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United States Circuit Court of Appeals 1
for the Second Circuit

UNITED STATES OF AMERICA,
Plaintiff-Respondent,

against

A. L. A. SCHECHTER POULTRY CORPORATION, SCHECHTER LIVE POULTRY MARKET, JOSEPH SCHECHTER, MARTIN SCHECHTER, ALEX SCHECHTER and AARON SCHECHTER,
Defendants-Appellants.

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Statement Under Rule 13, Subdivision 4

The indictment herein was filed against the defendants on July 26, 1934, and the defendants pleaded not guilty on August 4, 1934, and were released on bail pending trial. A demurrer was filed on August 11, 1934, and hearing thereon was had on August 16, 1934. On August 28, 1934, a decision was rendered overruling the demurrer as to certain portions of the indictment and sustaining the demurrer as to others. On September 10, 1934, a decision was rendered denying a motion for a Bill of Particulars. The cause came on to be heard before Hon. Marcus B. Campbell and a jury in the District Court for the Eastern District of New York on October 17, 1934. On November 1, 1934, the jury found the defendants guilty on certain counts and not guilty on others. The defendants-appellants were sentenced by Judge Campbell on November 9, 1934, and this appeal was taken on November 9, 1934. There has been no substitution of attorneys.

3

4

Indictment

IN THE
DISTRICT COURT OF THE
UNITED STATES
EASTERN DISTRICT OF NEW YORK

—
July Term, in the Year 1934, Eastern District of
New York, *ss.*
—

5

APPROVAL OF CODE

First Count

The Grand Jurors of the United States of America duly impaneled and sworn in the District Court of the United States for the Eastern District of New York at the July Term of said Court in the year 1934, and inquiring for the said District, upon their oaths present that:

6

1. On April 13, 1934, on application to the President of the United States, by trade associations and groups representing all branches of the Live Poultry Industry of the Metropolitan Area of New York, and after due notice to all persons in said Industry, and after public hearing on behalf of said Industry, the President, by authority of and in accordance with the provisions of the Act of June 16, 1933 (Public, No. 67, 73rd Congress), commonly known as and hereinafter called the National Industrial Recovery Act, duly approved the Code of Fair Competition for the said Live Poultry Industry, hereinafter called the Code, said approval being made effective as of April 23, 1934. The provisions of the said Code are set forth as follows:

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Indictment

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UNITED STATES DEPARTMENT OF
AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 12

CODE OF FAIR COMPETITION

for the

LIVE POULTRY INDUSTRY

of the

8

METROPOLITAN AREA IN AND ABOUT
THE CITY OF NEW YORK

—
Approved by the President of the United States,
April 13, 1934

Effective, April 23, 1934

9

1. Executive Order
2. Letter of Transmittal (Secretary of Agriculture)
3. Letter of Transmittal (Administrator, NRA.)
4. Code

[SEAL OF THE UNITED STATES DEPARTMENT
OF AGRICULTURE]

EXECUTIVE ORDER

Approval of Code of Fair Competition for the
Live Poultry Industry of the Metropolitan
Area in and about the City of New York

Whereas, the Secretary of Agriculture and the
Administrator of the National Industrial Re-

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Indictment

covery Act having rendered their separate reports and recommendations and findings on the provisions of said code, coming within their respective jurisdictions, as set forth in the Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933, as amended by Executive Order No. 6551 of January 8, 1934;

11 Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

1. An application has been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a code of fair competition for the live poultry industry in the metropolitan area in and about the City of New York; and,

12 2. Due notice and opportunity for hearings to interested parties have been given pursuant to the provisions of the act and regulations thereunder; and,

3. Hearings have been held upon said code, pursuant to such notice and pursuant to the pertinent provisions of the act and regulations thereunder; and,

4. Said code of fair competition constitutes a code of fair competition, as contemplated by the act and complies in all respects with the per-

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tinent provisions of the act, including clauses (1) and (2) of subsection (a) of section 3 of title I of the act; and,

5. It appears, after due consideration, that said code of fair competition will tend to effectuate the policy of Congress as declared in section 1 of title I of the act.

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Live Poultry Industry in the Metropolitan Area in and about the City of New York.

FRANKLIN D. ROOSEVELT,
President of the United States.

THE WHITE HOUSE,
April 13, 1934.

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AGRICULTURAL ADJUSTMENT
ADMINISTRATION

LETTER OF TRANSMITTAL

APRIL 10, 1934.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to submit the following:

1. There is transmitted herewith a code of fair competition for the live poultry industry of the metropolitan area in and about the City of

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Indictment

New York, which I recommend for your approval and which the National Recovery Administrator recommends for your approval with reference to the labor provisions thereof. There accompanies the code the report of the Administrator of the Agricultural Adjustment Act, the report of the Administrator of title I of the National Industrial Recovery Act, and a true, correct, and complete stenographic report of all evidence introduced at a public hearing on said code, held pursuant to section 3 (a), title I of the National Industrial Recovery Act.

17

2. By virtue of Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, as amended by Executive Order No. 6551, of January 8, 1934, which, pursuant to title I of the National Industrial Recovery Act of June 16, 1933 (Public No. 67, 73rd Congress), delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the afore-

18

said act, and after considering the aforesaid code of fair competition and a true, correct, and complete stenographic report of all evidence introduced at such public hearing, and being fully advised in the premises, I make the following findings:

1. That an application has been duly made by the New York Live Poultry Commission Merchants Association, the Live Poultry Slaughterhouse Association, Inc., of New York, and the Merchants Association for Live Poultry, Inc., of New York, pursuant to and in full compliance with

the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for the approval of the President, of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area of New York. Said New York Live Poultry Commission Merchants Association, Live Poultry Slaughterhouse Association, Inc., of New York, and Merchants Association for Live Poultry, Inc., of New York, and the advisory body provided for in such code, are truly representative of the industry, and no inequitable restrictions on admission to membership are imposed by them.

20

2. That the live poultry industry of the metropolitan area in and about the City of New York, covered by such code, is included within the trades, industries, or subdivisions thereof enumerated in section II of Executive Order No. 6551, of January 8, 1934 (amending an Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order No. 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933).

21

3. That the provisions of the code establishing standards of fair competition (a) are regulations of transactions in or affecting the current of interstate and/or foreign commerce and (b) are reasonable.

4. That the code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not

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Indictment

operate to discriminate against them and will not permit monopolies or monopolistic practices.

5. That the code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

23

6. That due notice and opportunity for hearing, in connection with the aforesaid code, has been afforded interested parties, in accordance with title I of the National Industrial Recovery Act and applicable regulations issued thereunder.

24

7. That said code will tend to effectuate the declared policy of title I of the National Industrial Recovery Act as set forth in section 1 of said act in that the terms and provisions of such code tend to: (a) Remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by in-

Indictment

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creasing purchasing power; and (g) otherwise to rehabilitate industry and to conserve natural resources.

8. That said code, when approved by the President, will constitute a code of fair competition for the live poultry industry of the metropolitan area in and about the City of New York within the meaning of section 3 (a) of title I of the National Industrial Recovery Act.

Respectfully,

26

H. A. WALLACE,
Secretary.

NATIONAL RECOVERY ADMINISTRATION

LETTER OF TRANSMITTAL

APRIL 9, 1934.

The PRESIDENT,
The White House.

SIR: This is the report on those portions of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area in and about the City of New York which, pursuant to the relative Executive orders, are subject to the jurisdiction of the Administrator for Industrial Recovery. A public hearing was conducted on January 17, 1934, in accordance with the provisions of the National Industrial Recovery Act and Executive Order dated June 26, 1933.

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GENERAL

The functions of this industry include the business of selling, purchasing for resale, trans-

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Indictment

porting or handling, and/or slaughtering live poultry from the time such poultry comes into the New York Metropolitan Area to the time it is first sold in slaughtered form.

29

The code was submitted and sponsored by the New York Live Poultry Slaughter House Association, Incorporated, consisting of approximately 350 wholesale firms; the Retail Merchants' Association of the Live Poultry Industry, Incorporated, of New York City, representing approximately 150 retail shops; and the New York Live Poultry Commission Merchants' Association, Incorporated, consisting of approximately 21 commission agencies. These three associations comprise in their membership the leaders of the industry in and about the metropolitan area of the City of New York and represent about 90 percent of the live poultry industry by numbers and by volume of business. It is estimated that the industry, as defined in the code, comprises about 521 commission merchants and slaughterhouse operators supplying the consuming public with practically all of the live poultry coming into the metropolitan area from 41 States, doing an aggregate annual business of approximately \$90,000,000.00.

30

From the information received, in the year 1933 there were employed in this industry in the neighborhood of 1,610 employees. The industry has been sorely depressed due not only to the prevailing economic conditions of the past few years, but also to the many unfair methods of competition that have prevailed, and to the many evils and abuses that have developed as a result of the uncontrolled methods of doing busi-

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Indictment

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ness. These conditions have, in the period of from 1929 to date, reduced the number of employees by approximately 40 percent. It is believed that by the adoption of this code, the economic conditions within the industry will be substantially improved and the industry in general will be compelled to operate on a more efficient and legitimate basis. The report of the Research and Planning Division indicates that this code will effectuate an increase in wages of about 20 percent in this industry. Likewise, the report of the Research and Planning Division indicates that the code will establish an increase in employment of 19.2 percent.

The administration of the code, as designed, is to be placed in the control of a code supervisor selected by the Secretary of Agriculture and the Administrator of the National Recovery Administration with the approval of the advisory committee of the industry. The industry advisory committee consists of 15 employers representing fairly and equitably the branches of the industry and localities included within the code area. The code supervisor is given powers and duties, subject to the disapproval of the Secretary and/or the Administrator, and is himself subject to removal at any time by those officials. The proposal for concentrated authority is in response to the unanimous demand of the industry itself.

The code contains provisions for the establishment of a labor advisory committee, subject to the approval of the Administrator, and such additional advisory committees as may be necessary to aid the code supervisor in the administration of the code.

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Indictment

PROVISIONS AS TO HOURS

The code provides for a maximum forty-hour week, a normal day not to exceed eight (8) hours except Thursdays and Saturdays when it shall not exceed twelve (12) hours with the following exceptions:

35

(a) Executive, managerial, and/or professional employees and outside salesmen receiving regularly thirty-five dollars (\$35.00) per week or more.

(b) A maximum forty-eight-hour week for slaughterhouse employees.

(c) During the Jewish holidays and legal holidays, employees may be permitted to work in excess of the above hours, provided the total number of such days shall not exceed forty-two (42) in any one calendar year.

36

(d) A complete report shall be made monthly to the code supervisor on the number of hours worked by employees, pursuant to (c) above, also the number of hours worked by part-time, emergency, or temporary employees.

(e) No employee shall be permitted to work more than six days in any one week, except that an employer may use not over two of his employees on the seventh day for the purpose of feeding live poultry.

(f) Employees on emergency maintenance or repair work involving breakdowns or protection of life or property are permitted to work in excess of the maximum hours set forth herein,

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Indictment

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provided that such hours above the maximum are compensated at the rate of time and one third.

PROVISIONS AS TO WAGES

The minimum rate of pay established for each employee is 50 cents per hour with the following exceptions:

(a) Overtime work over and above the maximum hour classifications is to be paid at the rate of not less than time and one third for such overtime; likewise, for work done on Sundays and Jewish and legal holidays.

(b) Article IV, Section 3, provides that the code supervisor, the labor advisory committee and the industry advisory committee shall submit a report to the Administrator within six months after the effective date of this code setting up an equitable adjustment of all wages above the minimum.

(c) The code establishes that a minimum rate of pay shall apply irrespective of whether an employee is actually compensated on a time-rate, piece-rate, or other basis.

(d) Male and female employees performing substantially the same work shall receive the same rates of pay.

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GENERAL LABOR PROVISIONS

(a) This code prohibits the employment of any persons under 16 years of age and under 18 years of age at occupations hazardous and/or dangerous to health.

14**40***Indictment*

(b) The code contains the provisions that every employer shall provide for the safety and health of employees during the hours and places of their employment. Standards of safety and health shall be submitted by the code supervisor to the Administrator within six months after the effective date of this code.

41

(c) Terms of employment shall not, by reason of relationship of employer and employee other than that of marriage, be exempt from the provisions of this code.

(d) This code contains the standard clause affecting handicapped workers as required by Executive order under date of February 17, 1934.

(e) The posting of the code shall be in accordance with such rules and regulations as defined and issued by the Administrator.

42

(f) It is believed that under article V, section 9, employment will be increased to the extent of 210 or more persons in the industry and will standardize the cost of marketing and selling.

COMPLIANCE WITH MANDATORY PROVISIONS

The Administrator finds that:

(a) The code as recommended complies in all respects and without limitation to the provisions of—

Subsection (a) of section 7 and subsection (b) of section 10 of the National Industrial Recovery Act.

Accordingly, I recommend the approval of the Code of Fair Competition for the Live Poultry

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Indictment

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Industry of the Metropolitan Area in and about the City of New York, hereof, to the extent of my jurisdiction, as stated in your Executive order of June 26, 1933.

Respectfully yours,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE
LIVE POULTRY INDUSTRY OF THE MET-
ROPOLITAN AREA IN AND ABOUT THE
CITY OF NEW YORK

44

ARTICLE I—PURPOSES

To effect the policies of title I of the National Industrial Recovery Act, this code is established as a code of fair competition for the live poultry industry of the metropolitan area in and about the City of New York, and its provisions shall be the standards of fair competition for such industry, and shall be binding upon every member thereof.

45

In the event a national code of fair competition for the egg and poultry industry is approved by the President, this code shall be considered as a supplemental code to said National code and be subject to provisions thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term “live poultry industry of the metropolitan area in and about the City of New York” or “industry” means and includes every person engaged in the business of selling, purchasing for resale, transporting, or handling

46*Indictment*

and/or slaughtering live poultry, from the time such poultry comes into the New York metropolitan area to the time it is first sold in slaughtered form, and such related branches as may from time to time be included under the provisions of this code by amendment hereof.

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SEC. 2. The term "member of the industry" includes, without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

SEC. 3. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

48

SEC. 4. The terms "act", "Secretary", and "Administrator", as used herein, mean, respectively, title I of the National Industrial Recovery Act, the Secretary of Agriculture, or his duly appointed agent, and the Administrator for Industrial Recovery, or his duly appointed agent.

SEC. 5. The term "code supervisor" means the code supervisor created pursuant to section 1 of article VI of this code.

SEC. 6. The term "industry advisory committee" created pursuant to section 2 of article VI of this code.

SEC. 7. The term "person" means individual, partnership, corporation, association, and any other business unit.

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Indictment

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SEC. 8. The term "employer" means any person by whom any such employee is compensated or employed.

SEC. 9. The term "State" includes Territory and the District of Columbia.

SEC. 10. The term "books and records" means any and all books, records, accounts, contracts, documents, memoranda, papers, correspondence or other written data pertaining to the business of the person in question.

50

SEC. 11. The term "subsidiary" means any person, of or over whom a member of the industry has, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

SEC. 12. The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner.

51

SEC. 13. The term "outside salesman" means any salesman who performs primarily selling functions and does not deliver. (1) "Primary" shall mean ninety (90) percent of employed time.

SEC. 14. The term "produce" means and includes live poultry and poultry slaughtered in the metropolitan area.

SEC. 15. The term "straight killing" means the practice of requiring persons purchasing poultry for resale to accept the run of any half

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Indictment

coop, coop, or coops, as purchased by slaughterhouse operators, except for culls.

SEC. 16. The term "culls" means poultry which is unfit for human consumption as defined in the instructions of the Chief of the Bureau of Agricultural Economics governing the inspection of live poultry at New York.

53

SEC. 17. The term "commission merchant" means any person receiving live poultry for sale, on commission, or for or on behalf of another.

SEC. 18. The term "broker" means and includes any person who procures and brings about a sale of live poultry, but who is himself neither purchaser nor vendor in the transaction.

SEC. 19. The term "receiver or jobber" means any person receiving and buying live poultry from shippers or producers for his own account.

54

SEC. 20. The term "wholesale slaughterhouse" is one in which more than three thousand (3,000) pounds per week, averaged over a four (4) week period, is sold for purposes of resale. All other slaughterhouses shall be deemed "retail slaughterhouses."

SEC. 21. The term "retail butcher shop" includes all premises where cut meats as well as poultry slaughtered elsewhere in the area covered by this code are sold directly to the public or consumer.

SEC. 22. The term "chicken store" includes all premises where, exclusively, poultry slaughtered elsewhere in the area covered by this code, is sold direct to the public or consumer.

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Indictment

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SEC. 23. The term "chicken stand" includes all stands located in retail food markets where poultry slaughtered elsewhere in the area covered by this code is sold direct to the public or consumer.

SEC. 24. The term "metropolitan area or metropolitan area in and about the City of New York" includes the five boroughs of New York City; the counties of Rockland, Westchester, Nassau, and Suffolk in the State of New York; the counties of Hudson and Bergen in the State of New Jersey; and the county of Fairfield in the State of Connecticut.

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ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty (40) hours in any one week, except as herein otherwise provided. A normal work day shall not exceed eight (8) hours on any day except Thursday and Saturday, when it shall not exceed twelve (12) hours.

57

(a) Executives, managerial and/or professional employees and outside salesmen, provided they regularly receive thirty-five dollars (\$35.00) per week or more.

(b) Slaughterhouse employees provided that they shall not work more than forty-eight (48) hours in any one week.

(c) During Jewish holidays and legal holidays, employees may be permitted to work in excess of the hours herein provided on condition, however, that the total number of such days shall not exceed forty-two (42) in any one calendar year.

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(d) Employees on emergency maintenance or repair work involving break-down or protection of life or property may be permitted to work in excess of the maximum hours hereinabove set forth provided that all hours in excess of the maximum are compensated at time and one third.

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SEC. 2. No employee shall be permitted to work more than six (6) days in any one week, except that an employer may use not over two of his employees on the seventh day for the purpose of feeding live poultry.

SEC. 3. No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer, or employers, in the industry exceeds the maximum hours prescribed herein.

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SEC. 4. Reports shall be made monthly to the code supervisor stating the number of hours worked by employees pursuant to section 1 (c) and (d) of this article and the number of hours worked by part-time emergency or temporary employees.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid in any pay period less than at the rate of fifty (50) cents per hour except that:

(a) Overtime work, as provided for in article III, section 1 (d), shall be paid for at not less than time and one third for such weekly overtime.

(b) Work time on Sundays, Jewish holidays, and on legal holidays shall be paid for at not less than at the rate of time and one third.

(c) After the effective date of this code wages shall be exempt from any charges, fines, rebates, or deductions, or any other form of deducting or withholding wages, except for employees' voluntary contributions for pensions, insurance, or benefit plans, and no employer shall withhold wages except upon legal process, or other papers lawfully requiring such withholding.

(d) Employers shall make payment of all wages in lawful currency or by negotiable checks payable on demand. Payments of wages shall be made at least once every two weeks.

SEC. 2. This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time-rate, piecework, or other basis.

SEC. 3. It is the purpose of this code that there shall be an equitable adjustment of all wages above the minimum, and to that end the code supervisor, the labor advisory committee and the industry advisory committee shall, within six (6) months of the approval of this code, submit for the approval of the Administrator a proposal for adjustment in wages above the minimum. Upon approval of the Administrator, after such hearing as he may prescribe, such approval shall become binding as a part of this code; provided however, that in no event shall hourly rates of pay be reduced.

SEC. 4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The industry advisory committee shall submit to the Administrator and the code supervisor before May 1st, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

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SEC. 2. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in such self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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(b) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 3. No provision in this code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this code.

SEC. 4. No employer shall reclassify employees or duties of occupations performed, or discharge employees to reemploy them at lower rates, or engage in any other subterfuge for the purpose of defeating the provisions of the act or of this code.

SEC. 5. Every employer shall provide for the safety and health of his employees during the hours, and at the places of their employment. Standards for safety and health shall be submitted by the code supervisor to the Administrator within six (6) months after the effective date of this code.

SEC. 6. Terms of employment shall not by reason of relationship of employer and employees other than that of marriage, be exempt from the provisions of this code; and any person working for a member of the industry, other than the wife or husband of said member, shall be considered an "employee" as herein defined. Partners and stockholders of members of the industry and others having proprietary interests in members of the industry shall not, if employed thereby, be exempt from hour, wage, and general labor provisions of this code.

SEC. 7. No employer shall change the method of payment of compensation of employees for

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the purpose of evading the provisions of this code or by other subterfuge evade the provisions of this code or of the act.

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SEC. 8. Each member of the industry shall comply with such rules and regulations with regard to the posting of notices, bulletins and extracts of code provisions as may be from time to time issued by the Secretary and/or Administrator. Such notices, bulletins, and extracts of code provisions shall be written in English and such other language as may be in general use throughout the plant.

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SEC. 9. To increase employment and to standardize the cost of marketing and selling, every slaughterhouse operator shall regularly employ not less than one (1) employee if the volume of his weekly sales of live poultry averaged over a period of four (4) weeks is not less than six thousand (6,000), but not in excess of eight thousand (8,000) pounds; not less than two (2) employees, if the average volume of weekly sales is above eight thousand (8,000), but not in excess of eleven thousand (11,000) pounds; not less than three (3) employees, if the average volume of weekly sales is above eleven thousand (11,000), but not in excess of eighteen thousand (18,000) pounds; not less than four (4) employees if the average volume of weekly sales is above eighteen thousand (18,000) pounds, but not in excess of twenty-eight thousand (28,000) pounds; not less than five (5) employees if the average volume of weekly sales is above twenty-eight thousand (28,000), but not in excess of forty thousand (40,000) pounds; and not less than one (1) additional employee for every addi-

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tional ten thousand (10,000) pounds, or fraction thereof, above forty thousand (40,000) pounds.

SEC. 10. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this code, if the employer obtains from the state authority, designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the code authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

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ARTICLE VI—ADMINISTRATION

SECTION 1. Code supervisor. A code supervisor shall be appointed by agreement between the Secretary and the Administrator with the approval of the industry advisory committee. The code supervisor shall be subject to removal, at any time, by the Secretary and the Administrator.

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(a) The salary of the code supervisor shall be fixed by agreement with the industry advisory committee and shall be subject to the approval of the Secretary and the Administrator. The salary and expenses of the code supervisor shall be paid from assessments levied and collected pursuant to paragraphs 3 and 4 of section 2 of this article.

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(b) The said code supervisor shall have the following powers and duties subject to the disapproval of the Secretary and/or Administrator:

(1) To administer this code and to supervise the performance of the provisions thereof.

(2) To receive and investigate complaints of alleged violations of the provisions of this code, and to report violations to the Secretary and/or Administrator.

(3) To prescribe such rules and regulations, with the approval of the Secretary and/or Administrator, as may be necessary for the proper administration of this code and the performance of his duties herein.

(4) To submit reports to the Secretary and/or Administrator upon request, with reference to the operation and effect of this code.

(5) To make recommendations to the Secretary and/or Administrator for amendments or modifications to this code designed to further effectuate the policy of the Act.

(6) To study the problem of inspection of poultry and make recommendations to the Secretary for the establishment of adequate inspection points for poultry in each of the five boroughs of the City of New York and in each of the counties in

the metropolitan area outside of the City of New York.

(7) To study the problem of the cost of handling poultry in the metropolitan area and make recommendations to the Secretary for a possible lowering of such costs and increasing efficiency.

(8) To study the problem of the method of arriving at the daily market price of poultry and to make recommendations to the Secretary for the establishment of a more efficient method of truly reflecting supply and demand factors.

(9) With the approval of the industry advisory committee, to employ such personnel as may be necessary to assist him in his duties and to determine the compensation of such personnel.

(10) To establish a labor advisory committee, subject to approval of the Administrator, and such additional advisory committees as may be necessary and to consult with such committees and with the industry advisory committee relative to the performance of this code and the problems of the industry.

(11) To attend all meetings of the industry advisory committee and to assist said committee in the performance of its duties.

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SEC. 2. *Industry Advisory Committee.*

1. An industry advisory committee shall be established consisting of fifteen (15) members to be selected as follows:

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(a) Seven (7) members representing receivers, jobbers and commission merchants to be selected as follows: (1) Five (5) members to be selected by the New York Live Poultry Commission Merchants' Association; (2) Two (2) members not members of said association, to be elected by a majority vote of members of the industry who are not members of the association, at a meeting or convention of such nonmembers. At least one of these members must have his business located outside the five boroughs of New York City. Such nonmembers may vote at such meeting by mail and a vote cast by mail shall have the same force and effect as a vote cast at such meeting. Each member defined as a receiver, jobber, or commission merchant shall be entitled to one vote. If such group fails to select its representatives within fifteen days after the effective date of this code, the code supervisor shall select such persons to serve until such representatives are elected.

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(b) Eight (8) members, representing slaughterhouse operators, to be selected as follows: (1) Three (3) members shall be selected by the Live Poultry Slaughter House Association, Inc., of New York; (2) Three (3) members shall be selected by the Merchants' Association for Live Poultry, Inc., of New York; (3) Two (2) members, not members of either of said

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associations, shall be elected by a majority vote of members of the industry who are not members of either of said associations at a meeting or convention of such non-members. At least one of these members must have his business located outside the five boroughs of the city. Such nonmembers may vote at such meeting by mail and a vote cast by mail shall have the same force and effect as a vote cast at such meeting. Each member of the industry defined as either a wholesale slaughterhouse operator and/or retail slaughterhouse operator shall be entitled to one vote. If such group fails to select its representatives within fifteen days after the effective date of this code, the code supervisor shall select such persons to serve until such representatives are elected.

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(c) Not more than one officer, director or employee of any member of the industry shall be a member of the industry advisory committee.

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(d) In addition to membership as above provided the Secretary and the Administrator may each appoint one representative, not a member of the industry, without vote to serve for such terms as they may specify.

(e) Members of the industry advisory committee shall be subject to the disapproval of the Secretary and/or Administrator.

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(f) Members of the industry advisory committee shall serve for one year or until their successors are elected.

(g) All vacancies occurring in the membership of the industry advisory committee shall be filled for the unexpired term by the vote of the remaining members of the division of the industry advisory committee in which such vacancy occurs.

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(h) Each trade or industrial association directly or indirectly participating in the selection or activities of the industry advisory committee shall (1) impose no inequitable restrictions on membership, and (2) submit to the Secretary and the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Secretary or the Administrator may deem necessary to effectuate the purposes of the act.

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(i) In order that the industry advisory committee shall at all times be truly representative of the industry and in other respects comply with the provisions of the act, the Secretary or the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the industry advisory committee is not truly representative or does not in other respects comply with the provisions of the act, may require an ap-

propriate modification in the method of selection of the industry advisory committee, or take such other action as the evidence adduced at the hearing may warrant.

(j) Nothing contained in this code shall constitute the members of the industry advisory committee and code supervisor partners for any purpose. 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 employee of the industry advisory committee and/or the code supervisor. 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.

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(k) If the Secretary or the Administrator shall determine as to matters subject to their respective jurisdiction that any action of the industry advisory committee and/or the code supervisor or any agency thereof may be unfair, or unjust, or contrary to the public interest the Secretary or the Administrator, as the case may be, may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such industry advisory committee and/or the code su-

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pervisor or agency pending final action, which shall not be effective unless the Secretary or the Administrator approves, or unless he shall fail to disapprove after thirty days notice to him of intention to proceed with such action in its original or modified form.

2. The powers and duties of the industry advisory committee shall be as follows:

(a) To cooperate with the code supervisor in the administration of this code and to assist him in procuring the observance of the provisions thereof.

(b) To perform such functions as are delegated to it by the provisions of section 1 of this article.

(c) To act as a planning and research agency for the industry and to make recommendations to the code supervisor for amendments or modifications to this code, designed to effectuate the policy of the act.

(d) To cooperate with the Bureau of Agricultural Economics in the preparation of uniform standards, grades (including consumer grades) and terminology for the various products of the industry. The industry advisory committee shall within six (6) months of the approval of this code forward its recommendations on standards, grades, and terminology to the Secretary. When, after due notice and an opportunity for a hearing, standards, grades, and terminology for any

produce of the industry are promulgated by the Secretary all members of the industry may use such standards, grades, and terminology in the purchase and sale of all products, wherever applicable, and, if so, shall conspicuously designate such standards and grades on produce or packages of produce, wherever applicable.

(e) To cooperate in furthering a National code of fair competition for the marketing division of the egg and poultry industry.

3. The code supervisor, with the approval of the industry advisory committee, is authorized to incur such expenses and to make such expenditures as may be necessary for the maintenance of this code. All moneys collected shall be deposited and disbursed in the name of one of the members of such industry advisory committee, designated as treasurer, who shall furnish bond in an amount satisfactory to the industry advisory committee. The members of the industry advisory committee shall serve without compensation, but shall be entitled to their expenses which are necessarily incurred in the performance of their duties hereunder.

4. Each member of the industry, subject to the jurisdiction of the code, shall pay to the industry advisory committee his pro rata share of all expenses incurred in the administration of this code, and shall make payment upon due notice from the industry advisory committee of his share of such expenses and after opportunity for a hearing to any party dissatisfied with the

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amount of his assessment. Such pro rata share shall be based upon volume of business, or such other factors as the industry advisory committee may deem equitable, and shall be subject to the disapproval of the Secretary and/or Administrator. The industry advisory committee shall have power to institute legal proceedings in its own name and to take any other steps which may be necessary to collect such assessments from members of the industry.

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ARTICLE VII—TRADE PRACTICE PROVISIONS

The following practices shall be deemed to be and shall constitute unfair methods of competition on the part of members of the industry and are hereby prohibited.

SECTION 1. *False advertising*.—To publish or disseminate in any manner any false advertisement. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity or inference it creates a misleading impression.

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SEC. 2. *Inedible products*.—Knowingly to purchase or sell for human consumption culls or other produce that is unfit for that purpose.

SEC. 3. *Rebates*.—The secret payment or secret allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, and/or the secret extension to certain purchasers of special service or privileges not extended to all purchasers on like terms and conditions, provided that nothing in this code shall be construed to prevent the payment of patronage dividends to members of

any bona fide cooperative association duly organized under the laws of any State of the United States, and provided further that nothing in this code shall be deemed to prevent the allowance of a refund, rebate, or credit to any person having a legitimate claim thereto.

SEC. 4. *Commercial bribery.*—Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employees, or representatives of customers or prospective customers or to agents, employees, or representatives of competitors' customers, or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting with competitors.

SEC. 5. *Interference with contractual relations.*—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer and/or source of supply, or interfering with or obstructing the performance of any such contractual duties or services.

SEC. 6. *Defamation.*—The defamation of competitors or customers by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

SEC. 7. *Destructive price cutting.*—No member of the industry shall engage in destructive

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price cutting. The selling or offering for sale of a product below a fair and reasonable price for the purpose and with the effect of unduly discriminating between purchasers or localities, or of injuring a competitor or of unduly suppressing competition, or of creating a monopoly, shall be deemed to be destructive price cutting. Selling or offering to sell a product below the current market price shall be *prima facie* evidence of destructive price cutting, but such selling or offering to sell a product may be justified by a member of the industry by showing that such selling or offering to sell was—

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- (1) To dispose of damaged or defective products designated as such, or
- (2) For charitable or relief purposes, or
- (3) Required by law, or
- (4) For such other good and sufficient reason as may be determined by the code supervisor and/or approved by the Secretary.

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SEC. 8. *Price discrimination.*—To discriminate in price between different purchasers, except for differences in price on account of grade, quality, or quantity of produce sold, or the credit risk involved.

SEC. 9. *Giving of prizes, premiums, or gifts.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of produce, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 10. *Misrepresenting produce.*—Knowingly to sell produce short in weight or misrep-

resented as to the point of origin, quality, condition, or kind of produce.

SEC. 11. *Excessive feeding.*—To feed poultry on the day of unloading or slaughtering beyond what is reasonably required (so that the crops or gullets will show not more than one (1) ounce per bird for broilers under two and one half ($2\frac{1}{2}$) pounds; two (2) ounces per bird for chickens and ducks; three (3) ounces per bird for turkeys and geese) with the intent and effect of deceiving purchasers as to the true weight of the poultry.

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SEC. 12. *Weighing.*—To weigh produce inaccurately with the effect of deceiving sellers or purchasers as to the true weight of the produce.

SEC. 13. *Unloading.*—Unnecessarily to delay the unloading of express lots, cars, or trucks of live poultry for the purpose of causing shrinkage in weight.

SEC. 14. *Straight killing.*—The use, in the wholesale slaughtering of poultry, of any method of slaughtering other than “straight killing” or killing on the basis of official grade. Purchasers may, however, make selection of a half coop, coop, or coops, but shall not have the right to make any selection of particular birds.

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SEC. 15. *Illegal sales.*—The sale or resale of produce to any person not legally entitled to conduct a business of handling the produce of the industry (where a license or permit is required).

SEC. 16. *Misrepresentations as to expected shipments.*—The misrepresentation of any fact which has to do with expected shipments, ex-

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pected supply for the week, quality, or quantity of poultry with the purpose and effect of creating a false market resulting in injury to shippers, members of the industry, or consumers.

SEC. 17. *Price misrepresentation.*—The willful misrepresentation of any fact intended to affect the price of produce.

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SEC. 18. *Unlawful combinations.*—To conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales; (3) to allocate customers, or (4) to manipulate or control prices.

SEC. 19. *Service charges.*—To make charges in connection with cooping, trucking, loading, or unloading for services that may be unnecessary or unreasonable, or may be performed by the shipper at his option, or exert other repressive action upon the freedom of producers to deliver produce direct to any local purchaser.

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SEC. 20. *Misrepresentation of function.*—For a member of the industry to represent himself as a commission merchant or broker when in truth he is acting as a principal.

SEC. 21. *Anti-Racketeering.*—The following practices and acts shall be considered violations of this code: (1) Any act of violence, coercion, extortion, or intimidation, or any threat, conspiracy, combination or concerted action to commit any act of violence, coercion, extortion, or intimidation; (2) Payment of money or any other valuable consideration to any person, firm, corporation, or association as a result of or in connection with intimidation, coercion, extortion,

violence, or injury to personal property, or threat of such violence, extortion, or injury, or to avoid such violence or injury; (3) Payment or collection, directly or indirectly, of money or other valuable considerations for the purpose of obtaining favors or special privilege under or exemption from:

- (a) Any provision of this code, or
- (b) Any Federal, State, municipal, county, or local statute, ordinance, rule, or regulation relating to the conduct of the industry, or
- (c) Any rule, regulation, or policy of a labor union.

(4) any act intended to coerce, having the necessary effect of coercing any person, firm, or corporation engaged or employed in the industry, or attempting to engage or be employed in the industry, to join or not to join any association, firm, corporation, or group. Whenever any person, firm, or corporation engaged in or employed in the industry is apprised, directly or indirectly, of any such payment, collection, violence, coercion, extortion, intimidation, or any attempt to make such payment, collection, or to commit any such act of violation, coercion, extortion, or intimidation, he shall make a full and complete report thereof, together with all direct or indirect information in his possession relating thereto. Any failure to make such report or furnish such information shall be a violation of this code.

SECTION 22. *Inspection of poultry.*—The sale of live poultry which has not been inspected and approved in accordance with the rules, regulations, and/or ordinances of the particular area.

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ARTICLE VIII—GENERAL

SECTION 1. *Reports.*

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(a) The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Administrator in the case of information relating to hours of labor, rates of pay, and other conditions of employment) furnish such information to such Federal and State agencies on and in accordance with forms of reports supplied to them (which reports shall be verified under oath) as the Secretary or the Administrator may designate and require (1) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and (2) for the determination by the Secretary or the Administrator of the extent to which the declared policy of the act is being effectuated by this code.

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(b) The members of the industry shall severally permit, for the same purpose and/or to enable the Secretary or the Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries, to be examined by the Secretary or the Administrator during the usual hours of business.

(c) The members of the industry shall severally keep books and records which will clearly reflect all financial transactions of their respective businesses and the financial condition thereof and shall see to it that their respective subsidiaries and affiliates keep such records.

(d) In addition to the reports to be furnished pursuant to section 1 of this article, members

of the industry shall severally from time to time, upon request of the code supervisor, furnish information pertaining to dual interests, such as the owning or holding, directly or indirectly, of any financial or other interest by (1) a slaughterhouse operator in the business of a shipper, commission merchant, broker, receiver or jobber, chicken store, chicken stand, or butcher shop operator; (2) of a shipper, commission merchant, broker, receiver or jobber, chicken store, chicken stand, or butcher shop operator in the business of a slaughterhouse; (3) of a commission merchant or broker in the business of a receiver or jobber; (4) of a commission merchant or broker in the business of a shipper; (5) or any other combination of dual-interest information relating to dual interests may be made public.

Nothing in this code shall relieve any person of existing obligations to furnish reports to Government agencies.

No individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Secretary or the Administrator.

SEC. 2. *Expected shipments.*—At or before noon on Tuesday of each week, every member of the industry receiving live poultry in carloads, truck loads exceeding three thousand (3,000) pounds, or express shipments exceeding fifteen hundred (1,500) pounds shall make to the code supervisor a written report setting forth the amount of his expected receipts for the balance of the week, the actual numbers of the cars expected, and such other information relating to

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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 provided for in approved rules of this code supervisor.

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SEC. 3. *Listing sales prices.*—Every member of the industry shall submit a weekly report to the code supervisor. Such report shall show the range of daily prices and volume of sales for each kind, grade, or quality of produce sold by the member of the industry during the reported week.

SEC. 4. *Modification.*—This code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provisions of subsection (b) of section 10 of the act, from time to time, to cancel or modify any order, approval, license, rules, or regulation issued under said act.

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This code, except as to provisions required by the act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Secretary, and/or the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the Secretary and/or the Administrator.

SEC. 5. *Licenses and marketing agreements.*—If any license is hereafter issued or any marketing agreement hereafter executed, pursuant to provisions of the Agricultural Adjustment Act, containing provisions covering the subject matters referred to in subclauses (1) to (7), inclu-

sive, of section 1 of the Executive Order No. 6551 of January 8, 1934, then to that extent such license and/or marketing agreement shall supersede such provisions of this code.

SEC. 6. *Monopolies, etc.*—No provision of this code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

SEC. 7. *Effective date.*—The code shall become effective on the second Monday after its approval by the President.

INTERSTATE COMMERCE IN LIVE POULTRY

2. For many years last past, up to and including the date of the filing of this indictment, a large and important part of the trade and commerce among the several states of the United States has consisted in the shipment of live poultry from, among others, the States of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin, and the District of Columbia, to and into the State of New York, which said trade and commerce is now hereinbelow described in further detail.

FREIGHT POULTRY

3. Approximately 77% of the live poultry consumed in the Metropolitan Area (consisting of

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the five boroughs of New York City, the counties of Rockland, Westchester, Nassau and Suffolk, in the State of New York, the counties of Hudson and Bergen in the State of New Jersey, and the county of Fairfield in the State of Connecticut), hereinafter called freight poultry, is shipped by freight over interstate railroads into the State of New York from the states of origin, mentioned in paragraph 2 above, to commission merchants doing business in the State of New York, who sell and deliver said poultry, as agents for and on behalf of the shippers in other states, to wholesale and retail slaughterhouse men in the State of New York. Approximately 50% of the freight poultry arrives at railroad terminals in the State of New Jersey, and the remainder thereof arrives at railroad terminals in the State of New York. The Commission merchants sell to the slaughterhouse men a large part of said poultry before it arrives at said terminals, and a large part of the remainder thereof immediately after it arrives. Freight poultry which is thus sold is delivered by the commission merchants from the freight cars at said railroad terminals directly to the trucks of the slaughterhouse men and immediately thereafter trucked to the slaughterhouses. The freight poultry which is not thus sold at said terminals is trucked by the commission merchants from said terminals to their places of business in West Washington Market in the City of New York, where a large portion thereof is promptly transferred from the commission merchants' trucks to the trucks of slaughterhouse men purchasing such poultry, and the rest is unloaded at West Washington Mar-

ket and thereafter sold to slaughterhouse men as soon as such purchasers can be found. Slaughterhouse men in turn sell such freight poultry to retail poultry dealers and butchers located in the Metropolitan Area in the States of New York, New Jersey and Connecticut, and slaughter said poultry promptly after selling the same.

TRUCKED AND EXPRESS POULTRY

4. Approximately 23% of the live poultry consumed in the Metropolitan Area, hereinafter called trucked and express poultry, is transported into the Metropolitan Area either by truck or railway express to the said commission merchants, who in turn promptly sell and deliver it to slaughterhouse men, or is transported by truck or express directly to the slaughterhouse men, who in turn sell it to retail poultry dealers and butchers located in the Metropolitan Area. Approximately 84% of such trucked and express poultry is transported into the State of New York from the states of origin mentioned in paragraph 2 above.

RAPID MOVEMENT OF LIVE POULTRY

5. All such live poultry, including freight poultry and trucked and express poultry, is highly perishable and is sold and delivered usually within 24 hours after arrival in the State of New York, passing through the various channels above described from the point where it comes into the State of New York to the point where it is sold by slaughterhouse men, continuously and without substantial delay other than such as is necessitated by inspection, unloading, and finding purchasers.

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REGULATION OF COMMERCE BY CODE

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6. The uneconomic and destructive practices of the Live Poultry Industry of the Metropolitan Area existing prior to the approval of the said code caused widespread competitive marketing and industrial evils in the Live Poultry Industry and demoralized the entire price structure in the Live Poultry Industry both in the said Metropolitan Area and in substantially all other poultry markets throughout the United States, thereby, impeding, diverting, and harmfully affecting the interstate commerce in live poultry described in Paragraphs "2", "3", "4" and "5", above, and the interstate commerce in live poultry throughout the United States. The price structure and trade practices of the Live Poultry Industry of the Metropolitan Area govern and control the price structure and trade practices in substantially all other poultry markets throughout the United States. The said Code regulates the interstate commerce described in Paragraphs "2", "3", "4" and "5" hereinabove and throughout the United States by setting up the standards of fair competition for the Live Poultry Industry of the Metropolitan Area, in accordance with the provisions of said National Industrial Recovery Act.

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DEFINITION OF UNFIT AND HEALTHY POULTRY

7. Culls and poultry unfit for human consumption hereinafter will be collectively called unfit poultry or unfit chickens; and other poultry will be called healthy poultry or healthy chickens.

DESCRIPTION OF DEFENDANTS

8. Throughout the period of time from January 1, 1934, up to and including the date of the filing of this indictment: the A.L.A. Schechter Poultry Corporation has been a corporation duly organized and existing under the laws of the State of New York, and doing business and having an office in the Borough of Brooklyn in the Eastern District of New York; the Schechter Live Poultry Market, Inc. has been a corporation duly organized and existing under the laws of the State of New York and doing business and having an office in the Borough of Brooklyn in the Eastern District of New York; the said A.L.A. Schechter Poultry Corporation and the said Schechter Live Poultry Market, Inc., and Joseph Schechter, Martin Schechter, (alias Meyer Schechter, alias Louis Schechter), Alex Schechter, and Aaron Schechter, (alias Abe Schechter) have been engaged in maintaining, operating and conducting on their own behalf and on behalf of each other wholesale slaughterhouse business at 991 Rockaway Avenue, Brooklyn, N.Y. and at 858 E. 52nd Street, Brooklyn, N.Y.

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CONSPIRACY TO VIOLATE RECOVERY ACT

9. Joseph Schechter, Martin Schechter, Alex Schechter, Aaron Schechter, the A. L. A. Schechter Poultry Corporation, and Schechter Live Poultry Market, Inc., hereinafter collectively called said defendants, are hereby made defendants in the First Count of this indictment. Said defendants, together with other persons to the Grand Jurors unknown, well knowing all matters of fact in this indictment set forth, beginning on or

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about May 16, 1934, and continuously thereafter up to and including the date of filing this indictment, within the Eastern District of New York, did unlawfully, feloniously, and wilfully conspire with each other to commit a large number of offenses against the United States, to wit, to violate the said National Industrial Recovery Act and the said Code; that is to say, they combined, agreed, confederated, and conspired with each other:

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(a) To knowingly, unlawfully and wilfully sell for human consumption unfit poultry, in violation of Article VII, Section 2, of said Code; and

(b) To knowingly, unlawfully and wilfully sell poultry which had not been inspected or approved in accordance with any rule, regulation or ordinance of the area where said poultry was sold, in violation of Article VII, Section 22, of said Code; and

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(c) To knowingly, unlawfully and wilfully use, in the wholesale slaughtering of poultry, methods of slaughtering other than "straight killing" or killing on the basis of official grade, and to knowingly, unlawfully and wilfully allow persons purchasing poultry for resale to make selections of individual chickens where such selections are made for purposes other than the elimination of culs and unfit chickens, all in violation of Article VII, Section 14, of said Code; and

(d) To knowingly, unlawfully, and wilfully commit and threaten to commit acts of violence, coercion and intimidation, in violation of Article VII, Section 21 (1), of said Code; and

(e) To knowingly, unlawfully and wilfully submit to the Code Supervisor false and fictitious reports relating to the range of daily prices and volume of sales for various kinds, grades and qualities of poultry sold by them during the week prior to said reports, and to knowingly, unlawfully and wilfully fail, refuse and decline to submit to the Code Supervisor proper reports concerning the same, both in violation of Article VIII, Section 3, of said Code; and

(f) To knowingly, unlawfully and wilfully fail, refuse and decline to furnish to the Code Supervisor any reports concerning the number of hours worked by employees, in violation of Article III, Section 4, of said Code; and

(g) To knowingly, unlawfully and wilfully pay their employees less than 50¢ per hour, in violation of Article IV, Sections 1 and 2, of said Code; and

(h) To knowingly, unlawfully and wilfully permit their employees, other than those engaged in emergency, maintenance or repair work, to work more than 48 hours per week during periods other than Jewish holidays or legal holidays, in violation of Article III, Section 1, of the said Code; and

(i) To knowingly, unlawfully and wilfully interfere with, hinder, obstruct and prevent the Code Supervisor from performing and carrying out the powers and duties vested in him by said Code, including the power and duty to administer said Code, to supervise the performance of the provisions thereof, and to receive and investigate complaints of alleged violations of the provisions thereof, all in violation of Article VI, Section 1, (b-1) and (b-2), of said Code.

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OVERT ACTS IN FURTHERANCE OF CONSPIRACY

10. And the Grand Jurors aforesaid do further upon their oaths aforesaid present that to effect the objects of said consiperacy and in furtherance thereof, said defendants committed the following overt acts:

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(a) On or about June 25, 1934, at the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Martin Schechter and the A. L. A. Schechter Poultry Corporation, knowingly, wilfully and unlawfully sold for human consumption an unfit chicken to Harry Stauber or some other person to the Grand Jurors unknown, operating a butcher shop at 1753 Prospect Place, Brooklyn, New York.

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(b) On or about June 27, 1934, at the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter and the A. L. A. Schechter Poultry Corporation sold for human consumption two unfit chickens to a retail poultry dealer by the name of Wagshul (his exact name being to the Grand Jurors unknown), maintaining a place of business at 127 Sutter Avenue, Brooklyn, New York.

(c) On or about June 28, 1934, the said defendants did have in their possession at 858 East 52nd Street, Brooklyn, New York, with the intent and purpose of selling the same for human consumption, four unfit chickens.

(d) On or about June 28, 1934, said defendants did have in their possession at the said wholesale slaughterhouse at 991 Rockaway Ave-

nue, Brooklyn, New York, with the purpose and intent of selling the same for human consumption, six unfit chickens.

(e) On or about May 26, 1934, said defendants transported from Philadelphia, Pennsylvania, into the State of New York to the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York, and there unloaded and placed in the said premises with the purpose and intent of selling the same within the City of New York, approximately 5,200 pounds of live poultry which they had failed and neglected to have inspected or approved in accordance with any rule, regulation or ordinance of the said City of New York.

(f) On or about May 28, 1934, said defendants transported from Philadelphia, Pennsylvania, into the State of New York to the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York, and there unloaded and placed in the said premises with the purpose and intent of selling the same within the said City of New York, approximately 7,144 pounds and 59 baskets (each said basket containing approximately 60 to 65 pounds) of live poultry which they had failed and neglected to have inspected or approved in accordance with any rule, regulation or ordinance of the said City of New York.

(g) During or about the week commencing May 26, 1934, the defendants sold in Brooklyn, New York, to persons to the Grand Jurors unknown, the aforesaid quantity of approximately 12,344 pounds (the aforesaid 5,200-pound lot plus the aforesaid 7,144-pound lot) of said uninspected live poultry described in paragraphs (e) and (f)

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hereinabove, or a substantial part thereof, without having the same inspected in accordance with any rule, regulation or ordinance of the City of New York.

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(h) On or about May 29, 1934, at said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York, said defendants sold the said 59 baskets of uninspected live poultry referred to in paragraph (f) hereinabove, to the Mogen David Live Poultry Market, Inc., and/or to David Schechter at 539 Snediker Avenue, Brooklyn, New York, without having the same inspected or approved in accordance with any rule, regulation or ordinance of the said City of New York.

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(i) On or about June 20, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, said defendants permitted, and participated in, individual selections of particular chickens taken from particular coops and half coops in a sale of live poultry to a retail poultry dealer by the name of Wagshul (his full name being to the Grand Jurors unknown), maintaining places of business in Brooklyn, New York, and permitted said Wagshul to reject individual healthy chickens and to slaughter the chickens so selected.

(j) On or about June 22, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, said defendants permitted, and participated in, individual selections of particular chickens taken from particular coops and half coops in a sale of live poultry to a retail poultry dealer (his name being to the Grand Jurors unknown), maintaining a place of busi-

ness at 961 Blake Avenue, Brooklyn, New York, and permitted said retail poultry dealer to reject individual healthy chickens and to slaughter the chickens so selected.

(k) On or about June 28, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, said defendants permitted, and participated in, individual selections of particular chickens taken from particular coops and half coops in a sale of live poultry to a butcher by the name of Sam Tanowitz, maintaining a place of business at 5303 Church Avenue, Brooklyn, New York, and permitted said Sam Tanowitz to reject individual healthy chickens and to slaughter the chickens so selected.

(l) On or about June 28, 1934, at the said slaughterhouse at 991 Rockaway Avenue, Brooklyn, New York, said defendants permitted, and participated in, individual selections of particular chickens taken from particular coops and half coops in a sale of live poultry to a retail poultry dealer by the name of Jack Kleinman, maintaining a place of business at 1507 Kings Highway, Brooklyn, New York, and permitted said Jack Kleinman to reject individual healthy chickens and to slaughter the chickens so selected.

(m) On or about June 25, 1934, at the said slaughterhouse at 991 Rockaway Avenue, Brooklyn, New York, said defendants permitted, and participated in, individual selections of particular chickens taken from particular coops and half coops in a sale of live poultry to a butcher by the name of Morris Rabinowitz, maintaining a place of business at 508 New Lots Avenue,

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Brooklyn, New York, and permitted said Morris Rabinowitz to reject individual healthy chickens and to slaughter the chickens so selected.

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(n) On or about June 27, 1934, at or near 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter did use threatening, coercive and intimidating language and gestures to one Philip Alampi, an investigator employed by and acting on behalf of the Code Supervisor and engaged in investigating violations herein described and other violations of said Code by said defendants, with the purpose, intent and effect of preventing said Alampi from performing his duties above set forth, and of enabling said defendants to commit the violations herein described and other violations of said Code.

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(o) On or about June 28, 1934, at or near 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Alex Schechter and Martin Schechter did use vile, threatening, coercive and intimidating language and gestures to one Philip Alampi, an investigator employed by and acting on behalf of the Code Supervisor and engaged in investigating violations herein described and other violations of said Code by said defendants, with the purpose, intent and effect of preventing said Alampi from performing his duties above set forth, and of enabling said defendants to commit the violations herein described and other violations of said Code.

(p) On or about June 29, 1934, at or near 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Alex Schechter, and Martin Schechter did use vile, threatening, coercive and intimidating language and gestures to one

Benjamin Forsmith, an investigator employed by and acting on behalf of the Code Supervisor and engaged in investigating violations herein described and other violations of said Code by said defendants, with the purpose, intent and effect of preventing said Forsmith from performing his duties above set forth, and of enabling said defendants to commit the violations herein described and other violations of said Code.

(q) On or about July 3, 1934, at or near 991 Rockaway Avenue, Brooklyn, New York, the aforesaid Joseph Schechter did use threatening, coercive and intimidating language and gestures to one Jack Musicant, an investigator employed by and acting on behalf of the Code Supervisor and engaged in investigating violations herein described and other violations of said Code by said defendants, with the purpose, intent and effect of preventing said Musicant from performing his duties above set forth, and of enabling said defendants to commit the violations herein described and other violations of said Code.

(r) On or about June 28, 1934, the aforesaid A. L. A. Schechter Poultry Corporation and Martin Schechter did submit to the Code Supervisor weekly reports for each week and from the week ending April 30, 1934, to and including the week ending June 11, 1934, which reports contained false and fictitious statements relating to the range of daily prices and volume of sales for each kind, grade and quality of poultry sold by said defendants during the period covered by each of said reports.

(s) Each and every week after the week ending May 18, 1934, to and including the date of

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the filing of this indictment, the aforesaid A. L. A. Schechter Poultry Corporation, Alex Schechter, Martin Schechter and Aaron Schechter did pay to a person employed by them in the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York (the name of said person being to the Grand Jurors unknown), wages amounting to less than 50¢ per hour for each hour worked by the said employee.

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(t) Each and every week after the week ending May 18, 1934, to and including the date of the filing of this indictment, the aforesaid A. L. A. Schechter Poultry Corporation, Alex Schechter, Martin Schechter and Aaron Schechter did cause and permit a person employed at the said wholesale slaughterhouse at 858 East 52nd Street, Brooklyn, New York (the name of said person being to the Grand Jurors unknown), to work at the said slaughterhouse in excess of 55 hours per week, the said employee not being engaged in emergency, maintenance or repair work, and the said violations occurring during periods other than Jewish holidays or legal holidays.

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INTERSTATE COMMERCE IN DEFENDANTS' POULTRY

11. All of the live poultry purchased and sold by said defendants is transported into the State of New York from other States. Said defendants purchase a substantial portion of said live poultry at the said railroad terminals in New York and New Jersey immediately after its arrival at said terminals from States other than the States of New York and New Jersey, and truck said poultry directly from said terminals to their wholesale slaughterhouses in Brooklyn,

New York, where they sell it to retail poultry dealers and butchers usually within 24 hours after said poultry has arrived at said terminals. Said defendants also purchase a substantial portion of said poultry in Philadelphia, Pennsylvania, and truck it directly therefrom to their wholesale slaughterhouses in Brooklyn, New York, where they sell it to retail poultry dealers and butchers usually within 24 hours after it is thus brought into the State of New York. All of the live poultry referred to in the overt acts prescribed in sub-paragraphs (e), (f), (g) and (h) of paragraph 10 hereinabove was thus trucked from Philadelphia, Pennsylvania, to Brooklyn, New York, and sold in interstate commerce at the wholesale slaughterhouses of said defendants in Brooklyn, New York, to retail poultry dealers and butchers.

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EFFECT ON INTERSTATE COMMERCE OF VIOLATIONS AND TRANSACTIONS

12. The violations and the transactions referred to in subparagraphs (e), (f), (g), and (h) of paragraph 9 hereinabove are in the interstate commerce in live poultry described in paragraphs 2, 3, 4, and 5 hereinabove; and all of the violations and transactions referred to in paragraph 9 hereinabove, which the said defendants conspired to commit and engage in, affect said interstate commerce in the following manner, that is to say:

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(a) Prior to the adoption of said Code widespread competitive, marketing and industrial evils existed in the Live Poultry Industry of the Metropolitan Area. The existence of such evils

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obstructed the free interstate flow of live poultry into the State of New York from other states, substantially diminished the total volume and value thereof, disrupted the orderly flow thereof, and contaminated and demoralized the character thereof. Said Code prohibits such evils and was adopted and approved for the purpose of correcting said evils.

173 (b) The conspiracy to commit the offenses described herein has encouraged and caused the violations hereinabove described and other violations of essential provisions of said Code by a large number of other members of the Live Poultry Industry in the Metropolitan Area, and has thereby diverted substantial interstate shipments of live poultry and has caused a disruption of the normal flow of the interstate commerce in live poultry coming into the State of New York from other states, and has thereby obstructed and prevented the accomplishment of said purposes of said Code.

174 (c) The defendants' sale for human consumption of unfit poultry causes the transportation in interstate commerce of unfit poultry, which poultry would otherwise be destroyed prior to said interstate transportation, and diminishes the interstate transportation of healthy and edible poultry.

(d) The defendants' sale for human consumption of unfit poultry encourages and causes the sale for human consumption of unfit poultry by other slaughterhouse men in said Metropolitan Area, and thereby causes the transportation in interstate commerce of substantial amounts of unfit poultry which would otherwise be destroyed

prior to such interstate transportation, and diminishes the interstate transportation of healthy and edible poultry.

(e) Unfit poultry is sold at prices substantially lower than the prevailing market prices for healthy poultry, and in many instances unfit poultry is sold under misrepresentations as to its edibility. Such misrepresentations and such sales at prices under prevailing market prices as aforesaid tend to demoralize the market value of healthy poultry, to cause confusion in the orderly marketing of live poultry through the channels of interstate commerce described in paragraphs 2, 3, 4, and 5 of this indictment, to reduce substantially the prices paid to the persons shipping poultry into the State of New York from other states, to diminish the consumption of live poultry in the Metropolitan Area, and to reduce the volume of live poultry shipped into the State of New York from other states.

(f) The disease which contaminate unfit poultry are in many instances transferable to healthy poultry, and the shipment in interstate commerce of such unfit poultry in the same crates and in the same cars with healthy poultry tends to taint, damage and infect the healthy poultry moving in interstate commerce and render the same inedible and unfit for human consumption.

(g) The purpose of inspecting poultry prior to the sale thereof in the City of New York is to eliminate unfit poultry and to detect and prevent various frauds whereby the true weight of poultry is misrepresented in the interstate transportation and delivery of live poultry from shippers outside the State of New York directly to

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commission men and slaughterhouse men within the State of New York.

(h) The sale of uninspected poultry aids the commission of the aforesaid frauds and causes an increase in the transportation of unfit poultry into New York from other states and a decrease in the transportation of healthy chickens into the State of New York from other States.

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(i) The purpose of Article VII, Section 14 of said Code, requiring "straight killing" or killing on the basis of official grade, is to encourage and promote the practice of grading poultry according to quality, and packing, shipping and selling such poultry on the basis of official grade, and to prevent the evil competitive practices and demoralized and uneconomic price structure resulting from the sale at reduced prices of healthy poultry rejected in the course of selective killing. The use in the wholesale slaughtering of poultry of any method of slaughtering other than "straight killing" and the practice of permitting purchasers to make selections of individual chickens from particular coops or half coops tends to defeat these purposes, and to cause the shipment and delivery to commission merchants and slaughterhouse men in New York by shippers in other states of ungraded and inferior poultry, and to diminish the price obtainable by such shippers for poultry of higher quality, and to demoralize the entire price structure.

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(j) The payment by said defendants of wages at a rate less than 50¢ per hour to employees working in the transactions relating to the purchase, handling and sale of poultry described in paragraph 11 hereinabove, as prohibited by

Article IV, Sections 1 and 2 of said Code, and permitting such employees to work more than 48 hours per week, as prohibited by Article III, Section 1 of said Code, enables said defendants to obtain unfair advantages over other slaughterhouse men and thereby encourages and causes other slaughterhouse men to engage in the same and all other practices prohibited by said Code, including those referred to in sub-paragraphs (a) to (i) of paragraph 9 hereinabove, and thereby obstructs and prevents the accomplishment of the purposes of said Code, diverts substantial interstate shipments of live poultry, and causes a disruption of the normal flow of the interstate commerce in live poultry coming into the State of New York from other states.

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(k) The commission by said defendants of acts of violence, coercion and intimidation as prohibited by Article VII, Section 21(1) of said Code, their submission to the Code Supervisor of false and fictitious reports, and their failure to submit reports, both in violation of Article III, Section 4 and Article VIII, Section 3 of said Code, and their interference with and obstruction of the Code Supervisor in accomplishing the powers and duties vested in him by said Code, in violation of Article VI, Section 1 (b-1 and b-2) of said Code, obstructs and prevents the accomplishment of the purposes of said Code, encourages and causes all of the practices prohibited by said Code, including those referred to in sub-paragraphs (a) to (j) inclusive of this paragraph, and thereby directly causes a disruption in the free and orderly flow of interstate commerce in live poultry coming into the State of New York from other states.

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13. And so the Grand Jurors aforesaid, upon their oaths, do further present that said defendants at the time and place and in the manner and form aforesaid, conspired to commit offenses and committed various overt acts in furtherance of the objects thereof against the United States, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

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SALE OF UNFIT POULTRY

Second Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

14. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive of this indictment is here realleged with the same force and effect as though here set forth in full.

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15. All of the live poultry purchased and sold by Joseph Schechter, Martin Schechter, Alex Schechter, Aaron Schechter, A. L. A. Schechter Poultry Corporation, and Schechter Live Poultry Market, Inc. is transported into the State of New York from other States. Joseph Schechter, Martin Schechter, Alex Schechter, Aaron Schechter, A. L. A. Schechter Poultry Corporation, and Schechter Live Poultry Market, Inc. purchase a substantial portion of said live poultry at the said railroad terminals in New York and New Jersey immediately after its arrival at said terminals from states other than the states of New York and New Jersey, and truck said poultry directly from said terminals to their wholesale slaughterhouses in Brooklyn, New

York, where they sell it to retail poultry dealers and butchers usually within 24 hours after said poultry has arrived in said terminals. Joseph Schechter, Martin Schechter, Alex Schechter, Aaron Schechter, A. L. A. Schechter Poultry Corporation, and Schechter Live Poultry Market, Inc. also purchase a substantial portion of said poultry in Philadelphia, Pennsylvania, and truck it directly therefrom to their wholesale slaughterhouses in Brooklyn, New York, where they sell it to retail poultry dealers and butchers usually within 24 hours after it is thus brought into the State of New York.

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16. On or about June 25, 1934, at 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Martin Schechter and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, knowingly, willfully and unlawfully sold for human consumption an unfit chicken to Harry Stuber, or to some other person to the Grand Jurors unknown, operating a butcher shop at 1753 Prospect Place, Brooklyn, New York, said sale being in violation of Article VII, Section 2 of said Code.

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17. Said violation and the transaction in which it occurred affect the interstate commerce in live poultry described in paragraphs 2, 3, 4, and 5 of this indictment, in the following manner, to wit:

(a) The defendants' sale for human consumption of unfit poultry causes the transportation in interstate commerce of unfit poultry, which poultry would otherwise be destroyed prior to said interstate transportation, and diminishes the

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interstate transportation of healthy and edible poultry.

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(b) The defendants' sale for human consumption of unfit poultry encourages and causes the sale for human consumption of unfit poultry by other slaughterhouse men in said Metropolitan Area, and thereby causes the transportation in interstate commerce of substantial amounts of unfit poultry which would otherwise be destroyed prior to such interstate transportation, and diminishes the interstate transportation of healthy and edible poultry.

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(c) Unfit poultry is sold at prices substantially lower than the prevailing market prices for healthy poultry, and in many instances unfit poultry is sold under misrepresentations as to its edibility. Such misrepresentations and such sales at prices under prevailing market prices as aforesaid tend to demoralize the market value of healthy poultry, to cause confusion in the orderly marketing of live poultry through the channels of interstate commerce described in paragraphs 2, 3, 4, and 5 of this indictment, to reduce substantially the prices paid to the persons shipping poultry into the State of New York from other states, to diminish the consumption of live poultry in the Metropolitan Area, and to reduce the volume of live poultry shipped into the State of New York from other states.

(d) The diseases which contaminate unfit poultry are in many instances transferable to healthy poultry, and the shipment in interstate commerce of such unfit poultry in the same crates and in the same cars with healthy poultry

tends to taint, damage and infect the healthy poultry moving in interstate commerce and render the same inedible and unfit for human consumption.

18. And so the Grand Jurors aforesaid, upon their oaths, do present that the aforesaid defendants Aaron Schechter, Martin Schechter and the A. L. A. Poultry Corporation, violated Article VII, Section 2 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

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Third Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

19. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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20. On or about June 27, 1934, at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, knowingly, willfully and unlawfully sold for human consumption two unfit chickens to a retail poultry dealer by the name of Wagshul (his full name being to the Grand Jurors unknown), maintaining a place of business at 127 Sutter Avenue, Brooklyn, New York.

21. Each and every allegation contained in paragraph numbered 17 of this indictment is

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here realleged with the same force and effect as though here set forth in full.

22. And so the Grand Jurors, aforesaid, upon their oaths, do present that the aforesaid defendants Martin Schechter and the A. L. A. Schechter Poultry Corporation, violated Article VII, Section 2 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

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SALE OF UNINSPECTED POULTRY

Fourth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

23. Each and every allegation contained in paragraphs 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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24. On or about May 28, 1934, the aforesaid defendants Martin Schechter, Alex Schechter, Aaron Schechter and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, transported from Philadelphia, Pennsylvania, to the wholesale slaughterhouse operated by them at 858 East 52nd Street, Brooklyn, New York, 59 baskets of live poultry; and knowingly, willfully and unlawfully sold all of said 59 baskets of live poultry to the Mogen David Live Poultry Market, Inc., and to David Schechter at 539 Snediker Avenue, Brooklyn, New York, without having the same inspected

or approved in accordance with any rule, regulation or ordinance of the City of New York, in violation of Article VII, Section 22, of said Code. Said live poultry was sold in the same baskets in which it was transported into the State within 24 hours after said poultry was transported into the State of New York and while said poultry was still moving in interstate commerce.

25. Said violation and the transaction of sale in which said violation occurred were in the interstate commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment; and said violation and transaction affected and affect said interstate commerce in the following manner, that is to say:

(a) The purpose of inspecting poultry prior to the sale thereof in the City of New York is to eliminate unfit poultry and to detect and prevent various frauds whereby the true weight of poultry is misrepresented in the interstate transportation and delivery of live poultry from shippers outside the State of New York directly to commission men and slaughterhouse men within the State of New York.

(b) The sale of uninspected poultry aids the commission of the aforesaid frauds and causes an increase in the transportation of unfit poultry into New York from other states and a decrease in the transportation of healthy poultry into the State of New York from other states.

26. And so the Grand Jurors aforesaid, upon their oaths, do present that the aforesaid defendants Martin Schechter, Alex Schechter, Aaron Schechter and the A. L. A. Schechter Poultry Corporation violated Article VII, Sec-

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tion 2 of said Code in a transaction in and affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Fifth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

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27. Each and every allegation contained in paragraphs 1 to 8 inclusive and paragraph 15 is here realleged with the same force and effect as though here set forth in full.

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28. The aforesaid Martin Schechter, Alex Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, transported approximately 5,200 pounds of live poultry on or about May 26, 1934, and approximately 7,144 pounds on or about May 28, 1934, from Philadelphia, Pennsylvania, to the wholesale slaughterhouse operated by them at 858 East 52nd Street, Brooklyn, New York; and knowingly, wilfully and unlawfully sold a part of same to a person to the Grand Jurors unknown during or about the week commencing May 26, 1934, the exact date and amount of such sale being to the Grand Jurors unknown, without having the same inspected or approved in accordance with any rule, regulation or ordinance of the City of New York, in violation of Article VII, Section 22 of said Code.

29. Each and every allegation contained in paragraph 25 of this indictment is here re-

alleged with the same force and effect as though here set forth in full.

30. And so the Grand Jurors aforesaid, upon their oaths, do present that the aforesaid defendants Martin Schechter, Alex Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation violated Article VII, Section 2 of said Code in a transaction in and affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Sixth Count, Seventh Count, Eighth Count, Ninth Count, Tenth Count, Eleventh Count, Twelfth Count, Thirteenth Count, Fourteenth Count, Fifteenth Count, Sixteenth Count, Seventeenth Count, Eighteenth Count, Nineteenth Count, Twentieth Count, Twenty-first Count, Twenty-second Count, Twenty-third Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

31. Each and every allegation contained in paragraphs 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

32. The aforesaid Martin Schechter, Alex Schechter, Aaron Schechter and the A. L. A. Schechter Poultry Corporation, hereby made defendants in the Sixth Count, Seventh Count, Eighth Count, Ninth Count, Tenth Count, Eleventh Count, Twelfth Count, Thirteenth Count, Fourteenth Count, Fifteenth Count, Six-

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teenth Count, Seventeenth Count, Eighteenth Count, Nineteenth Count, Twentieth Count, Twenty-First Count, Twenty-Second Count and Twenty-Third Count herein, transported from Philadelphia, Pennsylvania, to the wholesale slaughterhouse operated by them at 858 East 52nd Street, Brooklyn, New York, approximately 5,200 pounds of live poultry on or about May 26, 1934, and approximately 7,144 pounds of live poultry on or about May 28, 1934; and knowingly, wilfully and unlawfully made 18 separate, distinct and individual sales therefrom during the week commencing May 26, 1934 (the exact date and amount of each such sale being to the Grand Jurors unknown), to persons, firms and/or corporations to the Grand Jurors unknown, without having the same inspected or approved in accordance with any rule, regulation or ordinance of the City of New York, each such sale being in violation of Article VII, Section 22 of said Code, each of said 18 sales being different from the sale described in the Fifth Count of this indictment.

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33. Each such violation and each such transaction of sale in which such violation occurred was in the interstate commerce in live poultry described in paragraphs 2, 3, 4, and 5 of this indictment; and each said violation and each said transaction affected and affects said interstate commerce in the following manner, that is to say:

(a) The purpose of inspecting poultry prior to the sale thereof in the City of New York is to eliminate unfit poultry, and to detect and prevent various frauds whereby the true weight of

poultry is misrepresented in the interstate transportation and delivery of live poultry from shippers outside the State of New York directly to commission men and slaughterhouse men within the State of New York.

(b) The sale of uninspected poultry aids the commission of the aforesaid frauds and causes an increase in the transportation of unfit poultry into New York from other states and a decrease in the transportation of healthy chickens into the State of New York from other states.

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34. And so the Grand Jurors aforesaid, upon their oaths, do present that the aforesaid defendants Martin Schechter, Alex Schechter, Aaron Schechter and the A. L. A. Schechter Poultry Corporation committed 18 separate and distinct violations of Article VII, Section 2 of said Code, in transactions each of which was in interstate commerce and affected and affects interstate commerce, each such violation being against the peace and dignity of the United States and contrary to the form of the statute of the United States in each such case made and provided.

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VIOLATIONS OF "STRAIGHT KILLING"

Twenty-Fourth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

35. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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36. On or about June 20, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in, selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a retail poultry dealer by the name of Wagshul (his full name being to the Grand Jurors unknown), maintaining places of business in Brooklyn, and permitted said Wagshul to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

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37. Said violation and the transaction in which it occurred affected and affect the interstate commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment, in the following manner, to wit: The purpose of Article VII, Section 14 of said Code requiring "straight killing" or killing on the basis of official grade, is to encourage and promote the practice of grading poultry according to quality and packing, shipping and selling such poultry on the basis of official grade, and to prevent the evil competitive practices and demoralized and uneconomic price structure resulting from the sale at reduced prices of healthy poultry rejected in the course of selective killing. The use in the wholesale slaughtering of poultry of any method of slaughtering other than "straight killing", and the practice of permitting purchasers to make selections of individual chickens from particular coops or half coops tends to defeat these purposes, and to cause the shipment

and delivery to commission merchants and slaughterhouse men in New York by shippers in other states of ungraded and inferior poultry, and to diminish the price obtainable by such shippers for poultry of higher quality, and to demoralize the entire price structure.

38. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation violated Article VII, Section 14 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Twenty-Fifth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

39. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

40. On or about June 22, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Martin Schechter, Alex Schechter, and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in, selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a retail poultry dealer (his name being to the Grand Jurors unknown), maintaining a place of business at

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961 Blake Avenue, Brooklyn, New York, and permitted said retail poultry dealer to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

41. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

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42. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Aaron Schechter, Martin Schechter, Alex Schechter, and the A. L. A. Schechter Poultry Corporation violated Article VII, Section 14 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Twenty-Sixth Count

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And the Grand Jurors aforesaid, upon their oaths, do further present that:

43. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

44. On or about June 28, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in, selections of individual chickens taken from par-

ticular coops and half coops in the sale of live poultry by them to a butcher by the name of Sam Tanowitz, maintaining a place of business at 5303 Church Avenue, Brooklyn, New York, and permitted said Tanowitz to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

45. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

46. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, and the A. L. A. Schechter Poultry Corporation violated Article VII, Section 14 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Twenty-Seventh Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

47. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

48. On or about June 28, 1934, at the said slaughterhouse at 991 Rockaway Avenue, Brooklyn, New York, the aforesaid Joseph Schechter and Schechter Live Poultry Market, Inc., hereby made defendants in this Count, permitted and participated in, selections of individual

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chickens taken from particular coops and half coops in the sale of live poultry by them to a retail poultry dealer by the name of Jack Kleinman, maintaining a place of business at 1507 Kings Highway, Brooklyn, New York, and permitted said Jack Kleinman to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

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49. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

50. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Joseph Schechter and Schechter Live Poultry Market, Inc. violated Article VII, Section 14 of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

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Twenty-Eighth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

51. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

52. On or about June 25, 1934, at the said slaughterhouse at 991 Rockaway Avenue, Brooklyn, New York, the aforesaid Joseph Schechter and Schechter Live Poultry Market, Inc., hereby

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made defendants in this Count, permitted and participated in, selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a butcher by the name of Morris Rabinowitz, maintaining a place of business at 508 New Lots Avenue, Brooklyn, New York, and permitted said Rabinowitz to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

53. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full. 230

54. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Joseph Schechter and Schechter Live Poultry Market, Inc. violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided. 231

Twenty-ninth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

55. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

56. On or about June 21, 1934, at the said slaughterhouse at 858 East 52nd Street, Brook-

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lyn, New York, the aforesaid Martin Schechter, Aaron Shchechter, and A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a butcher (whose name is to the Grand Jurors unknown), maintaining a place of business at 304 Troy Avenue, Brooklyn, New York, and permitted said butcher to reject individual healthy chickens, in violation of Article VII, Section 14 of the said Code.

57. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

58. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, and A. L. A. Schechter Poultry Corporation violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

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Thirtieth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

59. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

60. On or about June 21, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, and A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a butcher by the name of Sam Tanowitz, maintaining a place of business at 5303 Church Avenue, Brooklyn, New York, and permitted said Tanowitz to reject individual healthy chickens, in violation of Article VII, Section 14, of the said Code.

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61. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

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62. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, and A. L. A. Schechter Poultry Corporation violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United Staes in such case made and provided.

Thirty-first Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

63. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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64. On or about June 26, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation, hereby made defendants in this Court, permitted and participated in selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to a butcher by the name of Sam Tanowitz, maintaining a place of business at 5303 Church Avenue, Brooklyn, New York, and permitted said Tanowitz to reject individual healthy chickens, in violation of Article VII, Section 14, of the said Code.

65. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

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66. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Thirty-second Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

67. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged

with the same force and effect as though here set forth in full.

68. On or about June 26, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to butchers by the name of Sol Levine and Sam Schechter, maintaining places of business at 257 and 509 Brighton Beach Avenue, Brooklyn, New York, and permitted said Sol Levine and Sam Schechter to reject individual healthy chickens, in violation of Article VII, Section 14, of the said Code.

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69. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

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70. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Thirty-third Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

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71. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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72. On or about June 27, 1934, at the said slaughterhouse at 858 East 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation, hereby made defendants in this Count, permitted and participated in selections of individual chickens taken from particular coops and half coops in the sale of live poultry by them to butchers by the name of Sol Levine and Sam Schechter, maintaining places of business at 257 and 509 Brighton Beach Avenue, Brooklyn, New York, and permitted said Sol Levine and Sam Schechter to reject individual healthy chickens, in violation of Article VII, Section 14, of the said Code.

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73. Each and every allegation contained in paragraph numbered 37 of this indictment is here realleged with the same force and effect as though here set forth in full.

74. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants Martin Schechter, Aaron Schechter, Alex Schechter, and A. L. A. Schechter Poultry Corporation violated Article VII, Section 14, of the said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

THREATS, COERCION AND INTIMIDATION OBSTRUCTING ENFORCEMENT OF CODE

Thirty-fourth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

75. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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76. On or about June 27, 1934, at or near 858 52nd Street, Brooklyn, New York, the aforesaid Martin Schechter, hereby made the defendant in this Count, in violation of Article VII, Section 21(1) of the said Code, did use threatening, coercive and intimidating language and gestures to one Philip Alampi, an investigator employed by and acting on behalf of the Code Supervisor and engaged in investigating violations by the defendant herein and members of the Live Poultry Industry of Article III, Sections 1 and 4, Article IV, Sections 1 and 2, Article VI, Sections 1 (b-1) and (b-2), Article VII, Sections 2, 14, 15 and 22, and Article VIII, Section 3, of said Code, with the purpose, intent and effect of preventing said Alampi from performing his duties above set forth, and to enable Alex Schechter, Aaron Schechter, the A. L. A. Schechter Poultry Corporation and said defendant Martin Schechter to commit said violations and other violations of said Code.

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77. Said violation and the transaction in which it occurred affected and affect the inter-

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state commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment in the following manner, that is to say: Prior to the adoption of the Code widespread competitive, marketing and industrial evils existed in the Live Poultry Industry of the Metropolitan Area, and obstructed the free flow of interstate commerce in live poultry into the State of New York from other States, contaminated and demoralized the character thereof, substantially diminished the total volume and value thereof, and disrupted the orderly flow thereof. Said Code prohibits said evils and was adopted and approved for the purpose of correcting said evils, and thereby removing obstructions to the orderly flow of said interstate commerce. In order to ascertain whether the defendant herein and other slaughterhouse men were complying with said Code, and in order to enforce such compliance by the defendant herein and other slaughterhouse men, it was necessary for the Code Supervisor to institute such investigations as that conducted by said Phillip Alampi. The use of threatening, coercive and intimidating language and gestures by the aforesaid defendant Martin Schechter prevented said Alampi from investigating violations of said Code, and thereby obstructed the Code Supervisor in obtaining compliance with said Code.

78. And so the Grand Jurors aforesaid, upon their oaths, do present that defendant Martin Schechter violated Article VII, Section 21(1), of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the

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statute of the United States in such case made and provided.

Thirty-fifth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

79. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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80. On or about June 28, 1934, at or near 858 East 52nd Street, Brooklyn, New York, the aforesaid Aaron Schechter, Alex Schechter and Martin Schechter, hereby made defendants in this Count, did use vile, threatening, coercive and intimidating language and gestures to one Philip Alampi, an investigator employed by and on behalf of the Code Supervisor and engaged in investigating violations by the defendants herein of Article III, Sections 1 and 4, Article IV, Sections 1 and 2, Article VI, Sections 1(b-1) and (b-2), Article VII, Sections 2, 14, 15, and 22, and Article VIII, Section 3 of said Code, with the purpose, intent and effect of preventing said Alampi from performing his duties above set forth and to enable the defendants herein to commit said violations and other violations of said Code.

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81. Said violations and the transaction in which it occurred affected and affect the interstate commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment, in the following manner, that is to say: Prior to the

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adoption of the Code wide spread competitive, marketing, and industrial evils existed in the Live Poultry industry of the Metropolitan area, and obstructed the free flow of interstate commerce in live poultry into the State of New York from other states, contaminated and demoralized the character thereof, substantially diminished the total volume and value thereof, and disrupted the orderly flow thereof. Said Code prohibits said evils and was adopted and approved for the puropose of correcting said evils, and thereby removing obstructions to the orderly flow of said interstate commerce.

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In order to ascertain whether the defendants herein and other slaughterhouse men were complying with said Code, and in order to enforce such compliance by the defendants herein and other slaughterhouse men, it was necessary for the Code Supervisor to institute such investigations as that conducted by said Philip Alampi. The use of threatening coercive and intimidating language and gestures by the aforesaid defendants Aaron Schechter, Alex Schechter and Martin Schechter prevented said Alampi from investigating violations by the defendants herein, and thereby obstructed the Code Authority in obtaining compliance with said Code.

82. And so the Grand Jurors, aforesaid, upon their oaths, do present that defendants Aaron Schechter, Alex Schechter and Martin Schechter violated Article VII, Section 21(1) of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Thirty-sixth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

83. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

84. On or about June 28, 1934, at or near 858 East 52nd Street, Brooklyn, New York, Aaron Schechter, Alex Schechter and Martin Schechter, hereby made defendants in this Count, did use vile, threatening, coercive and intimidating language and gestures to one Benjamin Forsmith, an investigator employed by and on behalf of the Code Supervisor and engaged in investigating violations of Article III, Sections 1 and 4, Article IV, Sections 1 and 2, Article VI, sections 1(b-1) and (b-2), Article VII, Sections 2, 14, 15 and 22, and Article VIII, Section 3 of said Code, with the purpose, intent and effect of preventing said Forsmith from performing his duties above set forth and to enable the defendants herein to commit said violations of said Code.

85. Said violation and the transaction in which it occurred affected and affect the interstate commerce in live poultry described in paragraphs 2, 3, 4, and 5 of this indictment, in the following manner, that is to say: Prior to the adoption of the Code wide spread competitive, marketing, and industrial evils existed in the Live Poultry industry of the Metropolitan area, and obstructed the free flow of interstate com-

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merce in live poultry into the State of New York from other states, contaminated and demoralized the character thereof, substantially diminished the total volume and value thereof, and disrupted the orderly flow thereof. Said Code prohibits said evils and was adopted and approved for the purpose of correcting said evils, and thereby removing obstructions to the orderly flow of said interstate commerce. In order to ascertain whether said defendants and other slaughterhouse men were complying with said Code, and in order to enforce such compliance by the defendants herein and other slaughterhouse men, it was necessary for the Code Supervisor to institute such investigations as that conducted by said Benjamin Forsmith. The use of threatening, coercive, and intimidating language and gestures by the aforesaid defendants Aaron Schechter, Alex Schechter and Martin Schechter prevented said Forsmith from investigating violations by said defendants, and thereby obstructed the Code Authority in obtaining compliance with said Code.

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86. And so the Grand Jurors aforesaid, upon their oaths, do present that the aforesaid defendants Aaron Schechter, Alex Schechter and Martin Schechter violated Article VII, Section 21(1) of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

Thirty-seventh Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

87. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment realleged with the same force and effect as though here set forth in full.

88. On or about July 3, 1934, at or near 991 Rockaway Avenue, Brooklyn, New York, Joseph Schechter, hereby made the defendant in this Court, did use threatening, coercive and intimidating language and gestures to one Jack Musicant, an investigator employed by and on behalf of the Code Supervisor and engaged in investigating violations of Article III, Sections 1 and 4, Article IV, Sections 1 and 2, Article VI, Sections 1 (b-1) and (b-2), Article VII, Sections 2, 14, 15 and 22, and Article VIII, Sections 3 of said Code, with the purpose, intent and effect of preventing said Musicant from performing his duties above set forth and to enable the defendant herein to commit said violations and other violations of the said Code.

89. Said violation and the transaction in which it occurred affected and affect the interstate commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment, in the following manner, that is to say: Prior to the adoption of the Code wide spread competitive, marketing and industrial evils existed in the Live Poultry Industry of the Metropolitan area, and obstructed the free flow of interstate commerce in live poultry into the State of New York from other states, contaminated and demoralized the character thereof, substantially diminished the total volume and value thereof, and disrupted the orderly flow thereof. Said Code prohibits

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said evils and was adopted and approved for the purpose of correcting said evils, and thereby removing obstructions to the orderly flow of said interstate commerce. In order to ascertain whether the defendant herein and other slaughterhouse men were complying with said Code, and in order to enforce such compliance by the defendants herein and other slaughterhouse men, it was necessary for the Code Supervisor to institute such investigations as that conducted by said Jack Musicant. The use of threatening, coercive and intimidating language and gestures by the aforesaid Joseph Schechter prevented said Musicant from investigating violations by said defendants, and thereby obstructed the Code Authority in obtaining compliance with said Code.

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90. And so the Grand Jurors aforesaid, upon their oaths, do present that defendant Joseph Schechter violated Article VII, Section 21(1) of said Code in a transaction affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

FALSE REPORTS

Thirty-eighth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

91. Each and every allegation contained in paragraphs numbered 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

92. On or about June 28, 1934, A. L. A. Schechter Poultry Corporation and Martin Schechter, hereby made defendants in this Count, did submit to the Code Supervisor weekly reports for each week from the week ending May 19, 1934, to and including the week ending June 11, 1934, which reports contained false and fictitious statements relating to the range of daily prices and volume of sales for each kind and grade of poultry sold by them during the periods covered by each of said reports, in violation of Article VI, Sections 1 and 2 and Article VIII, Sections 3 of said Code.

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93. Said violation and the transaction in which it occurred affected and affect the interstate commerce in live poultry described in paragraphs 2, 3, 4 and 5 of this indictment in the following manner, that is to say: Prior to the adoption of said Code wide spread competitive, marketing, and industrial evils existed in the Live Poultry Industry of the Metropolitan area, and obstructed the free flow of interstate commerce in live poultry into the State of New York from other states, contaminated and demoralized the character thereof, substantially diminished the volume and value thereof, and disrupted the orderly flow thereof. Said Code prohibits said evils and was adopted and approved for the purpose of correcting said evils. The submission by the defendants herein of false or fictitious reports relating to the range of daily prices and volume of sales, obstructs and prevents the accomplishment of the purposes of said Code, encourages and causes all of the practices prohibited by said Code, causes a disruption in the normal flow of the interstate commerce in live poultry coming

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into the State of New York from other states, and diverts substantial shipments of such poultry.

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94. And so the Grand Jurors aforesaid, upon their oaths, do present that defendants A. L. A. Schechter Poultry Corporation and Martin Schechter violated Article VI, Sections 1 and 2 and Article VIII, Section 3 of said Code, in transactions affecting interstate commerce, against the peace and dignity of the United States and contrary to the form of the statute of the United States in such case made and provided.

WITHHOLDING SALES REPORTS

Thirty-ninth Count

And the Grand Jurors aforesaid, upon their oaths, do further present that:

95. Each and every allegation contained in paragraphs 1 to 8 inclusive and paragraph 15 of this indictment is here realleged with the same force and effect as though here set forth in full.

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96. The aforesaid Joseph Schechter, Martin Schechter, Alex Schechter, Aaron Schechter, A. L. A. Schechter Poultry Corporation, and Schechter Live Poultry Market, Inc., hereby made defendants in this Count, have at all times heretofore wilfully, knowingly and unlawfully failed and refused to submit weekly reports or any reports whatever relating to the range of daily prices and volume of sales for each kind, grade or quality of produce sold by them for the period from June 11, 1934, to and including the date of filing this indictment, in violation of Article VIII, Section 3 of said Code.