examination by Mr. Heller:

Q. Why have conditions been worse in the poultry industry? A. Well, it is a hard question to answer, but the only thing, in my experience, actual experience, in the last six months they have seen that it has gone probably from bad to worse, it is almost unexplainable, I cannot understand why, but we have an unbelievable condition right now in the poultry business, and I am sorry to say that the Code has not done us any good; it has just put another assessment upon us.

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Q. So the effort that counsel speaks of, of the attempts of the administration, has had no effect whatsoever on your business? A. Conditions are worse since the Code.

Q. Now, you don't want these efforts by way of an assessment? A. Right now, no.

Q. If that is all you can get out of the Code you don't want it? A. I have talked to Mr. Peterson and I asked him to have the assessments reduced, but to no avail. I think it is an outrage, they are entirely too high—

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The Court: No, just a minute; we are not trying that question, of whether the assessments are too high or not, here.

Q. Is there anything mysterious about this Mr. Ruben that buys in Newark? A. That is a personal matter which I would—

Q. Does he owe you any money? A. I do not want to bring that up—

Q. Does he owe you seventeen thousand dollars? A. I refuse to answer that.

3803 Q. You do not want to say that? A. No, sir.

Q. But it is a personal matter? A. It is a personal business matter between me and Harry Ruben.

Q. Nothing that will tend to send you to jail? A. No.

Q. You haven't done anything against him? A. No, not at all.

Q. You wouldn't say he robbed you, in fact, of seventeen thousand dollars? A. No; he is all right; he is a fine man. I have nothing against him.

3804 Q. But it is a credit situation? A. Yes.

Q. About how many cars go to Newark a week? A. Cars go to Newark?

Q. Yes. A. I would say about twelve or fifteen cars a week, I think.

Q. How many cars are sold in New York City at the present time? A. Including freight stuff, close on to 200 cars.

Q. 200 cars a week? A. Yes, including express.

Q. These other customers that you do not sell to, is that because of a credit situation? A. Yes, sir.

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Q. You have a right to choose your own customers? A. Yes.

Q. To whom you will sell, and whom you will not sell to? A. Yes.

Q. And because you do not want to extend credit to anyone you do not have to, is that correct or not? A. Yes.

Q. You haven't committed any crime? A. No.

Q. You do not owe anybody any money? A. No.

Q. You haven't—

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Mr. Rice: I object to his cross examining his own witness.

Mr. Heller: I am not cross examining him.

Mr. Rice: It sounds like it.

The Court: I know, that is all very well, but you might let him testify.

Mr. Heller: That is all.

Recross examination by Mr. Rice:

Q. Just a moment. Does Schechter owe you any money? A. No, sir.

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Q. Do they deal with you? A. Yes, sir.

Q. Did they owe you any money last night? A. Last night. I don't know; I don't think they owe me anything; I don't think they bought anything this week.

Q. They deal with you, do they? A. Yes.

Q. Do they deal with you today? A. Today?

Q. Did they? A. I don't know; I haven't been up there today, I can't tell you that.

Q. You sell to Schechters? A. If they want stuff I give it to them, yes.

Q. You say you were for the Code at one time? A. Yes.

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Q. Why were you for it? A. I thought it would help the industry.

Q. Why did you think it would help the industry? A. Everybody said Codes were good things, and we wanted to give it a trial.

Q. Did you have any reason for your own? A. Well, everybody said it was good for the industry, and whatever is good for the industry is good for me.

3809 Q. Why did you think it was good for the industry? A. Everybody said, the Government people were all talking about Codes, they thought it would help the situation, and anything that helps the situation helps me.

Q. Did you pass your own judgment on it at all? A. Well, we have had our meetings, we have had our Association meetings, and we thought it was the right thing to do, and if it could help us, we wanted it.

Q. Why did you think it might help you? A. Because business was bad.

Q. Yes, and you wanted to improve business, is that it? A. That is right.

3810 Q. You thought it would improve business? A. That is right.

Q. You thought the Code might help? A. Yes, sir.

Q. You thought that the prohibition of unfair competitive practices on the part of the slaughter house operators would improve the business, did you not? A. Yes, sir.

Q. And that is why you were for the Code? A. Yes, sir.

Q. Now, wouldn't the Code benefit the industry if it were thoroughly enforced? A. Well, it seems that it hasn't been enforced, that is all that I can tell you.

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Q. That is your objection? A. It hasn't been enforced, yes.

Q. It hasn't been enforced? A. Yes, sir.

Q. People haven't been prosecuted for violating the Code, is that right? A. People haven't been prosecuted?

Q. The Schechters are the first ones in the industry that have been prosecuted for violating the Code, is that right? A. I will tell you——

Q. I say, is that right, do you know anybody else that has been prosecuted? A. The only one I know that has been prosecuted is the Schechters.

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Q. If the Code were enforced do you think it might help? A. It doesn't seem practicable, it seems the Code just can't amount to anything, it doesn't have anything practical to it, it doesn't have any backbone behind it; the whole thing is impracticable.

Q. You think it has no teeth to it? A. I do; there seems to be nothing to it, no enforcement behind it, and it isn't practical for the industry.

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Q. You say there is no enforcement behind it? A. No enforcement behind it, and there isn't anything practical about it.

Q. That is your objection to it? A. Yes, sir.

Redirect examination by Mr. Heller:

Q. Were the Schechters to kill straight would that give the industry any benefit? A. Oh, no.

Mr. Rice: I object to that as not proper redirect examination.

The Court: What was it?

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Mr. Heller: I said if the Schechters were to kill straight would that give any benefit to the industry.

Q. You sell your coops straight anyhow, do you not? A. Yes, sir.

Q. And they have to take them that way? A. That is right.

Q. You could not sell them any more than they need? A. That is right.

3815 Q. They take everything that you give them? A. Yes, sir.

Q. What transpires in their slaughter house has nothing to do with your business? A. That is right.

Q. Are you a partner of Mr. Peterson? A. A partner?

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

Q. There is nothing secret about these meetings, is there? A. No, no secret.

3816 Q. You are familiar with Provision J of the Code that provides that "nothing contained in this Code shall constitute the members of the Industry Advisory Committee and Code Supervisor partners for any purpose?" You are familiar with that provision? A. Yes.

Q. You are familiar with this one, "Nor shall any member of the Industry Advisory Committee and/or the Code Supervisor be liable in any manner to anyone for any act of any other member, officer, agent or employe of the Industry Advisory Committee and/or the Code Supervisor." You are familiar with that one?

Mr. Rice: Just a moment, this is not proper at this stage.

The Court: I don't know you asked him about divulging secrets.

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Julius Kastein—By Defts.—Redirect

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Mr. Heller: I am going to show there weren't any.

Mr. Rice: But your Honor, that was on cross examination.

The Court: I know, but he hasn't left the stand, and I am going to have him bring him back later.

Q. Are you familiar with this provision, "Nor shall any member of the Industry Advisory Committee and/or the Code Supervisor be liable in any manner to anyone for any act of any other member, officer, agent or employe of the Industry Advisory Committee and/or the Code Supervisor"? You are familiar with that? A. Yes, sir.

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Q. Are you familiar with this one: "Nor shall any member of the Industry Advisory Committee or the Code Supervisor, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful malfeasance or nonfeasance"? A. Yes.

Q. You are familiar with those provisions, are you, of the Code? A. Yes, sir.

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Q. You were never told not to divulge what occurred at these meetings, were you? A. As a matter of fact we were told to go back and talk it over with our associations.

Q. There was no secret about it, was there? A. No, sir.

Q. You are entitled to representation there? A. I represent the commission merchants on this Committee.

Mr. Heller: That is all.

3820 *Julius Kastein—By Defts.—Recross*

Recross examination by Mr. Rice:

Q. Nobody told you to divulge that what happened at the meeting with regard to the employment of Dale, did they? A. What is that?

Q. Did anybody tell you could divulge what was said at the Advisory Committee meeting with regard to the retaining of Dale? A. Nobody told me anything; anything that happens at those meetings I bring back to the association and talk it over with them.

3821 Q. Did you bring that information back to your association? A. I know that we discussed—

Q. Did you bring that information in regard to Dale back to the association? A. I know we discussed Loeb at our meeting.

Q. You did discuss it? A. Loeb, yes, at the commission merchants' meeting we had.

Q. You did reveal the fact that the Advisory Committee had brought up the question of retaining Dale to help me in this case? A. Yes, we discussed that at the commission members' association.

Mr. Heller: That is all.

Mr. Rice: One more question.

The Court: Is there any section of the Code that prevents them from divulging secrets?

Mr. Rice: No, your Honor. This is simply for the purpose of testing this witness's credibility.

The Court: I wanted to know if there was any such Code provision.

Mr. Rice: No, we do not contend that there was.

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Julius Kastein—By Defts.—Redirect

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The Court: I just asked if there was any.

Q. Mr. Kastein, do you remember the first week that the Code was in effect? A. Yes, sir.

Q. Do you remember the operation of the Code the first week? A. Yes, sir.

Q. Do you remember the meeting of approximately 800 people on May 15, 1934, when the Code provisions were discussed? A. Yes, sir.

Q. At the Code Authority office? A. Yes, sir.

Q. Or in the auditorium in the Code Authority Building? A. Yes, sir.

Q. Did you remember that? A. Yes, sir.

Q. Do you remember there was compliance with the Code for one week after the Code went into effect? A. Yes, sir.

Q. Do you remember that the industry prospered for that one week? A. Yes, sir.

Q. It had a good effect? A. It seemed to have a good effect for one week.

Mr. Rice: That is all.

Redirect examination by Mr. Heller:

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Q. Was that a holiday week? A. I do not remember whether it was a holiday week or not; I remember it lasted for such a little time.

Mr. Heller: That is all.

(Witness excused.)

3825

Mr. Heller: If it pleases your Honor, I would like to call these two people who killed the chickens, and we need a Jewish interpreter. Counsel says that he can get someone, if I will pay him for it. Of

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Case

course, I cannot do that. I would like to choose anyone in the room who is agreeable to him.

Mr. Rice: That is not quite right. I am not getting anybody for the defense.

The Court: Do not take this up before the jury. Agree amongst yourselves.

Mr. Rice: I suggest Mr. Pack.

Mr. Heller: Take anyone in the courtroom, and I am agreeable.

3827

Mr. Rice: Oh, no, I want an official interpreter. I don't want any member of the industry.

The Court: What? There is no official interpreter in the United States Courts.

Mr. Heller: I will take Mr. Forsmith.

The Court: Do not discuss this in front of the jury, gentlemen.

Mr. Heller: May we have a five-minute recess, and we will discuss it then?

The Court: It is so near the time, why don't you get together and agree on somebody?

3828

(Discussion between counsel off the record.)

Mr. Rice: If there is any disinterested person in the building here, I would prefer him, rather than have any interested person.

The Court: I rather think that is so. If you could agree amongst yourselves—Mr. Heller, are you content to accept Mr. Rappaport, who is a member of the bar?

Mr. Heller: I certainly am, but he may not understand some of the terms. Suppose we let Mr. Forsmith stand with him?

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Helil Gershon—By Defts.—Direct

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The Court: Arrange it amongst yourselves to suit yourselves.

(Discussion between counsel off the record.)

The Court: I understand that the defense accepts Mr. Rappaport as interpreter?

Mr. Heller: Yes, sir.

(Morris Rappaport duly sworn as an interpreter.)

3830

HELIL GERSHON, called as a witness on behalf of the defendants, having been duly sworn, testified as follows through the interpreter:

Direct examination by Mr. Heller:

Q. What is your occupation? A. I am a slaughterer.

The Court: So we can hear you, speak up. And you speak up in Hebrew so they can check, if they want to. Speak up loud, Mr. Rappaport.

3831

A. (Continuing.) I am a slaughterer.

Q. Where are you employed at the present time? A. I work for the Schechter Brothers.

Mr. Rice: I object to any further examination of this witness. He has been in court during the trial.

Mr. Heller: When was this?

The Court: I did not see him.

Mr. Rice: He has been identified by several of the people at our counsel's table.

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Helil Gershon—By Defts.—Direct

Q. Have you been in court before day? A. I was never here before.

Mr. Rice: He was in Court Tuesday of this week, I was informed.

Mr. Heller: He means it was Schechter's father, who was in court. He looks like him. He is a man with a beard.

The Court: I do not think he is the same man.

Mr. Rice: He looks familiar to me, your Honor.

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The Court: My notion was that the beard extended a little further down.

Mr. Rice: May I state, your Honor, that several days ago two shochets were seen in court and somebody at our counsel table inquired who they were and were informed they were the two Schechter shochets.

The Court: I do not know. If he says he was not here, I will take that.

Mr. Heller: I happened to see the two gentlemen. He is not one of them.

3834

The Court: Speak a little louder, because they want to check up on your Hebrew.

The Witness: Yes.

Q. What has your training been? A. I have always been a slaughterer.

Q. For how many years? A. For 20 years.

Q. Do you have to have any qualifications for being a shochet?

The Court: I cannot hear you. If you will speak a little louder, so we can hear your Hebrew.

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*Helil Gershon—By Defts.—Direct***3835**

A. I have the qualifications which are necessary according to the—

The Witness (in English): Jewish law.

A. (Continuing through the interpreter.) Jewish law in order to be a slaughterer.

Q. How long have you worked for the Schechters? A. 23 years—

The Witness (in English): Months.

A. (Continuing through the interpreter.) **3836**
Months.

Mr. Heller: Months.

The Court: If he understands English, why does he need an interpreter?

Mr. Heller: He may understand a few words.

The Court: I think we will try him without an interpreter. He has been answering here. I have been listening to him and he was answering in advance.

Q. Can you speak English well? A. A little. **3837**
It is better if I talk in Jewish and this man interprets here.

Q. Can you speak English well? A. (Without the interpreter.) A little, but for the benefit of the Judge when I talk in Jewish I can explain more.

Q. How long have you worked for the Schechters? A. 23 months, maybe a week more, maybe a week less.

Q. You are still working there? A. Yes.

Q. What time do you get there in the morning? A. Seven o'clock every day until seven—

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on Tuesday I come the same, on Thursday I come five to five.

Q. Every day from seven to seven? A. Excuse with me please. There are two shochets. The first week one comes from eight or eight and a half until nine—

The Court: Now just a minute, you better take it by days because he is not there every day.

Mr. Heller: Yes, he is, your Honor.

3839

Q. On what days of the week are you there, what hours are you there on Monday? A. On Monday from seven to twelve.

Q. Tuesday? A. The same thing.

Q. Wednesday? A. The same thing.

Q. Thursday? A. Five to five.

Q. Friday? A. From six to twelve.

Q. Saturday? A. One hour in the night because the Jewish people—

Q. Sunday? A. Nothing, sometimes if it is important for half an hour.

3840

Q. And does all of the slaughtering take place between the hours you have stated? A. All the slaughtering takes place only between those hours.

The Court: On Friday what was that, how long?

The Witness: From six to twelve.

Q. And after that there is no more slaughtering? A. No.

Q. And you have another rabbi that stands with you? A. Yes.

Q. And his hours are what on Monday? A. Well, when I stay until twelve, by eight and a half or nine o'clock he goes home.

Helil Gershon—By Defts.—Direct

3841

Q. And from what time in the morning until what time on Monday? A. Well, after the busy time—

The Court: You mean after twelve o'clock?

The Witness: No after eight o'clock, maybe eight and a half, after the busy time he goes home.

Q. On Tuesdays the same thing? A. The same thing.

3842

Q. On Wednesday? A. The same thing.

Q. Thursday? A. All day.

Q. Now both of you stay all day Thursday? A. Yes, from five to five.

Q. And Saturday night? A. Half an hour.

Q. The other man too? A. The same thing. One time I will go home and he will stay a couple of hours.

Q. Were you in the Schechters' place of business every day during the months of May, June and July? A. Yes, sure, always.

Q. And do you know whether the Schechters sold diseased chickens during the months of May, June and July? A. Diseased?

3843

Q. Yes. A. Never.

Q. And would you kill a diseased chicken, would you slaughter a diseased chicken? A. No, a diseased chicken does not get killed.

Q. Did you see the Schechters sell any of these chickens? A. No.

Q. And could you slaughter a diseased chicken? A. No, sometimes, when the chicken is diseased we cut the throat and throw it away.

Q. And where do you throw it? A. Into a barrel.

3844

Helil Gershon—By Defts.—Direct

Q. Now how often can that happen? A. Sometimes in two weeks, sometimes in three weeks.

Q. And whenever you see that the head is black you say you cut the throat and throw it in the waste basket? A. Sometimes when the chickens appears black, it is brought to me and I cut its throat and I throw it into the barrel.

Q. And that barrel is a waste basket? A. Yes.

Q. Do you know each and every one of the Schechters sitting at the table? A. Sure I know them.

Q. And do you know their father? A. Yes.

Q. How long have you known them? A. About a couple of years, 9 years, 10 years.

Q. Do you know the neighbors that know them? A. Sure.

Q. And have you ever heard anything said against them? A. Very nice.

Q. Do you know what their reputation is for being law-abiding citizens? A. I know they are reputed to be fine people.

3845

Q. Do you remember in the month of June, seeing an inspector there with a badge? A. Yes, sir.

Q. Was he permitted to be there?

Mr. Rice: I object to that as too indefinite and also on the ground it calls for a conclusion, as to whether he was permitted to be there.

The Court: Objection sustained.

Mr. Heller: Exception.

Q. Did you see him there in the month of June? A. Yes.

Q. What day, was it June 23rd? A. Yes.

*Helil Gershon—By Defts.—Direct***3847**

Q. On how many days did you see him there?
 A. A couple of days.

Q. And do you know him, who he was? A.
 If I see him I should recognize him.

Q. Do you know his name? A. No.

Q. And did he have something on the lapel?
 A. He has a badge, a Government badge, and
 we joked and smoked cigars together. I wanted
 to make him a Jew too.

Q. Do you know Mr. Forsmith? A. Yes, sure.

Q. Is he here in court? A. Sure right there
 (indicating Mr. Forsmith).

Q. Was he there one time when Dr. Ives was
 there? A. The same time he was there.

Q. Do you remember any of the Schechters
 lifting a hatchet? A. Wus, hatchet—what is the
 matter with you—what do you think they are,
 murderers?

Mr. Rice: I move that the answer be
 stricken out.

The Court: Strike it out.

Q. Did you ever see them have a hatchet and
 threaten to kill him? A. I see they have a
 hatchet to open coops.

Q. Did you ever see him strike him? A. No,
 no, no, he is no murderer.

Q. Did you ever hear him threaten to kill
 him?

Mr. Rice: I object, your Honor, as call-
 ing for a conclusion.

The Court: He can tell what they did
 or he can tell what he heard said.

The Witness: No.

Mr. Rice: I move the answer be
 stricken out.

3848**3849**

3850 *Helil Gershon—By Defts.—Cross*

The Court: Strike it out.

(To witness): Did you hear him say anything to him or do anything with the hatchet?

Q. Did you see him move his hand toward him with a hatchet? A. No, ah, no, God forbid.

Q. Do you remember whether any discussion took place about a ticket? A. That I did not hear.

3851 Q. Did you see any of the Schechter boys stop Mr. Forsmith from leaving the place? A. No, I did not see that.

Q. Did that happen?

Mr. Rice: I object your Honor.

The Court: Yes, how can he say whether it happened if he did not see it. I will sustain the objection.

Mr. Heller: Exception.

Q. Were you near them? A. I stood in their presence and I heard them talk.

3852 Q. And did you see him then put up a hand against him? A. No, I did not see that.

Q. Did you see him stand near the outside, so that he could not get out? A. No, I did not hear such a discussion.

Mr. Heller: That is all.

Cross examination by Mr. Rice:

Q. Do you remember the inspector with the badge? A. Yes, sir.

Q. Would you recognize him if you saw him again? A. If I see him——

Q. Look around the court room and see if you see him? A. I can't tell.

1285

Helil Gershon—By Defts.—Cross

3853

Mr. Rice: Will this gentleman here stand up? (A man in the court room stands.)

Q. Is this the man? A. I can't see.

Q. Come over here and take a look at him, is this the man here? A. Is that the man?

Q. Is that the man? A. That is him.

Q. That is him? A. I don't know that man.

Q. Will you take the stand again? A. All right.

Q. You said that was the man, didn't you? A. No, on the contrary, I seen him a couple of times, a couple of months, and I don't remember—

Q. You are not sure whether that is the man or not? A. Maybe yes, maybe not.

Mr. Rice: May I have this gentleman's name? The gentleman's name is Merlis.

Q. What made you identify that man back there? A. It appeared to me that he resembled that man, but I have to tell the truth, and I am not sure.

3855

Q. You are not sure now?

The Court: Would you mind coming up here? I want the jury to see him.

(Mr. Merlis comes forward and faces the jury.)

The Court: Just face the jury and let the jury see you, that is all. Thank you very much.

The Witness: I think the other gentleman was taller.

The Court: You think the other gentleman was taller?

3856 *Helil Gershon—By Defts.—Cross*

The Witness: Yes.

Mr. Rice: All right, we will let it go at that.

Mr. Heller: Will counsel bring him and sit him in the court room and see if he can pick him out?

Mr. Rice: All I wanted to do is to see whether this witness would pick out the first man that I picked out.

Q. You work for the Schechters, don't you?

3857 A. Yes, sir.

Q. You work for them today? A. Yes, sir.

Q. You have got a good job? A. Very good.

Q. What do you earn a week? A. Fifty dollars mit chickens.

Q. Fifty dollars in chickens? A. Yes. sir.

Q. Don't you earn more than that? A. No, not more.

Q. There are a lot of shochets out of work, aren't there? A. I am not an executive, I don't know.

3858 Q. Don't you know there are a lot of shochets out of work? A. I don't know, because I am not an executive.

Q. Did you ever hear of the Vaad Shochtim Avis? A. Yes, I have.

Q. That is another union, isn't it? A. I do not concern myself with those matters; I am not a politician.

Q. That is an association of other shochets, isn't it? A. I do not know; I mind my own business.

Q. They pay ten cents a month dues, don't they? A. I don't know; that is not my business.

Helil Gershon—By Defts.—Cross

3859

Q. Or ten cents a week dues? A. I work there all day and make my money and go home and sleep.

Q. You know there are 150 shochets out of work— A. That is not my business.

Q. In that union that are out of work? A. I don't know nothing; that is not my business.

Q. Don't you know that there are a lot of shochets out of work? A. I don't know. I know what pertains to my business.

Q. You want to keep your job? A. I want to have my job, sure, like you want to have your job.

Q. Don't you get sixty-five dollars a week? A. One time.

Q. At one time? A. About a year before.

Q. You don't work very many hours a day, do you? A. The same thing was today. I work as much as is necessary.

Q. You were working at the Schechter Market day before yesterday, weren't you? A. Yes.

Q. Wednesday? A. Yes.

Q. Killing chickens? A. Yes.

Q. Slaughtering chickens? A. Yes.

Q. According to the Jewish dietary laws? A. Absolutely.

Q. Absolutely? A. Sure.

Q. You do not kill anything for sale that isn't fit for human consumption, do you? A. With consumption? I am not a doctor. We do not slaughter dead chickens.

Q. You kill only the good chickens, don't you? A. We do not kill any sick chickens.

Q. You kill only the good chickens? A. Me kill everything.

Q. You kill everything with a head on? A. The Jewish law say kill every chicken that is

3860

3861

3862 *Helil Gershon—By Defs.—Cross*

good, according to the Jewish law we have a right to slaughter any live chicken.

Q. Do you know Rabbi Wise? A. Yes, sir.

Q. He is really a shochet, isn't he? A. Shochet and rabbi, too.

Q. Do you know a Shochet Schussman? A. Schussman? I don't know. Is that his name?

Q. Schussman. A. I don't know who you refer to. How do you spell it?

Q. Schussman, S-c-h-u-s-s-m-a-n, that is what I have here? A. I do not know.

3863 Q. You know the shochets that were working at the Schechter establishment day before yesterday? A. I don't know the name. I do not remember the name; he was a tall man.

Q. You say you were killing chickens there last Wednesday, day before yesterday? A. Yes.

Q. Do you remember Samuel Cohen, a workman—— A. Yes. (In English.)

Q. Was in the place on Wednesday after he testified here?

3864 Mr. Heller: What has this to do with it? Does counsel want to know whether Sammy Cohen is still there? Yes, he is there.

Mr. Rice: No, that is not it. I am simply attacking his credibility.

Mr. Heller: What has that to do with credibility?

The Court: They are charged here with a certain specific offense.

Q. Samuel Cohen was working with you in the place last Wednesday? A. (No answer.)

Mr. Rice: May I have an answer?

1289

Helil Gershon—By Defts.—Cross

3865

A. (In English) Never mind; I am excited.
I don't remember correct.

Q. Just calm yourself. A. (In English) I
don't remember.

The Court: Wait a minute. Just think.
Now, Wednesday, that was two days ago.
Stop and think.

Q. Thursday is the big day? A. (In English)
Yes, yesterday.

Q. Now, day before yesterday, Wednesday. 3866

The Court: Was Cohen there that day,
Sam Cohen?

The Witness (through interpreter): I
don't remember.

Q. You don't remember? A. (In English) No.

Q. Have you seen Cohen there that week? A.
Yes, yes.

Q. You have seen him there all week? A.
Yes.

Q. Isn't it true that last Wednesday Samuel
Cohen told you that a chicken was going— 3867

Mr. Heller: Wait a minute, counselor.
I object to what Sam Cohen said.

Mr. Rice: I withdraw it.

Q. You say that you have never slaughtered
unfit chickens for sale?

The Court: Unfit does not mean much.
You mean unfit for human consumption.

Mr. Rice: Yes.

Q. Unfit for human consumption. A. (Through
interpreter.) I am not a doctor and it is hard

3868 *Helil Gershon—By Defts.—Cross*

for me to determine the condition of a chicken, but when it happens that a chicken appears sickly and black around the neck, I cut its throat and throw it into the refuse. (In English) That is right.

Q. Didn't you slaughter chickens last Wednesday that were unfit to eat?

Mr. Heller: I object to that, and I move for a mistrial. Counsel has no right to do that. He has done it right along.

3869

The Court: Sustained. I have warned you on that. I sustain the objection. We are not going to have any other offenses brought in here that are not alleged in the indictment.

Mr. Rice: If your Honor please, may I state the grounds—

The Court: No, I do not want you to state it before the jury. Too much is stated already. That will not be permitted.

Mr. Rice: Very well.

3870

The Court: You cannot charge them with other offenses. There may have been a million things surrounding it. They may not have been there, but if they were there they are not charged with it here. The jury will disregard it. Ask him questions, but you cannot ask him to state some offense that has not been alleged in this indictment.

Mr. Rice: May I state that this witness was asked, on direct examination, whether he ever slaughtered any unfit chickens, and I merely propose to show—

1291

*Helil Gershon—By Defts.—Cross***3871**

The Court: I understand, but if you keep on, Mr. Rice, you will show too much in a few minutes.

Q. Now, from May 16th up to July 26th, 1934, did you ever see any unfit chickens in the Schechter premises?

Mr. Heller: Unfit for human consumption?

Q. Unfit for human consumption? A. I have never seen any unfit chickens. When one does occur, that appears sickly, as I said before, I cut its throat and throw it into the barrel.

3872

Q. You cut its throat and throw it into the barrel? A. Yes, though oftentimes—the Schechters oftentimes bring to me a chicken which appears sickly and black and I cut its throat and throw it into the barrel.

Mr. Rice: That is all.

Mr. Heller: That is all.

(Witness excused.)

The Court: We will take a recess until two o'clock P. M.

3873

Gentlemen of the Jury, do not discuss this case among yourselves or allow anyone to discuss it with you; keep your minds open until the case has finally been submitted to you. Be back here at two o'clock sharp.

(Recess until 2 P. M.)

3874

Joseph Weisman—By Defts.—Direct

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

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

Direct examination by Mr. Heller:

Q. Rabbi Weisman, are you employed by the defendants, the Schechter Brothers? A. Yes.

3875

Q. At what address? A. 52nd Street, Brooklyn.

Q. How long have you been working for them? A. About twenty-two or twenty-three months; since the month of February.

Q. And you also are a member of the union? A. Yes.

Q. The same as your other co-shochet? A. Yes.

Q. And what do you get a week? A. Forty dollars a week.

3876

Q. And you have been at the place of business every day during the months of May, June and July of this year? A. Yes, every day.

Q. What hours? A. On Monday from seven until twelve.

Q. Tuesday? A. From seven until twelve.

Q. And Wednesday? A. The same.

Q. Thursday? A. Five to five.

Q. And Friday? A. Six to twelve.

Q. Saturday night? A. One hour or two hours, according to how business is.

Q. How about Sunday? A. Sometimes on Sundays and sometimes not; when business calls for it.

Q. About how long on Sundays? A. Well, maybe a half hour or sixty minutes.

Joseph Weisman—By Defts.—Direct

3877

Q. And do you sometimes change off with your other shochet and get away early, or come early? A. A week from every week.

Q. What time do you get away every other week? A. From seven to nine.

Q. Every other week you work from seven until twelve? A. Yes, except Thursday; Thursday I work from five to five.

Q. All the chickens that come in are killed by you or the other shochets? A. Yes.

Q. Just you two gentlemen? A. Yes.

Q. And sometimes they have an extra man? A. Sometimes a helper.

Q. For how long? A. All day.

Q. That is when they are very busy? A. Yes.

Q. And you and the other shochets do all the killing? A. For all the trade, yes, sir.

Q. Now, you say you have been there every day during May, June and July? A. Yes.

Q. Did you, during that time, kill any chicken for the use of a customer which you could not eat? A. No.

Q. Did you ever kill a chicken that was diseased? A. No.

Q. Does that practice exist with the shochets, to kill diseased chickens? A. No.

3878

The Court: Between these months, May, June and July?

The Witness: Sometimes I kill a diseased chicken, but they have to dump, with my eyes, in the dumping barrel.

3879

Q. You yourself dump it in there? A. I or the working man that gives me the chicken to kill, or one of the bosses, because it is my duty to see that that chicken shall not go out in the trade.

3880 *Joseph Weisman—By Defts.—Cross*

Q. And that barrel is destroyed later? A. The dumping barrel is carobolled.

Mr. Heller: That is all.

Cross examination by Mr. Rice:

Q. What time of the day do you leave on Monday? A. From seven until nine.

Q. And you work from seven in the morning until nine? A. Nine or a quarter after nine.

Q. And that is every other week? A. Every other week.

3881 Q. How about the other weeks? A. Every week the same thing, week from week.

The Court: You said that you worked one week from seven to nine?

The Witness: Yes.

The Court: And the next week when did you work?

The Witness: From seven until twelve.

Q. On Tuesdays what time do you quit? A. On Tuesdays I quit from five to five.

3882 The Court: No, he said Tuesdays, not Thursdays.

The Witness: Tuesdays it is the same like Monday.

Q. From seven until nine? A. Or half past nine; one week from a week for seven to twelve.

Q. Wednesday? A. The same thing, the same.

Q. And Thursday? A. Thursday from five to five.

Q. Friday? A. From six to twelve on Friday, but a week over a week. One week I go after nine and the other week I have to stay until six to twelve.

1295

Joseph Weisman—By Defts.—Cross

3883

Q. Saturday? A. Saturday thirty minutes or an hour or one-half, according to business.

Q. What time of day? A. The day?

Q. Yes. A. The day I leave early—

The Court: On Saturday what time do you go to work?

The Witness: On Saturday?

The Court: Yes.

The Witness: Since sunset, thirty minutes after sunset.

3884

Q. Sundays do you work at all? A. Sunday, sometimes.

Q. What time? A. From seven or eight or seven-thirty.

Q. How many hours do you work a week? A. Well, I couldn't figure how many hours. Can't you figure hours, how many hours?

The Court: It doesn't figure over thirty, I do not think.

Q. You work twenty-five hours one week and then thirty-four hours the next week? A. That is close to that.

3885

Q. That is right? A. Well, yes.

Q. That is all you work? A. Yes.

Q. And you get forty dollars a week? A. Yes.

Q. You have a good job? A. What is that?

Q. You have a good job? A. I suppose so.

Q. You like your job? A. If I don't like it I wouldn't stay.

Q. You want to keep your job? A. Sure; I like to keep it.

Q. There are a lot of shochets out of work? A. I tell you, I am not a business agent for my men. I don't know how many is empty.

3886 *Joseph Weisman—By Defts.—Cross*

Q. Do you know whether there are any shochets out of work? A. Yes.

Q. A lot of them? A. I don't know.

Q. When did you get your job with the Schechters? A. In February.

Q. February? A. Yes, a year ago.

Q. What were you doing before that?

The Court: February, 1933, he said.

Q. Yes; what were you doing before February, 1933?
3887

Mr. Heller: That is too remote.

The Court: Oh, that is all right.

The Witness: What I was doing before? In the same profession, I am forty-eight years in that profession, my dear man.

Q. Did you have a hard time to get a job in February, 1933? A. No.

Q. No? A. No.

Q. You don't know that there are three hundred shochets out of work today? A. That has nothing to do with me.

Q. Isn't that true, there are several hundred shochets out of work? A. Several hundred?

Q. Several hundred, yes. A. Several hundred, I don't think so.

Q. There are a lot of shochets out of work? A. Well, I told you one time I am not a business agent; that is a question for the business agent, but not for me.

Q. Did you talk with the other shochet who testified here this morning? A. I talked with him?

Q. Yes. A. I talked with him, but not about this case.

Joseph Weisman—By Defts.—Cross

3889

Q. Not about this case? A. No.

Q. He didn't tell you what he testified to this morning? A. I talk, but not about this case.

Q. He didn't tell you that he testified this morning that he wasn't the business representative of the union? A. He was?

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

Q. He didn't tell you that he was not the business representative? A. Him, no.

Q. Just a moment—— A. Excuse me, I am Rabbi from the Assembly of Hebrew Orthodox Organization, and anything what they say is holy, and don't ask me about other questions, ask me about the case.

3890

Q. All right. A. And I will answer you right.

Q. I will ask you just about the case. Did you talk about this case this morning? A. With who?

Q. With anybody. A. No.

Q. Nobody? A. No.

Q. Today? A. No.

Q. Yesterday? A. No.

Q. Day before yesterday? A. No; it is not my business.

Q. Did you ever talk to anybody about this case? A. About that case?

Q. About this case? A. No, one——

Q. About testifying here? A. No; I told you one time I am not interested in this case, and I didn't speak with nobody except the day was the counsel in the place and he says I have to come in this case for a witness, that is all.

3891

Q. Did he tell you about the questions that he would ask you? A. No, not me; I only talk about what is holy.

Q. He didn't ask you any questions at all? A. No. I am too honest for that; he don't want to.

3892 *Joseph Weisman—By Defts.—Cross*

Q. He didn't ask you the questions that he would ask you on the stand? A. No.

Q. Nobody asked you any questions? A. No, if somebody ask me I won't answer it, only if the Judge he is asking me I answer him.

Q. You didn't know what questions were going to be asked today? A. What they ask me, no. If the Judge will ask me I will answer it—

The Court: Did you know what they were going to ask you here today?

3893 The Witness: No.

Q. You didn't have any idea what they would ask you? A. I don't know.

Q. Everything you answer is holy? A. I am never interested in some other business.

Q. You say everything you answer is holy? A. No, only my profession, that is all.

Q. You work only twenty-five hours one week and thirty-four hours the next week? A. Yes, I suppose so.

Q. You do not know what happens after you go away? A. I know what time I go and the time I have to come away, and that is the time I have to come and that is the time I have to go.

Q. I say you do not know what happens at the Schechter's place after you go away? A. Do you know what is in Washington doing now?

Q. No. A. If I am not in the place how can I know? Do I know what happens when I am not in the place?

Q. You just know what happens when you were there? A. Sure.

Q. You do not know what happens when you are not there? A. I am not responsible for

1299

Joseph Weisman—By Defts.—Redirect

3895

nobody. Can you be responsible for what happens in Paris?

The Court: Do not ask him questions.

The Witness: But what is—

The Court: Do not ask him questions, just answer the questions.

The Witness: That is an answer. Oh, eleven or twelve men there, well, I am not so old.

The Court: Never mind, there are other men here, so don't you worry.

3896

The Witness: All right.

Mr. Rice: That is all.

Redirect examination by Mr. Heller:

Q. Just one question, Rabbi. You know these four gentlemen sitting at the table, the Schechters? A. The Schechters, yes.

Q. You know them? A. Fine boys—

Mr. Rice: Just a minute; this is not proper redirect examination.

Mr. Heller: I am making him a character witness now.

3897

The Court: He can do that. He wanted to get through with him as a fact witness, and now he is questioning him as a character witness. He can do that rather than call him again.

Mr. Rice: I withdraw the objection.

Q. You know people that know the Schechters? A. Other people I know, sure.

The Court: Do you know other people that knew these men?

The Witness: Other people's business, yes.

3898

Harry Landes—By Defts.—Direct

The Court: Are you acquainted with other people that are acquainted with them, do you know friends of theirs?

The Witness: Sure.

The Court: All right; that is what he is asking you.

Q. Have you ever heard anything bad said about them? A. No.

Q. What is their reputation in the community? A. Good boys.

3899

Q. What is their reputation for honesty? A. Good boys.

Q. For truthfulness? A. Truthfulness.

Mr. Heller: All right, that is all.

The Witness: All right.

Mr. Rice: That is all.

The Witness: All right, Judge, thank you.

(Witness excused.)

3900

HARRY LANDES, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Jacob Heller:

Q. What is your business, Mr. Landes? A. Live poultry slaughter house.

Q. How long have you been in that business? A. Four years.

Q. Where is your place of business? A. 338 Johnson Avenue.

Q. I do not think these gentlemen back here can hear you. Talk louder. A. 338 Johnson Avenue.

Harry Landes—By Defts.—Direct

3901

Q. Where is that? A. Brooklyn.

Q. Do you run that slaughter house yourself?

A. With partners, a corporation.

Q. Were you ever in any part of the poultry business before you went into this slaughter house business? A. Retail.

Q. Where were you in the retail business? A. 381 South Fifth Street, Brooklyn.

Q. How long were you in that business? A. Six years.

Q. Did you have any other connection with the poultry industry other than the two places? A. No.

3902

Q. So would you say you have been in the poultry industry for nine years? A. Nine years, nine or ten years—about nine or ten.

Q. Are you in the same type of business now that the Schechters are? A. That is right.

Q. Where do you buy your poultry? A. Well, Philadelphia, New York.

Q. Do you make purchases very often in Philadelphia? A. Yes.

Q. How often do you make purchases in Philadelphia? A. On the average of four times a week, three times a week.

3903

Q. Are you acquainted with the practice of the commission merchants in Philadelphia? A. Yes.

Q. Will you tell his Honor and the jury just what the practice is when a slaughter house man comes to buy chickens in Philadelphia? A. Well, come in and buy the poultry out there—

Q. Where is that? A. Philadelphia.

Q. Any special place? A. Commission men.

Q. Is it at a car barn or a place of business or where? A. Most of mine case, I don't buy in

3904 *Harry Landes—By Defts.—Direct*

the—there is a quite a few commission men, and most of my case only I do with the one man.

Q. Where are most of the commission men in Philadelphia? A. On Front Street.

Q. Is that where you buy? A. No, I don't buy there.

Q. Where do you buy? A. Risser & Rabinowitz.

Q. Did you from time to time buy there from other commission men besides Mr. Rabinowitz? A. Very seldom.

3905 Q. But sometimes? A. Sometimes.

Q. You have observed how they sell their chickens there? A. Yes.

Q. Will you tell us the method in purchasing chickens? A. Well, they are selling their chickens in baskets, what we call them right here in New York; come in and buy there about 50 baskets, that means crates, and we start to weigh the chickens as the baskets they are in, then we get 50 other baskets, empty, they are not full with chickens, with poultry, and we weigh off on the scale 600 pounds or 800 pounds, and we take hold of the chickens, we take every chicken in our hands, and anybody—the buyers—that might be there, who buys them, takes every chicken in his hand, feels if she is good. If she is good, he puts her in the empty crate; if she is no good, he puts it in another crate.

Q. Would you say then that the practice there is to select the chickens you want? A. That is right.

Q. Do you know whether that practice is different than the practice here in the West Washington Market? A. Well, out here we, well, they put them in, in coops.

1303

Harry Landes—By Defts.—Direct

3907

Q. And you buy the coops as they come? A. Well, no, we could put in our hands and see if there is any culls and take them out.

Q. But you must buy the coop as a whole? A. We do not buy from the coop. They take them out of the cars and put them in the coops and we have the right to go and feel; if we feel any culls we take them out.

Q. But otherwise you must take the coop as it comes? A. That is right.

Q. Does that differ then from Philadelphia, in that in Philadelphia you can take anything you want? A. Well, there is a great difference. As far as we coming to Philadelphia, when we feel every bird; feeling if that bird is good, we take him; if it is no good, we put it back. Over here when we take a coop we put in 60 chickens and perhaps the coop has got small things and we can in some parts not put in our hands, and with the 50 or 60 chickens in the coops, it is very inconvenient, so probably we cannot find a bad chicken in it as in that place, where we put in our hands in the other place. By the time I get through feeling that coop, another coop comes on top. Whereas, in Philadelphia, I could buy with feeling every bird.

Q. And you can select in Philadelphia those that you want? A. That is right.

Q. And leave over those that you don't want? A. That is right.

Q. And as a result of that practice do you bring into New York, when you purchase in Philadelphia or when any other market man does it, better birds? A. Well, as far as my own experience that I find out there, I do get a better bird out there.

3908

3909

Mr. Jacob Heller: Your witness.

3910 *Harry Landes—By Defts.—Cross*

Cross examination by Mr. Rice:

Q. You told us about the practice on the part of the Philadelphia commission merchants, is that right? A. Yes.

Q. You say that in Philadelphia the wholesale slaughter house operator from New York who goes to purchase poultry in Philadelphia can reject the poultry that he does not want? A. That is right.

Q. What do they do with the rejected poultry?

3911 Mr. Jacob Heller: If your Honor please, with respect to that, I suppose he is making him his own witness.

The Court: I don't know. What is the question?

(Last question repeated by the reporter.)

The Court: I will let him answer.

Q. What do they do with the rejected poultry?
A. Well, I cannot say what they do, or specifically a thing I do not know, but I imagine——

3912 The Court: Not what you imagine.
What do they do?

The Witness: I don't know.

The Court: If you did not take the chicken what do they do with that chicken?

The Witness: They dressed him.

The Court: What?

The Witness: They dressed him.

Q. You don't take a chicken, when you don't take a chicken they put it in another coop? A. That is right.

Q. Later on they sell it, is that right? A. I do not see them sell it. I say, they dress it.

Harry Landes—By Defts.—Cross

3913

Q. Somebody else buys the rejected chicken?
A. (No answer.)

Q. Do you know whether or not anybody else buys the rejected chickens? A. I don't know.

Q. You do not know that they are destroyed and disinfected, do you? When I say they are rejected, I do not mean that the chicken is not—it is not to be used for human consumption. I say that the chicken is a thin-breasted chicken and which we cannot sell in New York, because if we go out to Philadelphia to get merchandise we want to get a good grade of poultry that we should not have to sell it for less cost that we buy them for.

Q. You have never seen them destroy any of these rejected chickens? A. If there is a sick chicken—

Q. What? A. If they are a sick chicken, they destroy it.

Q. Have you seen them disinfect any of the chickens? A. Yes.

Q. Have you seen them destroy all of the rejected chickens? A. No.

Q. They put most of them in another coop, is that right? A. That is right.

Q. How long did you say you had been a slaughter house operator? A. About four years.

Q. Think carefully. Is that your answer, four years? A. Yes.

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

Q. You were never a slaughter house operator before four years ago? A. Slaughter house man?

Q. Yes. A. I was in 1922.

Q. Yes, you have been in the poultry business for some years, haven't you? A. Yes—no, only for four years.

Q. For 12 years? A. No.

3914

3915

3916 *Harry Landes—By Defts.—Cross*

Q. Since 1922? A. I was there a year and I went out.

Q. Well, why didn't you tell us about that? A. You did not ask me.

Q. How did you happen to get out of the business in 1922?

Mr. Jacob Heller: I respectfully object; I don't think it is material here.

3917 The Court: Yes, I think that is a long ways back. It does not seem to me to be applicable here. It is pretty remote, Mr. Rice.

Q. Did you go into bankruptcy in 1922?

Mr. Jacob Heller: I object to that as immaterial.

The Court: It seems to me, Mr. Rice, that it is pretty remote, as to what happened in 1922.

Mr. Rice: I am merely interested in the credibility of this witness and not the substantive facts, your Honor.

3918 The Court: I do not see that 1922 is of much moment.

(To witness): Did you stay out of the business when you got out?

The Witness: I went in the retail business.

The Court: You went in the retail business, did you?

The Witness: Yes.

The Court: And when did you go back in the slaughter house business?

The Witness: About four years.

1307

Harry Landes—By Defts.—Cross

3919

Q. Have you been in the slaughter house business all of the time during the past four years? A. Yes, we discontinued doing business for six weeks.

Q. When did you discontinue business? A. About April.

Q. Of 1934, is that right? A. That's right.

Q. Now the Code went into effect in April, on April 23rd, 1934, is that right? A. That's right.

Q. And you went back in the business after the Code went into effect?

3920

Mr. Jacob Heller: I object on the ground that he is making this witness his own witness.

The Court: Overruled.

Mr. Jacob Heller: Exception.

Q. Now you again went back in the business after the Code went into effect? A. That's right.

Q. Why did you go back into the business?

Mr. Jacob Heller: I object, if your Honor please.

The Court: Overruled.

Mr. Jacob Heller: Exception.

3921

A. I figure my idea is probably with the Code I will be able to make a living.

Q. And you went back in the business because of the Code? A. That's right.

Q. And you thought you would be able to make a living with the Code? A. That's right.

Q. And you went into the business some weeks after the Code went into effect? A. I cannot state exactly, but one or two or about three weeks.

3922 *Harry Landes—By Defts.—Cross*

Q. Now after you saw the Code operating for a couple of weeks, you went back into the business? A. Yes.

Q. And you thought that you could make some profit with the Code in effect? A. Yes.

Q. Now you say that at West Washington Market, when you purchased poultry, you can throw out the unfit chickens, the chickens unfit for human consumption?

3923 Mr. Jacob Heller: That was not the testimony, your Honor.

The Court: He testified about Philadelphia; I do not know that he was asked about New York.

Mr. Rice: He was asked to compare the West Washington Market with Philadelphia, your Honor.

The Court: That is right, go ahead.

Q. You stated, did you not, that in West Washington Market the buyer sometimes throws out some unfit chickens, chickens unfit for human consumption? A. That is right.

3924 Q. And they are chickens unfit for human consumption, even after the inspection? A. I will not say that there is any chicken that is not fit for human consumption not destroyed by the inspectors. We do find a chicken where she is probably a thin-breasted chicken and that is what we call them.

Q. And you throw out some of those thin-breasted chickens? A. Yes.

Q. Even after the inspection? A. Yes.

Q. You throw out some chickens that are unfit for human consumption even after the inspection? A. If we can find them.

Q. If you can find them? A. Yes.

Mr. Rice: That is all.

1309

Leo Schimmel—By Defts.—Direct

3925

Redirect examination by Mr. Jacob Heller:

Q. Those chickens rejected by you in Philadelphia, are those chickens fit for human consumption? A. They are fit for human consumption.

Q. Is there any question about that in your mind? A. No, no question so far as my knowledge in the business is concerned.

Mr. Jacob Heller: That is all.

(Witness excused.)

3926

LEO SCHIMMEL, called as a witness on behalf of the defendants, having been previously duly sworn, testified as follows:

Direct examination by Mr. Heller:

Q. Now you are the regular bookkeeper of the Schechter Brothers? A. That's right.

Q. At No. 858 East 52nd Street? A. That is right.

Q. How long have you been there? A. A year and a half. 3927

Q. Is this your first job? A. In the poultry business this is my first job.

Q. And you did all the bookkeeping while you were there? A. That is right.

Q. Now have you the books here in court? A. Yes, sir.

Q. And will you take the book and show the profit and losses, week by week, the purchase and sales book? A. Yes, sir.

Q. Turn to the week ending May 16th. A. Yes, sir.

Q. And what was the profit or loss for the week ending May 16th? A. You mean May 18th?

3928 *Leo Schimmel—By Defts.—Direct*

Q. That is right.

Mr. Rice: If your Honor please, I object to this as being quite immaterial, it is quite immaterial whether the Schechters made a profit or not.

Mr. Heller: Your Honor has heard the statement that we are the largest concern in Brooklyn, and that we are selling diseased chickens, and the effect is that we have been enriched thereby.

3929

The Court: No, your people said that. Your experts, the witnesses that you called said they were the biggest people in the business here in Brooklyn—some of the biggest slaughter house people. Their witnesses did not say that.

Mr. Heller: May I show our condition in so far as it affects—

The Court: No, you cannot present an issue yourself. It was your witnesses that said that, and not the Government's.

3930

Anything that has to do with the business, if you want to show their volume of purchases and the volume of sales, yes, that may have some relation to the fact about the reports, but whether you made or lost money is not one of moment here. There is no charge on that. They did not show that you were such large people, that was your own experts that told you how large these people were.

Mr. Heller: I also heard that from the Government's witnesses.

The Court: I did not, so you have the advantage of me.

1311

*Leo Schimmel—By Defts.—Direct***3931**

However, Mr. Heller, if you want to show the volume of sales, all right, but whether they made a profit or a loss, we are not dealing with anything of that kind.

We are not dealing with any prices, there is no price fixing here in this Code.

There was a witness produced by the Government that said that the report should have been larger and you can meet that, but he was not dealing with the question of profits, he was dealing with the volume.

Mr. Heller: If your Honor pleases, our books went into the record—

The Court: Yes, yes, I know, and you let them go in.

Mr. Heller: May I offer the original books in evidence now, your Honor?

The Court: Yes, you may do so if you want to.

Mr. Heller: All right.

Q. Is this book kept in the regular course of business? A. It is.

3932

Q. By whom—

Mr. Rice: Just a moment.

The Court: You have got the transcript.

Mr. Rice: Not from this book.

Mr. Heller: From all the books.

Mr. Rice: We offered certain entries from the books that we regarded as material to the case, and Mr. Heller consented that they go in. Now as I understand it this book is not the book on volume, it is simply the book showing profit and loss.

3934

Leo Schimmel—By Defts.—Direct

Mr. Heller: No, this is not a book that shows only profit and loss.

Q. What does it show? A. It shows the volume of sales, it shows the expenses.

Mr. Rice: Then let us just have the volume of sales put in.

Mr. Heller: No, I want the whole book to go in.

3935

The Court: If you were allowed to put a copy in, if you were allowed to put in what was said to be a copy of the book they can put in the book from which that was taken. If there is any question about this book, all right, but whatever book he used, if you can put in a copy surely the original can be put in.

Q. The Government man that was at your place, did you give him this book to make copies from? A. I gave him all the books.

Q. And he made a copy from this book? A. Yes.

Q. This is one of the books that you keep in the regular course of business? A. Yes, sir.

Q. And the entries are made at or near the time that the transaction takes place? A. The week ending the sales, the transactions are made.

Q. They are entered in the book? A. In the book.

Mr. Heller: I offer that book in evidence.

Q. What do you call this book? A. Sheet book.

1313

Leo Schimmel—By Defts.—Direct

3937

The Court: What kind of a book?

The Witness: Sheet.

The Court: Sheet?

The Witness: S-h-e-e-t.

Mr. Rice: Do you mind if I look at it?

The Court: You can have it, it has been offered in evidence.

Mr. Heller: You can have it as long as you want it.

The Court: Look at it, but do not let us get this mixed up. He says that is the book from which the accountant took your copy. Let the accountant look at it and he can tell you whether he used it or not.

Mr. Rice: All right.

The Court: No objection?

Mr. Rice: No objection.

(Marked Defendants' Exhibit G in evidence.)

3938

Q. I show you Government's Exhibit 30 and ask you whether you recognize that document?

A. Yes, sir.

Q. Who made that up? A. I made it up.

Q. Did you receive any instructions from anyone with reference to this? A. I received instructions from Benny Forsmith.

Q. Did he tell you how to make it out? A. He told me to take the average price for the day and the sales and the amount of weights.

Q. Do you know what an accommodation sale is? A. Yes, sir.

Q. What is it? A. An accommodation sale is not exactly a sale, but it is sending merchandise to somebody for accommodation, no profit is involved in that transaction.

3939

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Leo Schimmel—By Defts.—Direct

Q. Did you include such sales in that Government Exhibit 30? A. Yes, sir.

Q. You excluded them or included them? A. Included.

Q. All the sales, accommodation sales? A. I didn't include them in that exhibit, but I included them in my books.

Q. Now, will you tell me by examining your books each particular accommodation sale you left out, to whom it was made and the amount of poultry involved?

3941

Mr. Rice: Just a moment, the books are now in evidence, and so are the reports.

The Court: That is true, but it would take the jury a long time to look them over. If he can point out the pages it would be much easier for everybody.

Q. Did you compile that for me this morning at the Schechter Brothers' place? A. Yes, sir.

Q. Have you got that paper that you compiled for me?

3942

Mr. Rice: If your Honor please, may I urge a further objection; it is quite immaterial whether they designate them accommodation sales or not; accommodation sales are sales.

The Court: I do not know whether they are or not, that is a question of fact whether they are or not.

Mr. Heller: Not only that, I will connect it up and show the same sales are reported elsewhere.

The Court: If somebody is buying simply for somebody else, as an accommo-

1315

Leo Schimmel—By Defts.—Direct

3943

dation and there is no question of profit involved it may or may not be a sale, that is a question for the jury. What they are trying to show is it was not a sale, it was simply an act of accommodation, and that is a question for the jury.

Q. Will you give us the amounts and the dates? A. On the 17th of May, Mogen David took 900 pounds and 1071 pounds. On the same date 1039 pounds, 339, 166 pounds—

Q. Mention the name on each occasion. A. On May 21, Joe Schechter 167 pounds; on the same date Mogen David 1118 pounds, 168 pounds and 174 pounds. On the 22nd Mogen David 165 pounds; on the 23rd Mogen David 135 pounds; on the same date Joe Schechter 909 pounds, Mogen David 930 pounds; on the 24th Mogen David 1972 pounds, Joe Schechter 511 pounds. On May 25th Mogen David 956 pounds and 477 pounds, Joe Schechter 160 pounds; on May 31, Joe Schechter 128 pounds; on the same date Mogen David 1449 pounds and 3545 and 343 pounds, Joe Schechter 1866 pounds. On June 2nd Mogen David 600 pounds, Mogen David 12½ pounds. On June 4th Joe Schechter 31½ pounds, 259 pounds and 380 pounds. Mogen David 200 pounds and 127 pounds. On June 5th Joe Schechter 382 pounds and 202 pounds. On June 6th Mogen David 1088 and 1968, 360. On June 7th Mogen David 992 pounds. On June 8th Mogen David 334 pounds and 166 pounds and 948 pounds; Joe Schechter 1368 and 926. On June 11th Mogen David 987 and 167 pounds. On June 12th Mogen David 1029 pounds. On June 14th Mogen David 553 pounds and 1638 pounds, 183 pounds and 513 pounds and 318.

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3946 *Leo Schimmel—By Defts.—Direct*

On June 14th Mogen David 39 pounds, Joe Schechter 378 pounds and 1002 pounds. D. Hirschon on June 14th 595 pounds, Mogen David 581 pounds and 169 pounds. On June 15th Joe Schechter 158 pounds, Mogen David 1075 pounds, 163 pounds and 179 pounds. On June 13th Mogen David 12½ pounds. On June 19th Mogen David 79 pounds. On June 19th Joe Schechter 890 pounds. On June 20th Mogen David 890 pounds and 567 pounds. On June 21 Mogen David 162 pounds. On June 22nd now, 287 pounds and 15 pounds. June 22nd, Joe Schechter, 393 pounds; Mogen David 583 pounds, 322 and 149 pounds. On June 27th Mogen David 1820 pounds, 732 pounds and 332 pounds. On June 28th, Joe Schechter 52½ pounds; Mogen David 984 pounds. June 29th Mogen David 18 pounds. On June 29th, 160 pounds, Mogen David.

Q. Do not go beyond June 29th. A. Mogen David, 165 pounds and 154 pounds.

Q. Did you total the amount up? A. I am up to July—

3948 Q. Have you got the total now of the amount?
A. 52,420 pounds.

Q. Those were accommodation sales? A. Yes, accommodation sales.

Q. When you talk of Joe Schechter, you mean the Joe Schechter sitting right here? A. Yes.

Q. That stuff went to 991 Rockaway Avenue?
A. That is right.

Q. He had a place of business up to that time? A. Yes.

Q. Up to the end of June? A. Yes.

Q. When did he come into the 52nd Street place? A. July 3rd or July 6th, I don't remember the exact time.

Leo Schimmel—By Defts.—Direct

3949

Q. Up to that time? A. He was in 991 Rockaway Avenue.

Q. Who was Mogen David? A. Mogen David is the father of the Schechter brothers.

Q. He is the father of the Schechter brothers? A. Yes.

Q. David Schechter? A. At 539 Snedecker Avenue.

Mr. Heller: I offer this book in evidence.

(Marked Defendants' Exhibit H in evidence.) **3950**

Mr. Rice: If your Honor please, Government's Exhibit 30, which is this series of seven reports, goes only to the week ending June 11, 1934, and the witness has been reading up to June 29, 1934.

Mr. Heller: Week ending June 11th? That would be June 18th.

Mr. Rice: No, week ending June 11th.

Mr. Heller: That means the 18th.

Mr. Rice: No, week ending on June 11th. **3951**

The Court: That means June 11th is the end of the week.

Mr. Rice: June 4th to June 11th.

Mr. Heller: Then we will have to take off the—

The Witness: Last week.

Mr. Heller: We will have to compute this again.

The Witness: Have to take the last week.

3952 *Leo Schimmel—By Defts.—Direct*

Mr. Rice: We will save time if the witness would just designate the report at which June 11th ended.

Mr. Heller: We will have to add some more then because this starts from April 30th, and we only figured from May 16th, so we get credit for another month. I had the wrong one.

Q. Now you will have to go back to April 30th—

3953

Mr. Rice: Can't this computation be done by the attorneys, your Honor?

Mr. Heller: I am not a bookkeeper. I do not know what is in the books.

Mr. Rice: Oh, yes, your bookkeeper could do it for you outside of court, and we could have our bookkeeper check up on that. It seems to me this is merely a matter of comparing two exhibits.

Mr. Heller: I would not say that.

3954

Mr. Rice: And it is not very enlightening to the jury to just hear a string of figures read off. It does not help anybody. I have no objection, but I think we might save time.

Mr. Heller (addressing the witness): Suppose you sit over here and compute the figures from April 30th to the week ending June 11th, of accommodation sales.

The Court: Why doesn't he and the other gentleman both sit down and let them write it out, and then you can offer it. That would be all right, wouldn't it?

Mr. Rice: Yes.

Mr. Heller: To save time I will call the other bookkeeper from 991 Rockaway Avenue.

1319

Irving Meuterick—By Defts.—Direct

3955

The Court: All right. You want him to start with April 30th and go to June 11th?

Mr. Heller: That is right, yes, sir.

The Court: If you will point it out to the other gentleman as you go along you will save time.

(Witness excused.)

IRVING MEUTERICK, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

3956

Direct examination by Mr. Heller:

Q. I show you these Government's Exhibits, Exhibit No. 29—first let me ask you, what is your occupation? A. Bookkeeper.

Q. You are the bookkeeper for the Schechter Live Poultry Market at 991 Rockaway Avenue?

A. Yes.

Q. For how long? A. Three years.

Q. Now, do you do bookkeeping for other markets? A. Yes.

3957

Q. I show you Government's Exhibit 29, and ask you if you have ever seen this before? A. Yes, sir, I did.

Q. And did you make this out? A. Yes, sir.

Q. Do you know what an accommodation purchase is? A. Yes.

Q. Did you have such accommodation purchases for Joseph Schechter or the Live Poultry Company? A. Yes.

Q. And some of those were for the Schechter brothers at 52nd Street? A. You mean the A. L. A.?

3958 *Irving Meuterick—By Defts.—Direct*

Q. Yes. A. Yes.

Q. Did you incorporate in this report all of the merchandise you received from the 52nd Street address? A. I don't understand that.

Q. All these accommodation purchases, were they incorporated by the Schechter Live Poultry Company? A. What do you mean by the word "incorporated"?

Q. You made this out? A. Oh, yes.

3959 Q. From what? A. From the sales book of the Schechter Live Poultry Market at 991 Rockaway Avenue.

Q. And included in the books of the Schechter Live Poultry Market is every item of merchandise bought by the way of accommodation from the 52nd Street place? A. Yes.

Q. Are all those purchases reflected in this exhibit? A. That is right.

The Court: I do not want to bother you, but where do you get that April 30th from, Mr. Heller?

3960 Mr. Heller: The report is dated April 30th that the Government offered in evidence. It is unfortunate, but they offered the exhibit, so it is in.

Q. Did Joseph Schechter have his business under the corporation at 991 Rockaway Avenue? A. Under the name of the Schechter Live Poultry Market.

Q. For how long? A. For about a year or two or three.

Q. Up until what time? A. July 5th.

Q. You closed the books as of July 5th? A. Yes.

Q. And the place has been closed ever since? A. Closed completely.

Irving Meuterick—By Defts.—Direct

3961

Q. Closed and padlocked, is that right? A.
Yes.

Q. Now, up to that time was Josejh Schechter conducting the business at 991 Rockaway Avenue? A. Well, I think about four or five weeks, or maybe two months before he closed up, he met with an accident and he was not able to conduct the business, he was laid up in a hospital in Brooklyn somewhere.

Q. He did not do any business at all? A. Well, I was there to take charge, but he himself was laid up in a hospital.

Q. Do you know whether or not Joseph Schechter guaranteed the account of the 52nd Street address? A. I think so, yes.

Q. Do you know? A. Yes, he did.

The Court: You say you know?

The Witness: Yes.

Q. He did? A. He did.

Q. And was that his extent of interest in the business up to July 3rd? A. The extent of interest where, the A. L. A.?

Q. That is right. A. Yes.

Q. Just a guarantee of the account? A. Yes.

Q. These accommodation purchases made for Joe Schechter or the corporation, were they for the cost of the merchandise?

Mr. Rice: I object. Let us have the figures.

The Court: Yes, if he knows.

Mr. Heller: I am trying to save time, that is all.

Q. Have you any of the books of your corporation with you? A. All I have is the sales book;

3962

3963

3964 *Irving Meuterick—By Defts.—Direct*

I haven't the purchase book with me, but in some parts of the sales book it may be shown that the accommodation sales were made at that market price, whatever the market price was that day.

Q. Do you think you could ascertain every item from the sale book? A. Yes, I think so.

Q. Will you get the sales book? A. Here it is.

Q. Now, have you got the weekly sheet books here with you? A. No, I did not take that along.

3965 Mr. Heller: If your Honor pleases, suppose we suspend with him until Monday morning, and let him bring those weekly sheet books. It would be much easier to ascertain from them.

Q. Unless you can tell definitely from these sales books. A. I think it would be better to bring the purchase book here and then that would show the prices. You see, even if I would say it was a market price, according to the sales book, then I would have to show according to the purchase book that it was the cost price, because an accommodation sale is supposed to be a sale without a profit.

I have here, on May 29th, an item of 270 pounds at 15 $\frac{3}{4}$ cents, but then I would have to show it was purchased from the West Washington Market at that price.

Q. That is right.

Mr. Heller: Now, if your Honor pleases, while they are computing some figures, may we take a short recess?

The Court: Yes, we will take a recess for ten minutes. Gentlemen of the jury do not discuss this case, and the bailiff will call you.

After Recess

*Isidore Molmod—By Defts.—Direct***3967**

ISIDORE MOLMOD, called as a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. Joseph Heller:

Q. What is your business? A. Meat and poultry.

Q. Beg pardon? A. Meat and poultry.

Q. Were you during the month of June—

The Court: There is no objection to these gentlemen remaining here now?

3968

Mr. Heller: No, unless Mr. Rice objects.

Mr. Rice: No.

Mr. Heller: This does not pertain to the books.

Q. How long have you been in the business?
A. About twenty years.

Q. Were you, during the month of June, 1934, president of the Retail Butchers' Association?
A. Yes, sir.

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

Q. Do you buy your poultry from the Schechters? A. Well, during the month of June I bought on the 22nd, 28th and 29th.

3969

Q. Have you been buying since then? A. Yes, sir.

Q. Did you find any diseased chickens in their premises on the 22nd, 28th and 29th? A. Never.

Q. Have you at your meetings of the Retail Butchers' Association discussed the Schechters, like many wholesale dealers? A. On many occasions.

Q. What is their reputation for selling diseased chickens? A. Never a word said about the Schechter brothers selling that sort of chickens.

3970 *Isidore Molmod—By Defts.—Direct*

Mr. Rice: I move to strike that out; that is not a matter of reputation.

The Court: What was their reputation in the community? Is it good or bad?

Mr. Heller: Yes, that is one of the things that we are being charged with, and naturally that would be one of the things to inquire about.

Mr. Rice: I move to strike that out and ask your Honor to instruct the jury to disregard it.

3971

The Court: That isn't a matter of reputation, their reputation for fair dealings, reputation for honesty, and all that, but you can't ask him generally.

Mr. Heller: But as I understand character testimony, it is divided into two parts. A man that is being charged with robbery, you would ask about honesty; if he is being charged with selling diseased chickens, we have to ask whether he sells diseased chickens.

3972

Mr. Rice: You cannot ask a man in a bank robbery case whether he has a reputation for robbing banks.

Mr. Heller: Why not?

The Court: You can ask whether the man has a reputation of being a fair dealer, and that sort of thing.

Q. Have they got a reputation of dealing fairly with their customers? A. Absolutely.

Q. Do you know from your own knowledge whether or not they sell good, wholesome poultry? A. Yes, sir.

Q. You have been in their place many times? A. Practically three or four times a day.

1325

Leo Schimmel—By Defts.—Direct

3973

Q. You do not always buy there? A. Always been buying there.

Q. Do you buy from any other merchants? A. Yes.

Q. A good many in Brooklyn? A. Yes.

Mr. Heller: That is all.

Mr. Rice: No questions.
(Witness excused.)

LEO SCHIMMEL resumes the stand:

3974

Direct examination (continued) by Mr. Heller:

Q. Have you now added up the amount of accommodation sales, poundage? A. Yes, from April 30th through June 11th.

Q. What is it? A. 41,548½ pounds.

Q. You are in charge of the books, aren't you? A. Yes.

Q. You know what the sale price is? A. Yes, sir.

Q. Do you know from your own knowledge whether or not each and every one of those charges by way of accommodation—

3975

Mr. Rice: I object to this leading.

The Court: Yes.

Q. Do you know the price of the poultry that went to Joseph Schechter or his corporation, was it the same as the price—

Mr. Rice: If your Honor please, I object to putting the words into the witness's mouth. This might be a difficult thing to establish. It might be very doubtful.

3976

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Mr. Heller: We have the books here.

The Court: But the books will speak for themselves. I was simply letting him pick out certain items because it would be a very, very hard job. It would be like looking for a needle in a haystack to go through the books. He has picked out certain items, to which their attention will have to be directed, that is all. If you want to make your proof, make your proof as to each item. The way to do would be to prove what it cost and what it sold for, not to ask him the general question.

3977

Q. How long will it take you to compute the price the merchandise was purchased for and the price at which it was sold, by way of accommodation to Joseph and David Schechter, how long will it take you to do that? A. It will take me about half an hour.

3978

Mr. Heller: Suppose we get these figures up by Monday?

The Court: If he can find—let him pick out the—the easiest way to do it—let him point out where in the books the purchase price is found, where in the books the selling price is shown, and then all you have to do is to look at the books. You don't have to have any bother.

Q. Can you do that now?

The Court: He says it will take him a little time. Let him show it Monday. The jury can compare the purchase price with the sale price.

Mr. Heller: We can do that, yes, and may we suspend for the afternoon?

1327

Leo Schimmel—By Defts.—Direct

3979

There are still a few questions I can ask him.

The Court: Of course, then it is a question of fact whether that is a sale or what it is.

Q. I show you this paper and ask you what this is. A. Sol Wagshul, 969 Nostrand Avenue, on June 20th, 1934, 131—

Mr. Rice: I object to reading it.

The Court: What is it?

The Witness: Yes, sir.

3980

Q. What is this paper? A. It is the charge.

Q. Does that paper indicate the price of the chickens sold to various customers? A. Yes, sir.

Q. Quantity and quality? A. Yes, quantity and price.

Mr. Heller: I propose to prove, with reference to the counts wherein it is claimed that we sold diseased chickens, and I want to show to whom we sold the chickens on that day, the particular person mentioned and the price charged for those chickens.

3981

The Court: Well, I don't know what that proves. Of course if they are charged with selling somebody you can prove the sale on that day, which cooperates the allegation of the sale.

Mr. Heller: I wish to prove that.

Mr. Rice: What, you wish to prove our allegation that there was a sale?

Mr. Heller: That there was a sale and the price charged and let the jury draw their own inference as to whether or not they were diseased chickens.

3982

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The Court: He can show what the transaction was according to the books.

Q. Well, that book is kept in the regular course of business? A. Yes.

Q. And that is a day charge book? A. Yes.

Q. And they have numbers on the bottom? A. Yes, sir, the charge numbers.

Q. And those numbers correspond with the numbers in the sales book? A. Yes.

3983

The Court: They correspond with the numbers in the sales book you say?

The Witness: Yes, your Honor.

Mr. Rice: I now offer this charge book, and this book as one exhibit.

The Court: Now, Mr. Rice, if that is the book of sales, if that is the way they kept the sales they can offer it.

Mr. Rice: Yes, your Honor, I have no objection.

(Marked Defendants' Exhibit I in evidence.)

3984

Mr. Heller: I will show them to the jury later, your Honor, when we sum up.

The Court: Yes, that is a matter of argument and either one of you can point out anything in that exhibit.

Q. Now, forgetting about books until you have a chance to compare the figures. When did you say you commenced your employment with the Schechters? A. At seven in the mornings.

Q. No, no, what year did you commence? A. February of 1933.

Q. And at what salary did you start?

The Court: We had that before, didn't we?

1329

Leo Schimmel—By Defts.—Direct

3985

Mr. Heller: But he is now my witness,
your Honor, on the wage question.

Q. When were you raised? A. I don't remember the exact date, but I believe it was in April, the early part of April.

Q. And you were receiving how much from April on? A. \$20 a week.

Q. And as part of your compensation you were receiving chickens? A. Yes, sir.

Q. Every week? A. Yes.

Q. Now about how many did you take a week? 3986

Mr. Rice: I object to that, the charge here is of payment of wages less than 50 cents an hour and the Code provides that nothing except the legal tender may be paid as that 50 cents an hour.

The Court: Where is that, let me see it. He said three chickens a week and that they were worth \$3 or \$4. That is what he testified to before.

Mr. Rice: On page 9 of the indictment, your Honor.

The Court: I know, where in the Code?

Mr. Rice: Article 4 under Wages, subsection 9: "Employers shall make payment of all wages in lawful currency or by negotiable checks payable on demand, and payment of wages shall be made at least once every two weeks."

Mr. Heller: The Code says "shall make" and if someone wants to buy chickens do we have to have a bookkeeping entry, a charge and a re-charge?

Mr. Rice: You are not establishing that he bought chickens?

3987

3988

Leo Schimmel—By Defts.—Direct

Mr. Heller: I am establishing that they were not gifts.

The Court: That's right, it says here "shall be made in lawful currency or by negotiable check." I suppose they wanted to escape the old practice of having them deal at the store maintained by the employer. I assume that is it.

3989

At any rate, that is what it says, it says that they have got to be paid in lawful tender or negotiable check, and chickens are neither.

Mr. Heller: It is my understanding that lawful tender is in gold and inasmuch as we are off the gold standard—

The Court: Chickens are not lawful tender.

Q. Did you receive as part of your compensation—

The Court: You have already got that in.

3990

Mr. Heller: Yes, but the charge here is different, the charge is he hasn't received more than 50 cents—

The Court: I understand, but you have already got it in. If you want to keep on all right, but you have already got in evidence that he received chickens worth three or four dollars a week. If you want to keep on go ahead, you might not get it in this time, you got it in before. Go ahead, I do not want to stop you, but he testified when he was on the stand before that he got \$20 a week and he got three chickens worth three or four dollars. That

1331

*Leo Schimmel—By Defts.—Direct***3991**

is what he testified to there and that wasn't objected to then. Go ahead if you want some more.

Q. Were those chickens valued at any more at any time?

Mr. Rice: I object to that.

The Court: Objection sustained.

Mr. Heller: Exception.

Q. Can you state definitely whether or not you were required to work more than 42 hours a week?

3992

Mr. Rice: I object to that as a leading question.

The Court: Objection sustained. You have got to take it by a certain specific time, you cannot take the whole thing at once. We went over it before with him and he gave it to us day by day.

Mr. Heller: Can't I call him as my witness now?

The Court: You can, but you cannot ask him whether he worked for a long period of time. You can bring it out day by day and week by week, yes. He is your witness and if you want to do that, you may, you are not precluded by what they asked him.

3993

Q. During week ending May 18th, 1934, did you work more than 42 hours per week? A. No, sir.

The Court: You want to wait, young man, you want to be careful and do a little

3994

Leo Schimmel—By Defts.—Direct

figuring. You know you have testified before. Now when you answer do a little figuring, determine for yourself.

Mr. Heller: I will go into it in more detail in a few minutes.

The Court: You had better go into it in detail, because otherwise you might get him in a position where he might be confused.

3995 Q. During the week ending May 25, 1934, did you work more than 42 hours a week? A. I do not remember now.

Mr. Rice: May I have that question read?

(Question repeated by the stenographer.)

Q. Is that your answer? A. That is my answer.

Q. During the week ending June 1, 1934, did you work more than 42 hours per week? A. I do not remember.

3996

Q. During the week ended June 8th, 1934, did you work more than 42 hours per week? A. I do not remember.

Q. During the week ended June 15th, 1934, did you work more than 42 hours per week? A. June 15th?

Q. Yes. A. That is the first week that I was away for the week-end, it might be that I worked less that week.

Q. During the week ended June 22, 1934, did you work more than 48 hours a week? A. I do not remember.

Q. During the week ended June 29, 1934, did you work more than 42 hours per week?

1333

Leo Schimmel—By Defts.—Direct

3997

Mr. Rice: What was the answer to the last question?

Mr. Heller: He does not remember.

A. June 29th?

Q. Yes. A. Not more.

Q. During the week ended July 13th, did you work more than 42 hours a week? A. I have got to have the figures where I testified before, because I couldn't remember offhand.

Q. During the week ended July 20th, 1934, did you work more than 42 hours per week? A. I don't remember.

3998

Q. What kind of work do you do in this place?
A. Bookkeeping only.

Q. When does the slaughtering cease? A. The slaughtering starts at seven o'clock in the morning, and ceases about 8:30 to 9 o'clock.

Q. And customers have slaughtered all their poultry? A. Yes, sir.

Q. And what else has to be done in the place? A. There is nothing else for me to do in the place, all I have to do is go out and collect.

Q. Do you make the charges? A. Yes, sir.

3999

Q. In the office when the customers buy their stuff? A. No. I do it later.

Q. These charge slips, Exhibit I, do you make these out? A. No, sir.

Q. Yourself? A. I only enter them.

Q. You don't do this work? A. I don't do that.

Q. And that is done by one of the Schechters? A. That is right.

Q. Your work commences with the entry of the charge slips, as evidenced by Defendants' Exhibit I? A. That is right.

4000

Leo Schimmel—By Defts.—Direct

Q. You put these in a book? A. Into the sales book.

Q. And is any other business being done during the day after the killing and after these charges are made? A. No, sir.

Q. Your function is merely to enter these into the book? A. Yes, sir.

Q. And to go out and collect? A. That is right.

Q. You do not do anything else besides that? A. No, sir.

4001

Mr. Rice: I object.

The Court: He is your witness. You are cross examining him.

Mr. Heller: I am showing what work he is doing in the place. The man says he does not remember how many hours he worked in the place.

Mr. Rice: All I hear is Mr. Heller's testimony.

4002

Q. Tell the jury exactly what you do from the minute you come in until the hour you go home. A. Beginning—when the killing starts I help out by the scale, which generally takes about an hour and a half. From then on I enter the charges, which takes me half an hour or an hour at the most. Then, that is about 9:30 in the morning, at 9:30 in the morning I go out for the rest of the day and I come back at night.

Q. What do you do during the rest of the day, how many customers do you visit? A. I don't visit customers. I only go out to collect from the customers who owe money.

Q. How many customers have they got on the books? A. About 50 accounts.

Leo Schimmel—By Defts.—Direct

4003

Q. Do all the customers owe money every day in the week? A. Most of the customers bring in the money. Those that do not bring in, I go and collect from.

Q. On the average how many customers do you see during the week? A. On the average during the week I see about 25 customers.

Q. During the whole week? A. During the whole week.

Q. Isn't that all the work you do for the firm? A. That is the major part of the work.

Q. What else do you do? A. Go out soliciting once in a while—very seldom.

Q. A few times a week? A. A few times a week.

Q. When you received your job—— A. Yes, sir.

Q. (Continuing.) —was anything said about how many hours you were to work? A. No, sir.

Q. Were you asked to work more than 40 hours a day? A. I was never asked to work more than 40 hours.

4004

The Court: A day?

Mr. Heller: A week, I mean.

4005

Q. Did anybody say to you you have to work 48 hours a week? A. No, sir.

Mr. Rice: I object. It is immaterial what they said to him. The issue before this Court is whether or not he did work——

Mr. Heller: That is what I am trying to find out.

Mr. Rice: (Continuing.) —more than 48 hours.

4006

Leo Schimmel—By Defts.—Cross

The Court: The thing is whether he did it or not.

Mr. Rice: I move to strike out the answer to the last two questions.

The Court: I do not know what the one ahead of it is. The last one I will strike out.

Mr. Rice: All right.

The Court: I do not know what the other one was.

4007

Mr. Heller: 48 hours a day you struck out, is that it, your Honor?

Mr. Rice: What he was told to do by his employers.

Q. Can you state definitely whether you worked 30 hours a week for any week or 35 or 40, can you? A. Perhaps I did.

Q. What is that? A. Perhaps I worked 30 hours, perhaps 32, perhaps 35. I do not know definitely.

Cross examination by Mr. Rice:

4008

Q. How many hours did you say you worked the week ending June 29, 1934? A. That particular week I said I worked more than forty-two.

Q. More than forty-two? A. Yes.

Q. Didn't you say, "I don't remember"? A. June 29th?

Q. Yes. A. Or for June 23rd?

Q. For June 29th. What is your answer? A. I don't remember what I said; I know there was one week that I left for the country, and I did not work for so many hours.

Leo Schimmel—By Defts.—Cross

4009

Q. What is your testimony now as to how long you worked during the week ending Friday, June 29th? Does your week end Friday or Saturday? A. Saturday.

Q. Would you say—the week ending Saturday, June 30th, how long did you work? A. You will have to take it day by day, because I cannot tell you the exact amount offhand.

Q. You don't know how many hours you worked that week? A. No.

Q. Do you know how many hours you worked the week before, the week ending Saturday, June 23, 1934? A. I don't remember.

4010

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

Q. Do you remember at one time—

The Court: Excuse me for interrupting, but he testified to all of this on direct examination before.

Mr. Rice: All I propose to do, your Honor, is to lay a foundation for the offering in evidence of this little note.

The Court: But you have already been over that, and he gave us the days and the hours of the week and I calculated them. He said that the note did not represent the hours of the week, but that was the hours that the business was open. You read him the Grand Jury testimony.

4011

Mr. Rice: At that time, your Honor, you will recall that he was my witness.

The Court: Yes.

Q. Didn't you write a note to Mr. Justice of the Agricultural Adjustment Administration, this man right here (indicating), on June 29, 1934, stating as follows: "I worked"—

Mr. Heller: I object to his reading from the note.

4012 *Leo Schimmel—By Defts.—Cross*

Mr. Rice: I am cross examining him now, your Honor.

The Court: If you want to ask him if he wrote that at the time, show him the paper.

Q. Will you look at this little paper, is this in your handwriting? A. It is.

Q. You wrote that? A. I did.

Q. And you wrote that to Mr. Justice? A. Yes, sir.

4013

Mr. Rice: I offer it in evidence.

Mr. Heller: I object.

The Court: You are offering what, the whole letter?

Mr. Rice: Just this little slip. I will tear it off. There is something on the back too that we will take off.

The Court: Of course, that goes to his credibility. Mr. Heller, if you had not interrogated him at all about it it would not be admissible, but now it goes in as to his credibility.

Mr. Heller: But I object because there is no date as to when it was made.

The Court: Oh, yes, there is. He asked him if he made it and gave it to Mr. Justice on June 29th, and he said yes.

Mr. Heller: Very well, your Honor.

(Marked Government's Exhibit 37 in evidence.)

Q. Now, when you made that out for Mr. Justice you were referring to the week prior to the week that Mr. Justice was there? A. The last week.

Leo Schimmel—By Defts.—Redirect

4015

Q. The week before he was there? A. Yes.

Q. The week ending Saturday, June 23rd, is that right? A. Yes.

Mr. Rice: Gentlemen of the Jury, this exhibit, Government's Exhibit 37, reads as follows: "I worked the following hours last week: Monday, 11 hours; Tuesday, 11 hours; Wednesday, 12 hours; Thursday, 17 hours; Friday, 13 hours, and Saturday, 9 hours, a total of 73." It is signed, "Leo Schimmel."

On the reverse side it says: "They allow me two fowls each week."

That is all.

4016

Redirect examination by Mr. Heller:

Q. Do you punch a clock when you come in to work? A. Never.

Q. And do you make a report out of the time that you come in in the morning and the time that you leave at night? A. No.

Q. And when you gave this information did you tell him that you got time off during the day? A. I did not tell him that.

Q. How many hours of the 73 did you take off for yourself? A. I took about two or three hours each day.

Q. You did not actually work for the firm for 73 hours a week? A. No.

4017

Mr. Rice: If your Honor pleases, I object to this leading of the witness by counsel.

The Court: He certainly is. He is your witness, Mr. Heller, and you cannot cross examine him. You certainly were

4018 *Leo Schimmel—By Defts.—Redirect*

doing very well. That was the week ending June 23rd?

Mr. Rice: Yes, or as the indictment says, on or about June 22nd.

The Court: That is all right, I mean it is that week.

Mr. Rice: Yes.

Q. You have written on here Monday 11 hours? A. Yes, sir.

Q. What time did you get in that morning?

4019 A. Seven o'clock.

Q. What did you do when you got in? A. I helped by the scale, and then I entered the charges, which took me about an hour.

The Court: Speak up a little, so the jury can hear you.

The Witness: All around I got through about nine-thirty.

Q. What did you do after that? A. From nine-thirty I went home to a hot lunch, and I got through about eleven o'clock. Then I went out to make a few collections.

Q. How many collections did you make that day? A. I don't remember offhand.

Q. Approximately? A. Approximately about six.

Q. Six collections. How long would it take you to make those six collections? A. It took me about fifteen minutes for each person, six times that.

Q. That would be an hour and a half? A. An hour and a half.

Q. What else did you do? A. Then I came back to the place, entered by collections, and I sat around a little while.

Leo Schimmel—By Defts.—Redirect

4021

Q. Did you do anything while you were sitting around there? A. No; I had all my charges entered in the morning.

Q. Did you do any work while you were sitting around? A. No.

Q. How long were you sitting around? A. Until about three o'clock.

Q. Was there any work to be done in the place during the day? A. No other work for me to do. I waited for the poultry to come in, and the union men took it off while I was sitting there, and then they went home, and I went home to eat.

Q. What time? A. It was about four o'clock. That is the time they go home. Then I came back to the place and I found two customers playing cards, and I was watching them.

Q. When you went home at four o'clock to eat, then you came back and you found two customers playing cards? A. Yes.

Q. Was there any work to be done? A. No, there was no work to be done because I had all the charges entered.

Q. What did you do on Tuesday? A. Tuesday?

4022

Q. Yes. A. Tuesday I went out and made about ten collections that day.

Q. Yes, but the first thing in the morning. A. The first thing in the morning I did the same thing as on Monday.

Q. That kept you up to about nine o'clock? A. Yes, sir.

Q. When the killing was all done? A. Yes, sir.

Q. What did you do then? A. Then I entered the charges for that day, and that took me up to around ten o'clock entering the charges, and

4023

4024 *Leo Schimmel—By Defts.—Redirect*

working by the scale. Then I went out to make collections again.

Q. How many hours did you spend collecting? A. I made about ten collections on that morning, which took me about fifteen minutes for each customer.

Q. Yes. What did you do after that? A. After that I made a deposit and I went out to lunch. I do not remember exactly how much I took for that day; I do not think I came back to the place that day.

4025 Q. You didn't even come back? A. I didn't come back to the place that Tuesday.

Q. What happened on Wednesday? A. Wednesday is a very slow day for the killing, so I got through about eight-thirty, I was all through the charges.

Q. About how many customers were in on Wednesday? A. On Wednesday about half the amount that were in there on Tuesday.

Q. Can you approximate the amount of customers that were in on Wednesday? A. About twenty customers.

4026 Q. When did you get through with them? A. I got through around eight o'clock, I was all through entering my charges by eight-thirty.

Q. Where did you go from there? A. From there I went to lunch, and I had very little collections to make that day. If I remember correctly, I went to see a few customers that were coming in to kill on Thursday.

Q. How long did that take? A. That took me about an hour. Then I came back to the place and I started posting my bills. That took me about an hour. And then I went to eat again, and I came back and I left the car in the place and I went home by one of the customers' cars.

Leo Schimmel—By Defts.—Redirect

4027

Q. Whose car had you been using during the day? A. The Schechters'.

Q. Pleasure car? A. Pleasure car.

Q. Did you go out for a pleasure ride part of the day?

Mr. Rice: I object. He cannot be paid, compensated, by being given a joy ride by these defendants. That is not the legal test.

Mr. Heller: No, your Honor, whether he was working or going on a pleasure jaunt.

Mr. Rice: Or whether he was being paid to ride?

The Court: I appreciate all that.

Mr. Heller: I am not bound by what he has said.

The Court: If he had a car, ask him what he did with the car. He isn't their witness; but you are cross examining. He is your witness.

Q. Did you see anybody else besides a customer during the day? A. No, sir.

4029

Q. Did you use any time for yourself during the day? A. Once in a while.

Q. And on Thursday what did you do when you got in? A. On Thursday I had no collections at all. All I did was I worked by the scale practically until about eleven o'clock. Then I went to lunch for an hour and a half and I came back, and I entered a few charges, and I was on the floor all day, no collections at all, except occasionally about four-thirty to five o'clock.

Q. What did you do on Friday? A. On Fridays I worked on the books all day long.

4030 *Leo Schimmel—By Defts.—Recross*

Q. And from what time in the morning? A. From six in the morning until about one o'clock in the afternoon. Then I went to lunch for two hours, and then I came back at three and I finished up.

Q. Do you know whether that week of June 29th you went to the country? A. June 29th? Well, June 29th I went to the country, but the week previous to that I did not. That was the reason for staying in the place.

4031 Q. You went to the country the week before? A. I did not go the week before.

Q. Did you come in on Saturday the week before June 29th? A. Yes.

Q. How long did you stay there? A. About five or six hours.

Q. That is all you stayed there? A. That is all.

Q. Can you tell us definitely each and every hour you spent during the week for the firm or for yourself? Can you? A. I just stated to you.

Q. That is definite and certain? A. Definite and certain.

4032 Q. Is that right? A. That is positive.

Q. Then the statement that you worked 73 hours did not take into consideration the time you took off for yourself? A. No, sir.

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

Q. Actually you had never worked 73 hours for the firm? A. That is true.

Recross examination by Mr. Rice:

Q. Now, you have told what you did each day during the week ending June 23, 1934, is that right? A. That is right.

Q. That is what you were just telling us? A. That is right.

1345

Leo Schimmel—By Defts.—Recross

4033

Q. Is that week typical of all of the weeks during May, June and July of 1934? A. Yes, they are quite the same.

Q. For every week? A. For every week.

Mr. Heller: Do they kill more—

Mr. Rice: Just a moment

Mr. Heller: Excuse me.

Q. There was no Jewish holiday that week, was there, during the week ending June 23, 1934?

A. I don't think so.

Q. No Jewish holiday? A. No, no Jewish holiday that week.

Q. No special rush of business? A. No.

Q. Just the same amount of business as every other week? A. As every other week.

Q. Didn't you tell Mr. Justice on several occasions that you worked 75 hours a week? A. I don't remember telling him that.

Q. Do you remember talking to him several times about being overworked? A. (No answer.)

Q. Do you remember Mr. Justice was at your place for a number of days? A. Yes, sir.

Q. Do you remember talking to him on several occasions? A. (No answer.)

Q. Speak up. A. I don't remember.

Q. You don't remember talking to him at all? A. I don't remember.

Q. Do you remember talking to him at all? A. He asked me something which concerned book-keeping, but he did not ask me anything concerning working.

Q. You went to him and complained to him you were working too much, didn't you? A. No, sir.

4034

4035

4036 *Leo Schimmel—By Defts.—Recross*

Q. You complained to him that you were working about 75 hours a week, didn't you? A. No, sir.

Q. You told him that he was from the Code Authority and that you wanted him to do something for you, did you? A. I don't remember.

Q. Didn't you ask him whether he could not do something for you, because you were being overworked? A. I don't remember asking him anything of the kind.

4037 Q. Didn't you tell him you were being underpaid? A. (No answer.)

Q. Didn't you tell this man, Mr. Justice (indicating), on several occasions that you were being underpaid? A. I don't remember telling him anything about money.

Q. Do you remember telling him about the number of hours that you worked? A. Oh, all I remember is writing this note which did not mean how many hours I worked.

4038 Q. Isn't it true that you had complained to him several times and that he told you to put down the number of hours that you had worked on a slip of paper and he would see what he could do for you, isn't that right? A. No answer.)

Q. Isn't that the way you happened to write this little note? A. That is not the way I wrote the note. The note I wrote simply because he asked me how long I worked last week. That is why I wrote that note.

Q. How did he happen to ask you that, he is an accountant. A. Yes, sir.

Q. He is not interested in the number of hours you work, is he? A. Why did he ask me?

Q. He is just an accountant, isn't he? A. Yes, sir.

1347

Leo Schimmel—By Defts.—Redirect

4039

Q. And didn't you go to him and complain to him several times that you were working 75 hours a week? A. I did not complain to him.

Q. And he told you to put down the number of hours on a slip of paper and he would see if he could do anything for you, is that right? Is that right or wrong? A. I don't remember why the reason was, that was not the reason I put that down on a piece of paper, whether he could be able to do anything for me.

Q. You know Samuel Cohen, don't you? A. 4040
Yes, sir.

Q. One of the workmen? A. Yes, sir.

Q. A member of the union? A. Yes, sir.

Q. Didn't you go to him several times and tell him that you wanted the union to put another man in the place, so that you wouldn't have to work so hard, is that right? A. I don't remember saying that.

Mr. Rice: You don't remember. All right.

Redirect examination by Mr. Heller:

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Q. Are you a union man? A. No, sir.

Q. This union counsel speaks of that people like Cohen belongs to, does that refer to him? A. That is right.

Q. You do not belong to that class, do you? A. No, sir.

Q. Did you ever make a complaint to the Code Authority that you were being over-worked or under-worked or over-paid? A. There is the Code Authority, you can ask them.

Q. Did you ever make a complaint to them? A. I never did.

4042 *Leo Schimmel—By Defts.—Redirect*

Q. And have you got any complaint against the Schechters? A. No, sir.

Mr. Rice: I object.

Q. Are you satisfied with your job? A. Yes, sir.

Q. You are happy in your job? A. Yes, sir.

Q. You are not here to convict them, are you? A. No, sir.

Q. You are trying to help them? A. That is right.

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Mr. Rice: I will let Mr. Heller withdraw that question.

Mr. Heller: No, I am satisfied with it.

Q. You are even related to the Schechters? A. That is right.

Q. You wouldn't have to go and ask this accountant to help you get more money? A. No, sir.

Q. You know where to get more money if you want it? A. Yes, sir.

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Mr. Rice: I object to these leading questions.

The Court: Yes.

Q. Do you know where to get a raise if you want it? A. Yes, sir, ask the boss.

Q. You wouldn't go to the Code Authority, would you? A. No, sir.

Q. You would go to the Schechters for it? A. Positively.

Mr. Heller: That is all.

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Leo Schimmel—By Defts.—Recross

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Recross examination by Mr Rice:

Q. You say you like your job? A. Yes, sir.

Q. You want to keep your job? A. Yes, sir.

Q. You don't want to lose your job? A. No, sir.

Q. You do not want to get fired, do you? A. No, sir.

Q. You were an enthusiastic witness before the grand jury, weren't you? You sat there before 23 men and told them all about your troubles, didn't you? A. Troubles?

Q. Yes, about your troubles with the Schechters, how the Schechters who are related to you by an in-law relationship were over-working you and under-paying you, didn't you? You told them all about it, didn't you? A. Told who?

Q. The grand jury. A. I don't remember saying anything of that sort.

Q. You do not remember that? You do not remember testifying the number of hours you worked each week, you do not remember that? A. Well, I told you before when I testified there I didn't take into consideration the hours I took off for lunch, when I testified at that time.

Q. You were asked the number of hours you took off from work each day, weren't you? A. When?

Q. Before the grand jury, weren't you? A. You asked me only how many times I took off at one time, but you didn't ask me how many times I took off for lunch, you asked me how many hours I took off—

Q. We won't go through those grand jury minutes again, we had them up here the other day, but you were asked the total number of

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4048 *Leo Schimmel—By Defts.—Recross*

hours that you took from work from the time you got there until the time you left, weren't you? A. As far as I understood it you asked me how much time I took off for each lunch, that is what you asked me.

Mr. Rice: All right, that is all.

Mr. Heller: That is all. Will you bring back those books with that statement?

The Witness: Yes.

4049 Mr. Heller: May we suspend until Monday to get those records in?

The Court: Yes, but there is only one book there involved.

Mr. Heller: I will offer them later after he completes his figures.

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The Court: Gentlemen, do not allow anybody to talk to you about the case, do not discuss it between yourselves, do not form any opinion until it is finally submitted to you. Seriously I make that injunction. It has been requested that we suspend a little earlier today, so come back Monday morning at ten o'clock.

Adjourned to Monday, October 29, 1934,
10 A. M.

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

Met pursuant to adjournment at 10:00
A. M.; present as before.

1351

Martin Schechter—By Defts.—Direct

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

Direct examination by Mr. Heller:

Q. You are one of the defendants in this case?

A. I am.

Q. And what company are you connected with?

A. The A. L. A. Schechter Live Poultry Corporation.

Q. And where is their place of business? A. 858 East 52nd Street, Brooklyn.

Q. And will you give us the names of the officers of the corporation? A. Yes, Alex Schechter, Aaron Schechter, Martin Schechter.

Q. And Alex is the president, is he? A. That is right.

Mr. Heller: Alex, stand up.

(Defendant Alex Schechter stands up.)

Q. Now who is the next one? A. Aaron is treasurer and I am secretary.

Q. And that is of the A. L. A. Schechter Live Poultry Corporation? A. Yes, sir, that is right.

Q. Now how long have you been doing business at 52nd Street? A. The corporation?

Q. Yes. A. Since January 1st, 1934.

Q. And they are still doing business at that address? A. That is right.

Q. And will you tell us what your duties are, and your brothers' duties are, and the other employes, that is during the months of May, June and July of this year? A. Well, you see Aaron and myself, we come in about six o'clock in the

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4054 *Martin Schechter—By Defts.—Direct*

morning on Mondays and we clean up, we clean up the place until about seven o'clock, when the killing starts. At ten minutes to seven the men come in.

Q. By the men you mean—— A. Abie Danziger, Sammy Cohen, and the shochets, Shochet Gershon and Shochet Weisman.

The Court: What about the book-keeper?

4055 The Witness: He comes in at seven o'clock. They come in about ten minutes to seven, they change their clothes. At seven o'clock the killing starts, and we are busy until about 8:30 in the morning. After 8:30, one of the men, Abie Danziger, goes down to the railroad for the poultry, and Sammy Cohen and myself we clean up the place. It takes an hour or two, about 9 or 9:30 we sit down and wait until the stuff comes in about 2 or 3 in the afternoon. It is the same thing every day. About 9:30 Alex Schechter and Leo Schimmel, they go out collecting. That is all there is for the day.

Q. You mean there is just one killing in the morning? A. That is right, once in a while a customer comes back for another killing, but that very seldom happens except on a Thursday.

Q. And the killing takes place on every day except Thursday from 7 to 9 or 9:30? A. 7 to 8:30.

Q. Then all the work is finished? A. That is right.

Q. Except you clean up the place? A. That is right.

Martin Schechter—By Defts.—Direct

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Q. You and Cohen? A. That is right.

Q. You have gone over the books with me the other day? A. I have.

Q. Tell me how many sales were made on Monday, the first Monday in May after May 16th.

Mr. Rice: Just a moment, I object, the books are in evidence and they are the best evidence. It is impossible to check up from this witness's oral testimony.

Mr. Heller: I will withhold that testimony until we get the books, and then I will refresh his recollection and go from week to week and from day to day, and we will have it that way.

The Court: He can point it out in the books.

Mr. Rice: But your Honor, then we would like the same privilege ourselves.

The Court: You have been having it right along, I have let you do it right along, and that is the reason I am going to let them do it. You said it would be hard for the jury to find it and I let you point it out, and what I let you do I will let them do.

Mr. Rice: Very well.

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Q. What is your salary? A. \$35.

Q. Each and every week? A. Well, sometimes \$30.

Q. You never more than \$35? A. No, sir.

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

Q. Every week during the month of May? A. The same thing.

4060 *Martin Schechter—By Defts.—Direct*

Q. And the month of June? A. That is right.

Q. The month of July? A. The same thing.

Q. What does your brother Alexander get?
A. The same thing, we all get the same amount.

Q. Each three of the brothers is taking \$35 a week? A. Yes, and sometimes \$30.

Q. And sometimes \$30? A. That is right.

Q. You take no more from the business? A.
No, sir.

Q. During this period of time did Joe Schech-
ter take any salary? A. No, he did not.

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Mr. Rice: Just a moment, I do not believe that this question of salary is pertinent to any issues in this case.

The Court: It may be about Joseph, I do not know. Joseph wasn't an officer of the corporation, that might be one element.

Q. Did he draw any salary? A. He did not.

Q. Was he an officer of your corporation? A.
He was not.

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The Court: Was he paid anything at all?

The Witness: None whatsoever.

Q. What is his connection with your corpora-
tion? A. He guaranteed the accounts because we didn't have no credit downtown.

Q. You were so young in the business? A.
Well, we were, it will be exactly, December will be two years.

Q. And he guaranteed your accounts at the market? A. That is right.

Q. You paid him nothing for that? A. Ab-
solutely nothing.

Q. When did he get into your business? A.
About July 4 or 5, 1934.

Martin Schechter—By Defts.—Direct

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Q. Is that the time he closed up at 991 Rockaway Avenue? A. That is right.

Q. Up to that time was he in business at 991 Rockaway Avenue? A. That is right

Q. His own business? A. That is right.

Q. Now, what happens to the chickens then they come into your market house, how are they arranged, what happens to the stacks? A. Well, they come into the market, Abie Danziger is the man that brings them in about two or three o'clock in the afternoon, and Sammy Cohen and myself we give him a hand to take them off.

Q. Take them off where? A. Take it off into the place, take the stuff off, and we place it up and feed it up and then we go home.

Q. Nothing is done until the next morning's killing? A. Nothing is done.

Q. So that the moment that he brings in—

Mr. Rice: Just a moment, I object to this leading.

The Court: Do not lead him, let him tell us himself.

Q. Will you explain how the stacks of chickens are placed? A. Yes. You see when the stuff comes in Sammy Cohen, Abie Danziger hands it down to us, while Sammy Cohen and myself assist in taking it off. We stack them about five high, five coops high, one on top of another and place them against the wall in line. We feed them up, and have them arranged for the work for the next day.

Q. How do you take the chickens out of the coop when they are going to be killed? A. We do not take them out. Sammy Cohen and Abie Danziger, they open up a slat. There are two

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4066 *Martin Schechter—By Defts.—Direct*

long slats on each of the coops, the coops are three by six, and it has got two on each side, and they open up the top slat, and then the customer takes the chickens out and hands them to the shochet.

Q. What particular duties do you do in the place? A. I have got very important duties.

Q. Just tell us what they are? A. I stand by the scale to charge. You see the scale stands outside the premises, and I am always standing by the scale to charge until 8:30; I do not leave that place.

4067 Q. You charge them in these books? A. That is right.

Q. Defendants' Exhibit I, are these the charge books, is that correct? A. That is right.

Q. You said you stand at the scale? A. That is right.

Q. Where is the scale? A. The scale hangs outside the premises, right outside on the door, but it is on the outside.

4068 The Court: What do you mean, on the porch?

The Witness: No, you see the place is about 20 by 30—

The Court: Talk up louder.

The Witness: On the outside of the door there is a hook, on the outside where we hang up the scale. It hangs down but it is not in the premises, it is right in between. You see the hook is right in between, and the chickens hang on the outside because the hook hangs right on the door outside.

Q. As you go in? A. That is right.

Martin Schechter—By Defts.—Direct

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Q. You charge them as they are put on the scale? A. That is right.

Q. Those are your duties in the place? A. I charge them and I put them in the bags while Leo Schimmel holds the bag for me and ties them up.

Q. Then these charge slips, what happens to those? A. After the killing at about 8:30 they are entered up in the books. It takes about half an hour to put them in. Of course we only have about 15 or 18 charges, and it only takes about half an hour. Leo Schimmel, he puts them in the books and then goes out collecting, and whatever he does is his time then.

Q. That is all he does? A. That is all he does.

Q. And that is all you do? A. That is all I do.

Q. Charging? A. I charge in the morning until 8:30. After that I clean up the place, it takes about an hour to clean up, and about 9:30 I sit around with Sammy Cohen or we play cards, wait until the stuff comes in about two or three o'clock in the afternoon. Then we help take the stuff off for the next day's killing.

Q. And that ends the day's work? A. That ends the day's work.

Q. Do you do that every day? A. Every day.

Q. Does that end the day's work for everybody? A. Not for everybody, Aaron Schechter goes out collecting, and Leo Schimmel goes out collecting. There is about five or six collections for each of them, that is all.

The Court: Keep your voice up.

Q. What does your brother Alexander do? A. Well, you see he goes out—all these months

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4072 *Martin Schechter—By Defts.—Direct*

you see my brother met with an accident, my brother Joe, you see, and he used to go and do the buying. The only time he come down was once in a while on Thursday or to take the checks downtown, and he stayed through until about ten o'clock, sometimes Friday he come down and stay a while.

Q. Alexander's job is to be at the railroad and buy there? A. That is right.

Q. During the entire month of May that was his job? A. May, June and July.

4073 Q. Up to when in July? A. Well, about the 21st or 22nd. About that, I cannot exactly remember—the date.

Q. Did you on May 16 or on any other day enter into any conspiracy with your brothers to violate the National Industrial Recovery Act? A. I did not.

Mr. Rice: I object, and I move to strike out the answer.

Mr. Heller: What is the objection to that?

4074 The Court: I will let him answer.

Mr. Rice: It calls very clearly for a conclusion of law.

The Court: It does, I understand; but what you had better do is ask him what he did, whether he talked, or what they did. That is a pure conclusion as to whether he entered into a conspiracy.

Q. Did you enter into any agreement with anybody to violate any law? A. I did not.

Mr. Rice: I object to that. That calls for the same conclusion.