

INDEX

	PAGE
Statement Under Rule 13, Subdivision 4	1
Indictment	2
Docket Entries	119
Demurrer	125
Order Sustaining Demurrer in Part and Overruling in Part	130
Decision	131
Notice of Motion for Bill of Particulars	165
Affidavit of Martin Schechter in Support of Motion for Bill of Particulars	167
Affidavit of Joseph Heller in Support of Motion for Bill of Particulars	175
Bill of Exceptions	178
Motions for Direction of Verdict	1063
Motions to Dismiss	1065, 1479
Charge to Jury	1483
Verdict	1547
Motion to Set Aside Verdict	1553
Minutes of Sentence	1555
Petition of Appeal	1620
Assignments of Error	1624
Stipulation and Order Waiving Printing of Exhibits	1643
Stipulation as to Record	1644
Order as to Record	1645
Clerk's Certificate	1646

TESTIMONY FOR PLAINTIFF

Leland D. Ives:	
Direct	182
Cross	220
Redirect	239, 246
Recross	244

	PAGE
Theodore J. Tottis:	
Direct	248
Cross	304
Redirect	368
Recross	380
W. T. Termohlen:	
Direct	387, 421
Cross	416, 441
Redirect	482, 484
Recross	483
Leroy Peterson:	
Direct	485, 526
Cross	541
Redirect	589
Jack Zasloff:	
Direct	499
Cross	513
Hyman W. Gardner:	
Direct	594
Cross	607
Benjamin Forsmith:	
Direct	612, 696
Cross	639, 697
Redirect	671, 698
Irving H. Dale:	
Direct	671
Cross	683
Redirect	695
Philip Alampi:	
Direct	699
Cross	724
Jack Musican:	
Direct	767
Cross	791
Redirect	804
Recross	806

Index

iii

	PAGE
Samuel Cohen:	
Direct	808
Cross	875, 880
Redirect	908
Robert Lenhart:	
Direct	877
Cross	879
Abe Danziger:	
Direct	912
Cross	950
Redirect	973
Recross	981
William H. Cloward:	
Direct	985
Cross	994
Amos M. Whitmore:	
Direct	995
Cross	1003
Jacob Damsky:	
Direct	1009
Cross	1012
Leo Schimmel:	
Direct	1012
Cross	1033
Redirect	1036, 1039
Recross	1039
Garland Galloway:	
Direct	1040
Cross	1045
Clyde N. Justice:	
Direct	1046, 1442
Cross	1059, 1465

TESTIMONY FOR DEFENDANTS

	PAGE
Herbert Frankel:	
Direct	1067
Cross	1101
Redirect	1140
Louis Spatz:	
Direct	1143
Cross	1167
Redirect	1175
Albert Garlick:	
Direct	1176
Cross	1187
Herman Solon:	
Direct	1189
George Levin:	
Direct	1191
Cross	1209
Redirect	1219
David Pack:	
Direct	1221
Cross	1224
Julius Kastein:	
Direct	1228, 1241
Cross	1239, 1251
Redirect	1267, 1271, 1275
Recross	1269, 1274
Helil Gershon:	
Direct	1277
Cross	1284
Joseph Weisman:	
Direct	1292
Cross	1294
Redirect	1299

Index

v

	PAGE
Harry Landes:	
Direct	1300
Cross	1304
Redirect	1309
Leo Schimmel:	
Direct	1309, 1325
Cross	1336
Redirect	1339, 1347, 1387
Recross	1344, 1349
Irving Meuterick:	
Direct	1319
Isidore Molmod:	
Direct	1323
Martin Schechter:	
Direct	1351
Cross	1367
Redirect	1381, 1385, 1387
Recross	1382, 1386
Aaron Schechter:	
Direct	1389
Cross	1402
Redirect	1411
Alexander Schechter:	
Direct	1412
Cross	1418
William E. Casey:	
Direct	1420
Joseph Schechter:	
Direct	1423
Cross	1433
Redirect	1439
Henry Goldsmith:	
Direct	1441

GOVERNMENT'S EXHIBITS

	Offered Page	Printed Page
1.—Certificate of Incorporation of the Schechter Live Poul- try Market, Inc.	179	1556
2.—Certificate of Incorporation of the A. L. A. Schechter Poultry Corp.	179	1556
3.—Certificate of Doing Busi- ness of Rugby Live Poultry Market	180	1556
4.—Certificate of Incorporation of Mogen David Live Poul- try, Inc.	181	1556
5.—Signature Card of A. L. A. Schechter Poultry Corp. with Manufacturers Trust Co.	181	1556
6.—Bank Resolution of A. L. A. Schechter Corp.	182	1556
7.—Live Poultry Carload Report, 1929	194	1557
8.—Live Poultry Carload Report, 1930	195	1558
9.—Live Poultry Carload Report, 1931	195	1559
10.—Live Poultry Carload Report, 1932	195	1560
11.—Live Poultry Carload Report, 1933	195	1561
12.—Monthly Live Poultry Market Report, September, 1934	196	1562
13.—Receipts of Live Poultry by States, 1926 to 1933	199	1563
14.—Inspection Service Record, 1928 to 1934	201	1576
15.—Five Inspection Certificates	207	1577
16.—Rules Setting Up Inspection Service	211	1577

Index

vii

	Offered Page	Printed Page
17.—Sanitary Code, Dept. of Health, City of New York .. 213		1579
19.—Notice of Hearing on Proposed Code of Fair Competition 408		1580
20.—Certificate of List to Whom Notices Were Mailed 408		1580
21.—Copy of Proposed Code..... 408		1581
22.—Table of Poultry Receipts, 1927 to 1933 437		1581
23.—Table of Price per Pound, 1927 to 1934 437		1581
24.—Chart, Poultry Receipts as Related to Population 441		1583
25.—Minutes of Meeting of April 23, 1934 539		1585
26.—Certified Copy of Live Poultry Code 540		1586
27.—Report of Inspector, Termed Score Card 601		1587
28.—Report of Inspector, Termed Score Card 607		1589
29.—Slaughter House Poundage Reports, Schechter Live Poultry Market 773		1592
30.—Slaughter House Poundage Reports, A. L. A. Schechter Live Poultry Corp. 787		1597
31.—Letter to Code Authorities, June 26, 1934 .. . 791		1604
32.—Invoices by Risser & Rabinowitz 987		1605
33.—Invoice by Risser & Rabinowitz 991		1605
34.—Invoice by Risser & Rabinowitz 992		1605
35.—Invoice by Risser & Rabinowitz 993		1606

	Offered Page	Printed Page
36.—Copies of A. L. A. Schechter Poultry Corp.'s Books	1053	1606
37.—Memorandum of Working Time by Leo Schimmel	1338	1606
38.—Daily Sales Record—A. L. A. Schechter May 16th to June 9, 1934	1445	1607
39.—Reports of A. L. A. Schech- ter to Code Authority—May 7 to June 9, 1934	1448	1608
40.—Sales Record—A. L. A. Schechter—May 16 to June 11, 1934	1458	1609
41.—Table of Comparative Prices —A. L. A. Schechter	1460	1610

DEFENDANTS' EXHIBITS

A.—Picture of Live Poultry Freight Car	223	1611
B.—Inspection Receipt	324	1611
C.—Letter to Code Supervisor, June 19, 1934	547	1611
D.—Letter, Code Authority to Samuel Schechter, June 8, 1934	552	1612
E.—List of Market Men	699	1613
F.—Assessment List	799	1613
G.—A Sheet Book	1313	1614
H.—A Sales Book	1317	1614
I.—Two Charge Books	1328	1614
J.—Accommodation Sales Record Sheets	1388	1615
K.—Bill of Inspection, June 2, 1934	1395	1618
L.—Check, Mogen David Live Poultry Market to Jack Dam- sky, June 21, 1934	1396	1619
Proceedings in U. S. C. C. A. Second Circuit Opinion, Manton, J.	1648	1648
Concurring opinion, Hand, J.	1660	
Judgment	1664	
Clerk's certificate	1664	
Orders allowing certiorari	1666	

*Jack Zasloff—By Govt.—Direct***1495**

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

Direct examination by Mr. Rice:

Q. You are an accountant, are you not, Mr. Zasloff? A. I am.

Q. Employed by whom? A. Lewis P. Gallinson & Company.

Q. On June 1, 1934, did you go to the A. L. A. Schechter Poultry Market, at 858 East 52nd Street, Brooklyn? A. I did.

1496

Mr. Heller: Let the question be where he went, instead of suggesting the place and name and everything else.

The Court: That part is all right.

Q. What did you do at the Schechter Market on that day? A. I came to examine their books.

Q. On behalf of whom? A. The Code Authority.

Q. The Live Poultry Code Authority? A. Code Authority, yes.

Q. Who did you talk to at Schechter's Market? A. I spoke to a man who I later found out, I believe, to be Aaron Schechter.

1497

The Court: Is he here?

The Witness: He is.

Q. Can you point out the man? A. The thin fellow there at the corner of the table, the next one. That is right.

Q. Identifying the defendant, Aaron Schechter? A. Yes.

Gentleman Indicated: My name is Alex Schechter.

Mr. Heller: Identifies Alex Schechter.

1498 *Jack Zasloff—By Govt.—Direct*

Q. Will you look over these defendants carefully and tell us whether it was Alex Schechter?

Mr. Heller: He has already done that, your Honor; he has pointed him out.

Mr. Rice: I want to make perfectly sure.

The Witness: That was the man.

Q. You talked to Alex Schechter? A. Yes.

Mr. Heller: He said Aaron.

1499 The Court: All right. Whatever name, is that the man you talked to, by whatever name he is known?

The Witness: It was he.

The Court: What is his name?

Mr. Heller: Alexander.

The Court: All right.

Q. Alexander Schechter. Did he tell you what his name was? A. He did not.

Q. Did he tell you what his name was? A. He did not.

1500 Mr. Heller: May I point out who Aaron Schechter is?

The Court: Oh, surely, if you want to. (Aaron Schechter stands in the court room.)

Q. You talked to Alec Schechter, the fourth man? A. That is right; that is right.

Q. Tell us your conversation with him? A. I—

Mr. Heller: This is not binding on the other defendants, the conversation he had with him at this time.

Jack Zasloff—By Govt.—Direct

1501

The Court: I do not know; it isn't as to the substantive counts, it is as to the conspiracy if it be found a conspiracy was formed, because then the acts or the conversations of any one of them would bind all.

Mr. Heller: I mean at this particular time we haven't any such thing.

The Court: I can't say. Unless a conspiracy be formed, of course it would bind only himself.

1502

Q. What was your conversation with Alec Schechter? A. He asked me why I was at his place of business, and I told him I was an accountant, I was sent down to examine the books, and he told me that I couldn't examine them.

Q. Tell us everything that he said to you. Have you told us everything that you remember? A. Not yet. I explained the situation, I told him we were making these formal examinations, and he still objected to my examining them. I then asked if I could use the 'phone, and he told me I could not. I then went to a gas station a few blocks away and called up the Code Authority—

1503

Mr. Heller: I object to what he did over at the gas station.

The Court: No; he can state what he did but not what he said.

Q. You called up the Code Authority? A. Yes.

Q. Did you receive instructions from the Code Authority? A. Yes.

Q. To what effect?

1504 *Jack Zasloff—By Govt.—Direct*

The Court: Oh, no, no.

Mr. Rice: I will withdraw that question.

Q. What did you do? A. I went back to my place of business.

Q. Then what did you do? A. I was there a short while when I received another call from the Code Authority to go down again to the Schechter Brothers Live Poultry Market.

Q. Did you go down again? A. Yes, sir.

Q. To A. L. A. Schechter Poultry Corporation?

1505 A. I did.

Q. What did you do? A. As I was walking in the door the same man that I identified——

Q. That is Alex Schechter? A. Alex Schechter looked at me as if he had never seen me before. And I walked into the office, and as I was walking in he asked me again what I wanted, and I told him. We were in the office at the time, and he said, "Nothing doing." He says, "I am going to see Mr. Peterson in the afternoon." I was in the place and saw in his office he had a coin 'phone, telephone, so I didn't ask the second time, I used it, and called the office up again, I called the Code Authority up, and Mr. Peterson then spoke to Alex Schechter.

Q. Did you talk with Leroy Peterson? A. I did.

Q. On the telephone? A. I did.

Q. Do you recognize Mr. Peterson's voice when you hear it over the telephone? A. I think I can.

Q. And you are certain you were talking with Leroy Peterson? A. Yes.

Q. Well, then what happened after you had talked with Mr. Leroy Peterson? Was this in

Jack Zasloff—By Govt.—Direct

1507

Alex Schechter's presence? A. Yes; he was there.

Q. He was standing near you? A. That is right.

Q. Then what happened? You talked with Mr. Peterson on the telephone? A. Yes, and I was instructed—

The Court: Never mind about that.

The Witness: I waited there.

Q. Did anybody else talk with Mr. Peterson on the telephone? A. They did not.

1508

Q. While you were there? A. That is right.

The Court: Anybody else besides whom?

The Witness: Besides I and Alex Schechter.

Q. Did anybody besides you talk with Mr. Peterson? A. Alex Schechter.

Q. At that time? A. Yes, at that time.

Q. Before you hung up the receiver? A. I spoke to Peterson twice; in between the conversation I put Mr. Alex Schechter on.

1509

Q. Let us see just what that conversation was. You called up Mr. Peterson? A. That is right.

Q. And you talked with him first? A. That is right.

Q. Then what happened? A. I put Alex Schechter on.

Q. On the same wire? A. Yes, on the same wire.

Q. And you heard Alex Schechter talk with Mr. Leroy Peterson? A. That is right.

Q. You heard him talk with the person on the other end of the wire? A. That is right.

1510

Jack Zasloff—By Govt.—Direct

Q. What did you hear Alex Schechter say?

Mr. Heller: I object to that unless he can state at that particular time he knew that Mr. Peterson was on the 'phone.

The Court: He can testify to anything he said to anybody in his presence; what he was present and heard Alexander Schechter say he can testify to, the same as what Schechter may have said to him he can testify to.

1511

Mr. Heller: Exception.

Q. What did you hear Alex Schechter say? A. I can't recall the exact substance, the exact words, but they were talking about the examination of the books.

The Court: What did he say in substance?

The Witness: That is the substance—

The Court: Give us in substance what he said.

1512

The Witness: Well, I wouldn't want to—
The Court: Did he give the name of anybody over the wire at all when he spoke?

The Witness: Oh, yes, I recall now, he said that he would speak to his brothers.

Q. Did he mention any particular brother? A. That I can't recall.

Q. Did he say anything else; what was he talking about? A. Generally about the poultry business.

Q. About the poultry business or about the books? A. About the what?

Jack Zasloff—By Govt.—Direct

1513

Q. About the books in the poultry business?
A. Yes, about the books and then the poultry business.

Q. Tell us substantially what you heard Alex Schechter say. A. I wouldn't definitely state.

Q. Did he say anything about chickens?

Mr. Heller: I object to that. He says he does not remember.

The Court: He does not remember the exact words, he is trying to get the substance from him.

1514

What was the first thing he said when he went to the telephone?

The Witness: Naturally, I spoke to him—

The Court: What did he say?

The Witness: I couldn't tell you in exact words; in substance he spoke to him about the books.

The Court: What did he say when he started off? How did he start off?

The Witness: How did he start off?

The Court: How did he start off the conversation over the telephone?

1515

The Witness: That is impossible for me to say at this time.

Q. Let us see if we can't reconstruct this talk. Did you talk to Mr. Peterson first? A. I did.

Q. You talked to him in Alex Schechter's presence? A. I did.

Q. How far was Alex Schechter standing from you at the time? A. Right beside me.

Q. Was he beside you? A. Yes.

Q. Was he doing anything else? A. No, he was not.

1516

Jack Zasloff—By Govt.—Direct

Q. Just listening to you? A. Yes.

Q. What did you say in his presence? A. I told them I was refused the examination the second time.

The Court: Told who?

The Witness: Mr. Peterson.

The Court: Did you call him by name, or did you just say "Hello"?

1517

The Witness: I said, "Hello," and "Mr. Peterson," and then told him I was refused a second time; that I had thought everything was all settled, and that I was going to be given the books.

Q. Did you tell him whose market you were at? A. Oh, yes.

Q. Whose market did you tell him you were at? A. I told him I was at the Schechter Brothers Market.

Q. Did you tell him you had talked with any of the Schechter Brothers? A. Yes, I told him that I spoke to one of the brothers here.

1518

Q. One of the brothers present? A. That is right.

Q. What did you tell him that the Schechter brothers had said? A. I told him that he would be there in the afternoon and speak to him about the examination.

Q. That who would be there? A. Mr. Alex Schechter.

Q. And then you put Alex Schechter on the wire? A. I did.

Q. And then what did Alex Schechter say, in substance? A. That he would have to speak to his brothers about allowing me to examine his books.

Jack Zasloff—By Govt.—Direct

1519

Q. Do you remember anything else? A. No, not definitely.

Q. Did you tell Alex Schechter who you were going to talk with on the telephone?

Mr. Heller: That has already been testified to, your Honor.

The Court: He can ask him. Overruled.

Mr. Heller: Exception.

A. Yes, I told him I was calling up Mr. Peterson. 1520

Q. Did you tell him who Mr. Peterson was? A. I did not; apparently he knew who Mr. Peterson was.

The Court: Strike out "apparently knew."

A. He had already mentioned his name to me before.

Q. Mr. Alex Schechter had mentioned Mr. Peterson's name? A. Yes, sir, certainly.

Q. Well, then, what happened after this telephone call? A. I waited for about a half an hour and some men came in the office and then Mr. Alex Schechter asked me what books I would want. I told him what books I wanted and he started to put the books on the desk. As I started to turn the pages of one of the books a man came in with two canes, whom I later found out was Joseph Schechter.

1521

Q. Can you point out Joseph Schechter now? A. Yes, sir, the man right there at the end of the table (indicating defendant Joseph Schechter).

1522

Jack Zasloff—By Govt.—Direct

Q. How long had you been looking at the books when Joseph Schechter came in? A. I just had started.

Q. Well, how many minutes, seconds or hours? A. A half a minute or so.

Q. What happened? A. He told me that I could not see the books.

Q. Do you know whether Joseph Schechter was working at the A. L. A. Schechter Poultry Corporation at 858 East 52nd Street at that time? A. No.

1523

Q. You don't know where his market was? A. No.

Q. What happened between you and him? A. I explained that I was the examiner from the Code Authority to examine his books, and then he started talking about the Code Authorities, blasting them—

The Court (to witness): Strike that out. Now, Mr. Witness, you are not here to give us your conclusions. You are here to give us substantially what was said.

1524

The Witness: He said that the Code Authority, the men there were a bunch of crooks, and that he probably would have been in with the gang if he had not fractured his leg.

Q. Did he say what gang? A. No, the group—Mr. Galloway and Mr. Frenzel.

Q. Who is Mr. Galloway? A. He is now with the Code Authority.

Q. And who is Mr. Frenzel? A. He has his own poultry market.

Q. Isn't he one of the members of the Advisory Committee of the Live Poultry Code Authority? A. He is.

Jack Zasloff—By Govt.—Direct

1525

Q. Now, tell us everything that you remember Joseph Schechter saying to you? A. Well, after he had mentioned about the Code Authority, the group, being a bunch of crooks, I asked whether I could use the 'phone.

Q. Before we go to that, let us see if you have told us everything that Joseph Schechter said. He called the Code Authority a bunch of crooks? A. He did.

Q. Did he call them any other names? A. Nothing else that I can remember.

Q. Did he say anything about any particular individuals in the Code Authority? A. No, he bunched them. When he spoke of the bunch, a number of them, Galloway, Frenzel and a number of others that he mentioned in the group.

Q. You don't remember anything further that he said? A. No.

Q. Or any of the other Schechter brothers present at the time that Joseph Schechter said this? A. They were all there, the four of them.

Q. All of whom? A. All of the Schechter brothers that are seated at the table over there (indicating).

Q. The man that stood up as Aaron Schechter, did you see him there? A. Yes, sir, I did.

Q. And the third man, who is Martin Schechter, will you stand up, Martin Schechter?

(A gentleman in the court room rises.)

1526

A. I did not know his name.

Q. Well, did you see him there? A. Yes.

Q. At the time that Joseph Schechter was talking? A. Yes.

Q. Was he in your presence and Joseph Schechter's presence? A. Yes.

1527

1528 *Jack Zasloff—By Govt.—Direct*

Q. Did you see Alex Schechter there? A. Yes.

Q. And all of them in your presence and Joseph Schechter's presence? A. Yes.

Q. And did they participate in the conversation? A. Alex did.

Q. I mean Aaron, Martin and Alex. A. Alex did.

Q. What did he say? A. He said he did not see any reason in the world why we could not show the books.

Q. Who did he say that to? A. To Joe.

Q. And what did Joe say? A. He still refused to show the books.

Q. What did he say? A. He said no.

Q. Did he give any reason? A. He did not give a reason, but he said he did not see why he should give the books to anybody.

Q. Did anybody say anything about your authority to examine the books for the Code Authority? A. No.

Q. That was not questioned? A. Never.

Q. Now let me ask you this: At the time that Alex Schechter talked to Mr. Peterson on the telephone were any of the other Schechter brothers present? A. None of them were in the office. The bookkeeper was the only one present.

Q. Now, what happened after the conversation that you had with Joseph Schechter and Alex Schechter and with the other two Schechter brothers standing by? A. I asked whether I could use the 'phone and Alex Schechter was standing near the 'phone. I gave him the telephone number of the Code Authority. They called up Mr. Peterson.

Q. Who called up? A. I was going to call, but he was right there and he called.

1530

Jack Zasloff—By Govt.—Direct

1531

Q. Did you hear who it was that he called for?

A. Yes; he asked for Mr. Peterson.

Q. And you heard him do that? A. Yes.

Q. And did you see what number he dialed, or wasn't it a dial 'phone? A. It was a dial 'phone.

Q. Did you see what number he had dialed?

A. No.

Q. You had given him the number of the Live Poultry Code Authority? A. Yes.

Q. Then what happened? A. He spoke to Mr. Peterson.

Q. That is, he spoke on the telephone? A. Yes, and then he put—

Q. Or what did he say? A. He told them that he wanted to put his brother, Joseph Schechter, on the telephone.

Q. Did he say anything else? A. Not at the time.

Q. Did he say anything about the books? I don't want you to judge what is important. Tell us everything that was said. A. I don't think he did.

Q. Then what happened? A. He put Joe Schechter on the 'phone.

Q. You saw him talk on the telephone? A. Yes, I saw him speak on the telephone.

Q. Now, what did he say? A. I wasn't listening to his conversation, I was speaking to Alex Schechter and some others that were there at the time. I did hear one sentence at the time, "We are violating the Code every minute of the day."

Q. Who said that? A. Joe Schechter.

Q. And who did he say it to? A. Mr. Peterson.

Q. He said it over the telephone? A. Yes.

Q. And you were standing nearby all the time? A. Yes.

1532

1533

1534

Jack Zasloff—By Govt.—Direct

Q. And you heard him say, "We are violating the Code every minutes of the day"? A. Yes.

Q. At that time were the other Schechter brothers whom you have identified present? A. Yes, they were standing around the office.

Q. Were they standing near the telephone? A. One was standing near the door and a few were standing near me.

Q. Were they all standing within earshot of the telephone? A. Oh, yes.

Q. You heard that distinctly? A. Yes.

1535

Q. And you heard nothing else that you remember? A. No, I happened to be talking to somebody else at the time.

Q. Did Joseph Schechter say anything about letting the Code Authority examine the books at that time?

Mr. Heller: I object to counsel's question. He has already answered.

The Court: I don't know whether he has or not. I will overrule the objection.

Mr. Heller: Exception.

1536

Q. Did Joseph Schechter say anything else? A. Yes, he turned around and told me to take the wire.

Q. And did you take the wire? A. I did.

Q. And did you talk to the person on the other end? A. Yes, Mr. Peterson.

Q. You recognized his voice? A. Oh, yes.

Q. Was Mr. Leroy Peterson the Code Supervisor? A. Yes, sir.

Q. Then what did you do? A. I went back to my office.

Q. Did you examine the books? A. I did not.

Jack Zasloff—By Govt.—Cross

1537

Q. Did Joseph Schechter say anything after the telephone conversation, to you, about examining the books? A. No, he did not.

Q. Did you ask him whether you could examine the books? A. After the conversation?

Q. Yes, after the conversation. A. No, it was all settled that I would see the books.

Q. What do you mean by that; did you hear Mr. Schechter say anything to Mr. Leroy Peterson? A. No, Mr. Peterson told me that I would be able to see the books, he told me to come back to my office.

Q. Mr. Zasloff, when you heard Joseph Schechter say to Leroy Peterson, "We are violating the Code every minute of the day"—A. Yes, sir.

Q. Did any of the other Schechter brothers say anything? A. I don't think they did. I mentioned it to them.

Q. And did they say anything? A. No.

Mr. Rice: That is all.

Cross examination by Mr. Heller:

1539

Q. What company are you connected with? A. Lewis P. Gallinson & Company.

Q. Lewis P. Gallinson & Company? A. That is right.

Q. Are they certified public accountants? A. They are.

Q. And was the firm retained by Mr. Peterson? A. The Code Authorities, Mr. Peterson being the Code Supervisor.

Q. When did your retainer commence? A. I couldn't tell you that.

Q. When was the first time you were asked to go out to examine the books? A. June 1.

1540

Jack Zasloff—By Govt.—Cross

Q. That was the very first day? A. Yes, sir—well, there were other people on the job, but I happened to get the job that day.

Q. As far as your concern is concerned, are you the only one? A. No, sir.

Q. How many men of your concern were employed to do this work? A. We were not employed specifically to do that work. There were others in our firm that did the same work, two or three others.

1541

Q. You mean there were two or three people engaged to examine books? A. Yes, sir.

Q. And they were engaged to do that on June 1st? A. Prior to June 1st.

Q. Weren't you to commence on June 1st? A. No, I started that work of examining on June 1st.

Q. Do you know from your own knowledge whether an examination was had a week before that? A. No, sir.

Q. As far as you are concerned June 1st was the first time you were asked to examine the books? A. That is right.

1542

Q. And you were sent to 858 East 52nd Street?

A. I was.

Q. What time of the morning were you sent there? A. Naturally I got the assignment the night before.

Q. What time did you get there? A. I got there around nine o'clock.

Q. In the morning? A. That is right.

Q. What did you take with you? A. I had my bag, paper, pencils.

Q. And what instructions did you receive? A. I received instructions to examine.

Q. Examine what? A. The books of the Schechter Brothers.

Q. What were you supposed to get from those books? A. I was supposed to get the

Jack Zasloff—By Govt.—Cross

1543

balance sheet and profit and loss statement of the concern, the prices that they sell their poultry, and make comparative prices per week.

Q. For how long a period of time? A. For a period of four weeks.

Q. You were asked to examine the books for four weeks prior to June 1? A. That is right.

Q. In other words, from May 1 to June 1? A. That is right.

Q. And did you have a letter or credentials with you? A. Not at that time.

Q. Showing that you were an authorized agent? A. Not at the time.

1544

Q. You had nothing at all? A. No, sir.

Q. Do you know whether your firm is an accountant for any poultry persons? A. We are not.

Q. You are sure about that? A. Pretty certain.

Q. You know everything that goes on in your firm? A. Well, to a good extent.

Q. Are you a member of the firm? A. I am not.

Q. Have you a financial interest in the firm? A. I have not.

1545

Q. The boss does not tell you everything he does, does he? A. No.

Q. You don't know exactly where other employees go to from day to day? A. No, we have an office manager for that.

Q. So you got there at nine o'clock in the morning, is that correct? A. I did.

Q. You did not phone the Schechter firm the night before that you were coming? A. I did not.

Q. You just came in unexpectedly? A. Yes.

Q. Without any notice? A. Right.

Q. And you met, you said, Alexander Schechter there in the morning at nine o'clock. A. Yes.

1546 *Jack Zasloff—By Govt.—Cross*

Q. Were there any chickens on the floor? A. There were in the rear but they had some chicken coops outside, bags—

Q. Any employees there? A. Yes, there were some employees.

Q. Any customers there? A. No, sir.

Q. You did not see any customers? A. No.

Q. How long did you expect to take to examine those books? A. As long as it would have taken.

Q. If necessary the entire day? A. A day or two.

1547 Q. You were going to do it right there at the premises? A. I was.

Q. Were you not? A. Yes.

Q. And you asked for no permission prior to that day to make such arrangements for June 1st? A. I did not.

Q. Do you know what day June 1st was? It was a Friday, correct? A. If it was.

Q. Do you remember that? A. I don't know whether it was a Friday. Yes, I think it was on a Friday.

Q. Wasn't it a Friday? A. Yes, that is right.

1548 Q. Is that correct? A. Yes.

Q. And you were going to come the following day, if necessary, were you not? A. Yes, if they were open.

Q. When you asked for the books, he said he would have to consult someone else? A. No, he did not.

Q. Well—— A. He refused an examination of the books.

Q. Didn't I hear you say he laid some books on the table? A. That was the second time I was there.

Jack Zasloff—By Govt.—Cross

1549

Q. The first time he said he would not allow, would not let you examine the books until he consulted someone, is that correct? A. Yes, sir, that is the second time.

Q. Nine in the morning? A. No, this was at eleven. That was the second time.

Q. You left the place at nine o'clock? A. No, it was after nine o'clock.

Q. And when he refused you the books, you went away? A. That is right.

Q. And you came back at what time? A. About eleven.

1550

Q. That was after you had a telephone conversation at the gasoline station, is that right? A. Well, I had the conversation, I got back to my office and then I went back to Brooklyn again.

Q. Where is your office? A. 11 Park Place.

Q. What time did you leave 858 East 52nd Street after nine o'clock? A. Oh, I left in half an hour or so.

Q. At half-past nine? A. Probably.

Q. And you went to your office? A. Yes.

Q. Did you speak to anybody when you got to your office? A. Yes, Mr. Lipsin.

1551

Q. Mr. Lipsin? A. Mr. Lipsin, office manager.

Q. After that conversation you went back again? A. No, I did not.

Q. How long did you stay at your office? A. Very, very short time. It may have been a few minutes.

Q. How long did you stay at your office? A. May have been a few minutes.

Q. Then where did you go? A. We got another telephone call that I go back, that everything is all right, that they will let me see the books.

Q. You got a telephone call from whom? A. He got the telephone call. I was not speaking.

1552 *Jack Zasloff—By Govt.—Cross*

Mr. Lipsin received the telephone call¹ from the Code Authorities.

Q. I am talking about the time you were back in the office. A. Yes.

Q. After you were refused the first time to examine the books. A. Yes.

Q. You stayed there a few minutes, is that right? A. (No answer.)

Q. Is that right? A. When?

Q. At your office, 11 Park Place. A. Yes.

1553 Q. Then you went back again according to certain instructions from Mr. Lipsin? A. Yes.

Q. You had no conversation with anyone else but Lipsin? A. That is right.

Q. And you got back to Brooklyn at what time? A. Got back about eleven o'clock.

Q. And then whom did you find at the place? A. Alex Schechter was there.

Q. And at that time he said you could examine the books? A. He did not.

Q. When was it he laid the books on the table?

1554 Mr. Rice: I would like to hear that name whether it was Alex or Aaron.
The Witness: Alex Schechter.

Q. You asked him to examine the books again? A. Yes.

Q. What did he say then? A. He still refused. He said he was going to see Mr. Peterson in the afternoon.

Q. Did he tell you that he was going to see Mr. Peterson in the afternoon? A. About the books, about the examination of the books.

Q. And said he would consult him first before he would let you examine? A. Yes.

Jack Zasloff—By Govt.—Cross

1555

Q. Then where did you go? A. I stayed right there. I went in his office.

Q. Did you receive instructions to insist that you be permitted to examine the books? A. No, I did not insist.

Q. Did you state your qualifications to Mr. Alexander Schechter? A. Qualifications of what kind?

Q. As to your capacity or competency as an accountant. A. I wasn't questioned.

Q. You did not state anything? A. It was not questioned.

1556

Q. You merely said you were there to examine the books? A. I did.

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

Q. Then he refused you again, is that it? A. That is right.

Q. And then you went away again? A. No, I was there——

Q. You stayed there? A. I was right in his office.

Q. For how long did you stay then? A. For about half an hour.

Q. What happened after that thirty minutes? A. We had the telephone conversation with Mr. Peterson.

1557

Q. Yes. A. And then Mr. Alex Schechter asked me what books I wanted. I told him everything.

Q. And he laid the books on the table? A. Yes.

Q. And then you say about what time did Mr. Joseph Schechter come in? A. Just about the time I started examining.

Q. 11:30? A. Well, about 11:30, I cannot exactly say whether it is a few minutes before or after.

1558 *Jack Zasloff—By Govt.—Cross*

Q. When you say he came in with two sticks, you mean he came in with two crutches? A. Two canes, I said.

Q. Hobbling in? A. Whether he was hobbling, he came in with two canes.

Q. Were those canes used to support himself? A. Yes.

Q. Weren't brought for the purpose of punishing you, were they? A. I don't think so.

Q. He had not known about your presence there, had he? A. That I cannot tell you.

1559 Q. Do you know as a matter of fact Joseph Schechter had nothing to do with that concern at that time? A. Repeat that question.

Q. Do you know that it is a fact that Joseph Schechter had nothing to do with 858 East 52nd Street as of that date? A. Well, he seemed to have everything to do at the time he got there.

Q. Did you gather that information from the books? A. I did not.

Q. Do you know that the Government examined the books? A. That I do not.

1560 Q. You do not know anything about that? A. Whether they examined them prior to the time I got there, I do not know.

Q. After June 1st. A. After?

Q. Yes. A. I do not know.

Q. You do not know that fact? A. I do not know.

Q. Nobody has ever told you anything about that? A. No, sir.

Q. Is that correct? A. No, sir.

Q. Didn't Joseph Schechter say to you he would like to know whether you were entitled to examine the books before he would permit you to do so? A. Not that I know of.

Jack Zasloff—By Govt.—Cross

1561

Q. You do not recall that? A. Not that I know of.

Q. Did he say to you that he would like to consult his attorney whether you had a right to do so or not? A. Yes, he mentioned something of that thing that he was going to consult an attorney whether the Code Authority had any right to examine the books.

Q. He said to you that the entire Board of the Code Authority were a bunch of crooks? A. He didn't say the entire Board, he mentioned the Code Authority and mentioned a few names.

1562

Q. Did you ask him about that? A. I didn't want to go any further, I wasn't there for that purpose.

Q. Did you ask him whether or not the Code Authority was honest or dishonest? A. I didn't have any further conversation on that point.

Q. You mean that just came out of him? A. Yes.

Q. Spontaneously? A. That is right.

Q. Without any cause? A. There may have been cause because of the examination of the books.

1563

Q. But you didn't examine the books? A. The request for the examination of the books.

Q. Caused him to say that? A. I couldn't tell you the cause.

Q. You didn't have any discussion with him with reference to the members that constituted the Code Authority? A. I refused to argue with him.

Q. Do you know who Mr. Frenzel is? A. Personally I do not.

Q. Don't you know that he was a competitor of his? A. I know that he is a competitor.

1564 *Jack Zasloff—By Govt.—Cross*

Q. And he is on the Board Committee? A. He is.

Q. Didn't he tell you he would want to know from an attorney first—you know Mr. Frenzel's place of business was in the same neighborhood, don't you? A. That I do not know whether it was in the same neighborhood.

Q. You know that he was a competitor of his? A. I know he was in the same business.

1565 Q. You know he was considered a bad risk in the industry, don't you? A. I can't tell you anything like that, I have nothing to do with that.

Mr. Rice: If your Honor please, we aren't trying out the witness' knowledge about Frenzel, as a matter of fact we are not trying out his character or his standing in the business or whether or not he is a good risk.

The Court: I do not think we are concerned very much with what kind of a risk he was.

Mr. Heller: All right.

1566 Q. Do you know it is customary as an accountant to get a letter of introduction before you go to see a firm? A. Well, I wouldn't say that.

Q. You have been an accountant for quite a number of years, is that it? A. I have.

Q. And haven't you on occasions received a letter from the firm? A. Very few occasions.

Q. You have though, haven't you? A. Yes, on a very few occasions.

Q. That is when you had already been at a firm you would not require a letter the next time? A. No, I have been in places that didn't know me.

Jack Zasloff—By Govt.—Cross

1567

Q. Didn't know you? A. Yes.

Q. And they permitted you to come in? A. Yes.

Q. And examine the books without a letter of introduction? A. Yes.

Q. Without your firm's card? A. Yes.

Q. Is that correct? A. Yes.

Q. Without calling up your firm to ascertain whether you were the accountant designated to examine the books? A. Yes.

Q. They did do that? A. Yes.

Q. That happens very frequently? A. Yes, 1568
that would happen very frequently.

Q. In your firm? A. Yes.

Q. Have you had any other experience besides being with this firm? A. No.

Q. How long have you been with this firm? A. Over four years.

Q. Do you know what your pay was to be for examining these books? A. I do not.

Q. Were you getting paid for that day? A. Of course, I am on a weekly salary.

Q. Isn't that so? A. Yes.

Q. You are required to do work every day? 1569
A. Yes.

Q. And you lost this day, is that correct? A. Well, naturally.

Q. You were kind of peeved, weren't you? A. I lost the day, no, I was not peeved about it.

Q. I mean your firm. A. No, we were not peeved.

Q. They were paid too, were they? A. I do not know that, I couldn't tell you whether or not we were paid. I know I was paid, I was on a weekly salary.

1570

Jack Zasloff—By Govt.—Cross

Q. Now, do you know how large this office is, if it be an office? A. Yes, it is an office, a small office.

Q. About how small, do you know the dimensions of it A. Well, I wouldn't accurately say, it was a small office.

Q. And you said before that you were having some conversation with someone outside when Mr. Joseph Schechter was telephoning. A. Outside? I never said anything like that.

1571

Q. Was it in the small office? A. Yes, it was right in the office.

Q. Everybody was in there? A. There was quite a number of others in there, where his brothers—

Q. About how many people were in that office? A. I think there were two other employees there.

Q. Employees? A. Yes, I think they were employees; they were around there.

Q. And the four Schechters? A. Yes.

Q. They were present? A. Yes.

Q. And you were in there? A. Yes, sir.

Q. Do you know the dimensions of that room? A. I do not; there were two desks in that room.

Q. And the safe? A. Yes; it was small.

Q. A very small office? A. But we were there.

Q. Would you say it was about 3 x 5? A. 3 feet by 5 feet?

Q. Yes. A. You are wrong; it is much larger than that.

Q. Can you point out in the court room how large that room was? A. Well, I would say up to the back of the chair of that jurymen, up to this point, about up to this point (designating).

Jack Zasloff—By Govt.—Cross

1573

Q. The back of the room? A. Up to this point, up to here (designating the back of the court room).

The Court: What would you estimate that to be? That does not mean anything.

Mr. Rice: I will let Mr. Heller make his estimate.

Mr. Heller: I would consider that to be about 9 by 6.

The Witness: I would not even attempt to measure it. In this short space there were two desks? A. Yes.

1574

Q. A safe? A. Yes.

Q. Chairs? A. Chairs?

Q. Yes. A. No, I think there was one chair.

Q. A gas stove? A. I didn't observe everything in the room.

Q. But you remember the conversations that took place? A. Yes.

Q. Very definitely? A. Certainly, because they were on the things that I was supposed to know.

Q. Then did Mr. Joseph Schechter say to you that all members of the industry were violating the Code? A. No, sir.

Q. Did he say to you, "Why do you pick on me?" Did he use that language? A. Not that I remember.

Q. Did anybody else use that language? A. They mentioned the fact about other audits being made.

Q. I beg your pardon? A. They mentioned the fact about other audits being made, and that is all. He asked if other audits were made.

Q. What did you tell him? A. I told him they were, but had nothing to do with his audit.

1575

1576

Leroy Peterson—By Govt.—Direct

Q. You know of your own knowledge that other audits had been made prior to June 1st?

A. Yes, sir.

Q. And did you see those audits? A. I didn't see them.

Q. Somebody told you about it? A. I saw the man that went out on them.

Q. When did he go out? A. I cannot remember the date.

Mr. Heller: That is all.

1577

Mr. Rice: That is all.

(Witness excused.)

LEROY PETERSON, recalled, testified further as follows:

Direct examination by Mr. Rice continued:

1578

Q. Now, will you tell us about this telephone conversation that you had with Alex on June 1, 1934? A. I came into the office between 11 and 11:30 on the morning of June 1st. As I came in the office somebody said I was wanted on the 'phone. It was what we know as our outer office. As far as I can recall the conversation—the man said that he was Alex Schechter and he wanted to know who this man was that was looking at his books. I told him that it was the auditor of the Code Authority and that we were looking over the books of the various slaughter houses and we wanted to examine his books. I do recall that he said he could not permit us to look at the books, and that the boss was Joseph Schechter—of all the Schechter concerns, and he would have to ask his brother Joe Schechter

Leroy Peterson—By Govt.—Direct

1579

before he could permit us to look at the books. I then asked if the auditor was still there—that is the previous witness, Mr. Zasloff,—and he said he was. I said, “Can I speak to him?” and he said, “What instructions do you want me to follow now?” and I said, “Well, for the time being go back to your office and I will communicate with you further.” That ended that conversation.

Q. Now, did you have a subsequent conversation with Joseph Schechter on that day? A. Within a short time after that—I would not know exactly the number of minutes, but a short time after I got a call from a man who said he was Joe Schechter. He wanted to know again who these people were and what we wanted. I said that we were sending a man to examine his books. He said that he did not think that he wanted to let the Code Authority examine the books. He said, “Why do you want to examine my books?” And I said, “We have had a number of complaints that you have been violating the Code.” I said, “By the way, Mr. Schechter, do you know you have been violating the Code?” And he said, “Mr. Peterson, I have been violating this Code every minute since it has been in effect, and it is my intention to continue to do so.” I said, “Well, if that is the case, Mr. Schechter, there is nothing further to do,” and I hung up.

Q. Now, during this conversation that you had with Alex Schechter, the first conversation, was anything said about the authority of Mr. Zasloff to examine the books on behalf of the Code Authority? A. I believe that he asked me if we had sent somebody to examine the books, and I said, “Yes,” we had.

1580

1581

1582 *Leroy Peterson—By Govt.—Direct*

Q. Was anything further said about it? A. I said, "We sent a man out this morning. He is from the firm"—I am not sure now whether it is Gallinson & Son or Gallinson & Company. It is a firm who previously did work on examining books of poultry concerns and through our Mr. Galloway we hired this firm because we thought that they would be familiar with the method of the keeping of books in poultry concerns.

1583 Q. Now, was anything said about Mr. Zasloff's authority to represent the Code Authority in examining the books? A. Nothing further.

Q. Was anything said about that by Joseph Schechter in the second conversation over the telephone? A. Not that I recall; not a word.

Q. Nothing whatever? A. No.

Q. Now, on June 18, 1934, did you have a conference with any of the Schechter brothers? A. I did.

Q. Which one? A. Joseph Schechter and Alex Schechter.

1584 Q. Now, who else was present at that conference? A. Our attorneys, Mr. Loeb and Mr. Dale, and our slaughter house representative, Mr. Forthsmith, and myself, and our N. R. A. representative, Mr. Wechsler.

Q. Where was this conference? A. At my office at No. 641 Washington Street.

Q. Now, you stated Mr. Heller was present at that conference? A. He was there too, I beg your pardon.

Q. And who arranged that conference? A. Mr. Heller.

Q. And between the time of June 1st and this conference of June 18th, had the Code Authority

Leroy Peterson—By Govt.—Direct

1585

conducted investigations of the various slaughter houses and slaughter house markets? A. Yes.

Q. Had you conducted an investigation of the practices of the Schechter brothers who are on trial here? A. We had.

Q. And what took place at the conference at the Code Authority office on June 18, 1934? A. One or two days previous to the conference Mr. Heller came to the office and asked if it would be possible for the Code Supervisor to have a conference with his clients. I asked him who his clients were and he said the Schechter brothers. He told me that they were running various slaughter houses in Brooklyn and I said that I would be delighted to see anybody from the industry about anything pertaining to the industry, so we arranged a conference. I believe the date was June 18th, at which these various people attended.

Q. Did Joseph Schechter say anything about that conference? A. Yes.

Q. What did he say? A. He did most of the talking.

Q. Did he make any reference to the telephone conversation that you had had with him on June 1st? A. Yes. I was just trying to refresh my mind as to what led up to that remark, but I recall asking Joseph Schechter if he recalled having talked to me on the telephone. He said he did. And I said, "Do you recall what you said in that conversation?" And he said, "Yes." I said, "Well, do you recall at that time that you said that you had been violating the Code every minute since it had been in effect, and you intended to continue to do so?" He said, "Yes, I certainly did."

1586

1587

1588 *Leroy Peterson—By Govt.—Direct*

Q. Was Alex Schechter present at the time that Joseph Schechter said that? A. Yes.

Q. Was he present during the entire conference? A. Yes.

Q. Was Joseph Schechter present during the entire conference? A. Yes. I might add, the entire conference, I was not present at the entire conference, but some people of our office were present during the entire time that Joseph and Alex Schechter were at the office.

1589 Q. Did anybody prepare a memorandum of this conference immediately afterwards? A. Yes.

Q. Who? A. Mr. Dale, our attorney.

Q. Within how long after the conference took place? A. Immediately after.

Q. Within five minutes? A. Less than that. Immediately.

Q. And you have preserved Mr. Dale's memorandum? A. I have.

Q. Did you read the memorandum after it was prepared? A. I did.

Q. And you have recently refreshed your memory by referring to that memorandum? A. I have.

1590 Q. Was anything said about Joseph Schechter's relationship with the A. L. A. Schechter Poultry Corporation? A. At various times during the conversation Joseph Schechter indicated —stated—

The Court: What did he say, not "indicated?"

The Witness: Stated that all matters pertaining to the purchase of poultry for the various Schechter corporations were in his hands because he was the credit risk, and all poultry had to be bought

Leroy Peterson—By Govt.—Direct

1591

through him, and that all matters pertaining to the various Schechter concerns were under his direction; he had been in the business a long time; that he had recently broken a leg, he had been out of the business for a short time, and was now back in it.

Q. At that time do you know what market was being actually operated by Joseph Schechter?

A. Personally I do not know.

Q. You do not know? A. No.

1592

Q. Do you know what market was being operated by Alex, Aaron and Martin Schechter? A. I know that there were two slaughter houses operated by them, one at Rockaway Avenue and one at 52nd Street.

Q. But you don't know which is which? A. I don't know which is which.

Q. Did Alex Schechter say anything during this conference? A. Yes; we discussed the various—while discussing the various trade practices of the Code having to do with the sale of culls, that is, poultry unfit for human consumption, inspection and straight killing, Alex Schechter said that they had—only after—for one week since the Code was in effect they disposed of their culls, that is, killed them and disinfected them. After that they continued to save them and sell them on Fridays to the colored trade.

1593

Q. Did he say anything else? A. He said that they sold them from 8 to 10 cents a pound and that was the usual custom before the Code.

Q. Was anything said by Alex or Joseph Schechter about having received notice of the Code? A. Alex Schechter stated upon a question from Mr. Loeb, our attorney, that both he

1594

Leroy Peterson—By Govt.—Direct

and his brother, and the Schechters, of course, knew that there was a Code; that they had talked of it for months; they had been looking forward to it; they would hope, as the whole industry had hoped, that this was going to be the solution of the industry, and they said for the first week everything went all right, "We lived up to the Code, but now we are not living up to the Code any more."

1595

Q. Who stated that? A. Both Alex and Joseph Schechter at different times during the conversation.

Q. Was anything said about the practice of straight killing?

Mr. Heller: I have tried to be liberal. Let him say from his own knowledge what transpired. Counsel is telling him was such and such a thing said, and he said yes.

The Court: No, he said was anything said about a certain subject.

Mr. Heller: About straight killing.

1596

The Court: Was there anything or wasn't there?

Mr. Heller: Let him ask what conversation took place and let him state it from his own knowledge.

The Court: But if the man doesn't remember it all, his attention can be directed to it.

Mr. Heller: He has a memorandum he said was prepared two minutes or five minutes after the conference.

The Witness: In the matter of straight—

The Court: Let us have the whole conversation. That is what we ought to have.

Leroy Peterson—By Govt.—Direct

1597

Then if you cannot answer, why, your attention can be directed.

Q. How long did this conference last? A. Oh, I should say more than an hour.

Q. Will you tell us anything else that was said by either Alex or Joseph Schechter at that conference? A. If it is permissible to refer to this memorandum that was made five minutes after the conference, I will be glad to give you——

Q. Do you recall anything further at the moment that was said at that conference without referring to your memo? A. Yes.

Q. Tell us what you recall, and when you have exhausted your memory, then we will permit you to look at the memorandum. A. There was a considerable conversation as to straight killing. Joseph Schechter said that the idea of straight killing was very good, if it could be practiced, but that it was so difficult for a man to make a living now, due to the keen competition in the live poultry business, that he saw no chance for himself of practicing straight killing; and that he did not intend to do it. I asked him if he had practiced straight killing the first week of the Code. He said he had and it had worked out very well. He said that the reason he stopped practicing straight killing was that everybody else had stopped it. I said, "Do you realize, Mr. Schechter, that that is what everybody else in the industry says, a great many people in the industry have said that, and that each person says they stopped it because the other fellow stopped it?" I stated to Mr. Schechter that we had had more complaints about him stopping straight killing in that section of Brooklyn than any other person, and I said, "Do you realize,

1598

1599

1600

Leroy Peterson—By Govt.—Direct

Mr. Schechter, that I believe you are the first man that stopped straight killing in Brooklyn, and, therefore, you have caused the other people to stop straight killing?" He said, "I do not know whether that is so or not." I asked him where he got his poultry. He said he bought it in West Washington Market and also bought it in Philadelphia. I asked him if he got his poultry inspected—I beg your pardon. I don't think I asked him those questions. I think Mr. Loeb and Mr. Dale asked those questions.

1601

Q. That is, questions as to inspection? A. Inspection.

The Court: Were you there?

The Witness: I was there, yes.

The Court: And you heard it?

The Witness: Yes, sir.

The Court: All right.

1602

A. (Continuing.) Whether the poultry that he got from Philadelphia was inspected or not. He said from time to time he had it inspected. If it wasn't convenient, he did not bother. He was asked what he meant by that. He said, "From time to time the poultry comes in late at night, it is not convenient to get it inspected, and so we take it in and kill it at five or six next morning."

Q. This is Joseph Schechter that said this?
A. Joseph Schechter this is.

Q. Did Alex Schechter say anything about the subject of inspection? A. Not that I recall off-hand. Alex Schechter made practically all of the statements having to do with the accumulation of culs, that is, poultry unfit for human consumption, and the method by which they sold it.

Leroy Peterson—By Govt.—Direct

1603

Q. Did he say anything about the amount of business that the Schechters had done after the Code went into effect? A. He didn't, but I believe as I recall Joseph Schechter said that everybody in the industry was having trouble making a living, that his business had, he had fallen off tremendously the first week of the Code, that he couldn't stand this loss of business and that he had found it necessary to violate all the provisions of the Code, and in the time from the first week after the inception of the Code to then he had gotten most of his business back again.

Q. Was anything said in response to this statement by any member of your staff as to the volume of the Schechter business? A. As I recall one of the members, I think Mr. Loeb or Mr. Dale—no, Mr. Forthsmith mentioned that the volume of business in all slaughter houses dropped off about the first of June and continued dropping off until after the Jewish holidays in the fall.

Q. At that time did the Code Authority have any figures as to the amount of business that the Schechter Brothers had done just after the Code was adopted? A. I do not recall.

Q. Will you refer to your memorandum and see whether your memory is refreshed on that? A. I recall Schechter stated—

The Court: Don't read it from that, just read it to refresh your recollection.

Q. Is your memory refreshed after looking at the memo? A. Yes.

Q. Will you put the memo away now and state what you recall? A. I recall Schechter stated

1604

1605

1606

Leroy Peterson—By Govt.—Direct

that his business had fallen off from 32,000 to 29,000 pounds, and as I have read it now I find that I made the statement that—

Q. Do you recall whether you made the statement? A. Yes, I do know that I made the statement rather than Mr. Forsmith that the volume of business in practically all slaughter houses fall off around the 1st of June and continues off until after the late fall.

1607

Q. At the time of this conference did the Code Authority have in its possession any evidence as to the activities of Schechter Brothers?

Mr. Heller: That is objected to, your Honor.

Mr. Rice: I withdraw the question.

Q. Do you recall anything else that was said by either Joseph or Alex Schechter at this conference?

1608

The Court: Try and think now of all that was said, and if there was anything else that you haven't stated try to state it now.

The Witness: Mr. Heller asked me on a number of occasions if he would advise me to advise his clients to still live up to the Code. I said I would not give him any advice, that he was the attorney for his clients, that I couldn't advise him. He brought that up on a number of occasions.

Q. I do not think Mr. Heller is on trial here, so never mind that. Never mind telling us about any conferences you had with Mr. Heller, just tell us what Mr. Alex Schechter or Mr. Joseph Schechter said. A. Once during the conversation

Leroy Peterson—By Govt.—Direct

1609

Mr. Joseph Schechter said, "Well, Mr. Peterson, what would you advise me to do? Ought I live up to this Code or not? Nobody else seems to be doing it, what should I do?" And I said, "Mr. Schechter, the reports that have come to me are that you are the man that first started breaking the Code in Brooklyn. I would recommend that you live up to it, because I believe everybody else in your neighborhood wants to if you will.

Q. That was Joseph Schechter? A. Joseph Schechter.

1610

Q. Did Alex Schechter say anything at that time? A. I believe it was at that time that Alex Schechter then said that they were not able to make a living. I said well, if you will live up to the Code and sell your product at the price which the Code permits you to sell at, which is not to violate the destructive price-cutting clause you would be able to make a living.

Mr. Heller: I did not hear of any price-cutting clause.

The Court: Neither did I.

1611

The Witness: There is a clause in the Code with destructive price-cutting.

Q. But this has nothing to do with price-fixing. A. I did not say price-fixing. I said destructive price-cutting.

Mr. Heller: The Code has nothing to do with that either.

Q. We are not concerned about that, Mr. Peterson; is there anything that was said about the sale of uninspected poultry?

1612

Leroy Peterson—By Govt.—Direct

Mr. Heller: I have no objection if Mr. Peterson will study that document for thirty minutes and then let him testify as to what transpired.

The Court: That's right, but they can ask about some specific thing.

1613

Q. Now do you recall anything else that was said? A. At the time that Joseph Schechter gave the conversation that I have just stated, it was just following that, as I recall it, that Alex Schechter made the remark that they were unable to make a living and then I mentioned the matter of selling at a reasonable profit so that they could make a living and then Alex Schechter brought up the extended conversation about the sale of culls that they had to sell them for such a small price that they hardly made any money out of that at all. Then they had quite a long conversation at that time about straight killing. If we practiced straight killing as we know throw-offs there would be so few that they could be destroyed and a man could make a profit on the poultry that he did sell.

1614

Q. Well, after this conference what did the Code Authority do with respect to the Schechter Brothers? A. I cannot recall whether it was before or after or both times we continued investigating the Schechters as we did everybody else in the industry that we thought were violating the Code.

Q. And did you continue to investigate the Schechter Brothers after the conference of June 18th? A. We did and we found—

The Court: Never mind what you found.

Leroy Peterson—By Govt.—Direct

1615

Q. On the effective date of the Code, April 23, 1934, do you know whether or not there was a meeting for the purposes of electing the members of the Advisory Committee of the Live Poultry Authority Code? A. I do.

Q. Now do you know who was the secretary at that meeting to elect representatives from the slaughter house markets? A. One of the Schechter brothers.

Q. I hand you a paper entitled the minutes of a certain meeting—it is a long title—and I ask you whether or not you have seen that paper before? A. I have. It is part of the minutes of our Industry Advisory Committee meeting.

Q. Is that a part of the official records of the Live Poultry Code Authority? A. It is. Previous to the establishment of the Advisory Committee we kept minutes of all official meetings previous and this is part of those minutes.

Q. Now what is this particular meeting on April 23rd, 1934? A. This is a meeting of the various associations and groups of individuals of the industry for the election of the fifteen members of the Industrial Advisory Committee.

Q. And who was secretary at that meeting which elected the representatives of the live poultry slaughter houses? A. Aaron Schechter.

Q. And you were present? A. I was.

Q. And these are the minutes of that meeting? A. They are.

Mr. Rice: I offer them in evidence.

Mr. Heller: No objection.

(Marked Government's Exhibit 25 in evidence.)

(Short recess.)

1616

1617

1618

Leroy Peterson—By Govt.—Direct

Q. Mr. Peterson, you are familiar with the Live Poultry Code? A. I am.

Q. I hand you this document and I ask you whether that is the certified copy of the Live Poultry Code as approved by the President of the United States on April 13, 1934? A. It is.

Mr. Rice: I offer it in evidence.

(Marked Government's Exhibit 26 in evidence.)

1619

Mr. Rice: Now if your Honor pleases I should like the jury to examine Government's Exhibit 25, which is the minutes of the meeting of April 23, 1934.

The Court: Yes, certainly.

Mr. Rice: And also Exhibit 26.

The Court: Certainly.

(Government's Exhibits 25 and 26 examined by the jury.)

1620

Q. Mr. Peterson, are you familiar with the revocation of the New York Board of Health regulation relating to the inspection of live poultry on September 19, 1934? A. I am.

Mr. Heller: Just a minute, I object, your Honor, as not being material.

The Court: What difference does it make? You have proved that there was one in existence at the time.

Mr. Rice: My purpose was to rebut something that was brought out by Mr. Heller, your Honor. He indicated, in questioning one of the witnesses that the Board of Health regulation regarding the inspection of live poultry by the Joint Inspection Service had been revoked. I

541

Leroy Peterson—By Govt.—Cross

1621

merely propose to show that the revocation was on September 19th, 1934, after these violations and furthermore the Live Poultry Code has been amended as to provide—

The Court: That doesn't make any difference, it is subsequent to their indictment. If there is no question here that the amendment to the regulation was subsequent to the time of the indictment that that is all there is to it.

Mr. Rice: That is all.

1622

Cross examination by Mr. Heller:

Q. Mr. Peterson, you stated that on June 18, 1934, two of the Schechter brothers and myself were present at your office, is that correct? A. That's right.

Q. And that was my second visit to your office? A. That's right.

Q. Now the first visit I discussed the questions of law with your counsel, is that correct, in your presence? A. You also talked to me.

1623

Q. Do you remember my asking you whether you had any discussions as to whether or not, when members of an industry do not sign the Code, whether they must show their books and must pay assessment, do you remember my asking that question? A. Yes.

Q. And do you remember my discussing further the legal questions with your counsel in your presence? A. I do.

Q. Do you remember my saying that I came up for the purpose of determining whether or not I should advise my people—

1624

Leroy Peterson—By Govt.—Cross

Mr. Rice: Now if the Court pleases, I object to this line of questioning. We recognize that Mr. Heller is not on trial here and we do not mean to criticise him.

The Court: No, but his clients would be bound by what he said if they were present when this conversation took place.

Mr. Rice: I don't think the clients were present when this first conversation took place.

1625

Mr. Heller: Counsel brought out on direct examination that I was there.

The Court: That's right. If they were there he can bring out anything that happened there.

Mr. Rice: He is speaking now of a previous conference between Mr. Heller and Mr. Leroy Peterson and his counsel.

Q. I saw you on two occasions, is that correct?

A. Right.

Q. They were both between June 1st and June 18th, is that correct? A. Yes.

1626

Q. Now let us come back to June 18th. I previously made that appointment, did I not? A. Which appointment?

Q. For June 18th. My people, that is the defendants were not called on to answer charges on June 18th, were they? A. No.

Q. That was voluntarily suggested by me, is that correct? A. Yes.

Q. Now you don't mean to convey to this jury that I brought my people on June 18th for the purpose of telling you that they had violated the Code and will violate it, is that what you want the jury to believe? A. I don't, you knew what Mr. Schechter was going to say.

Leroy Peterson—By Govt.—Cross

1627

Q. Didn't I have a talk with you and your counsel prior to that day? A. You did, yes.

Q. And I suggested that a further conference be had? A. That's right.

Q. Didn't I suggest to you that my people wanted to know; for instance if they did not make any money during a certain week——

Mr. Rice: Now, if your Honor pleases, counsel is getting back to the previous conference where his clients were not present. It is quite immaterial what purpose Mr. Heller had at the time that he arranged the second conference.

1628

The Court: I don't know, whatever took place on the 18th is interesting, the other I don't think is.

Q. Did I say to you on the 18th, Mr. Peterson, that my clients wished to know if during certain weeks, if they sustained losses would they nevertheless have to pay the assessment. Was such a question asked you and did you give some answer? A. I don't recall the question being put quite that way.

1629

Q. But somebody spoke to you about the paying of assessments? A. Yes.

Q. And was something said to you that in the event that a firm has a loss during that week, will they nevertheless have to pay the assessment? A. You stated your firm had had losses.

Q. Did I ask you if it would be necessary nevertheless to pay the assessment?

Mr. Rice: Now if your Honor pleases——

1630

Leroy Peterson—By Govt.—Cross

The Court: Just a minute, this is on the 18th. He is entitled to the whole conversation if he wants it.

Q. Isn't that correct? A. What is correct?

Q. Didn't you say it would be necessary? A. I think I recall saying about that if we were going to have a Code in this industry it would be necessary for everybody in the industry to pay the assessment.

1631

Q. Whether they had a loss or not? A. Of course we would not know whether they had sustained a loss.

Q. But you said whether they had a loss or not? A. No.

Q. Did I ask you that question? A. Yes, and I said if we were going to have a Code in the industry everybody in the industry must pay the assessment.

Q. Nothing was said about a loss? A. Yes, you spoke at great length about that.

1632

Q. Didn't I tell you that was one of the purposes that I wanted the Schechters to meet you on the 18th? A. This was the 18th.

Q. Well, didn't I tell you that that one of the purposes that I wanted the Schechters to meet you and why I brought them there? A. I don't recall that.

Q. Do you remember toward the end of the conference a suggestion by me that I felt that they should file reports and pay assessments? A. You asked me if you thought I should advise you to advise them to do it. I said that they were paying you, not me, for your services.

Q. See if you can answer my question; did you hear me say that I would advise my clients to file reports and pay assessments, did you hear me say that? A. That was not all you said.

Leroy Peterson—By Govt.—Cross

1633

The Court: No, did you hear him say that?

The Witness: In connection with a further sentence, your Honor.

Q. Did I say that? A. Yes.

Q. And did I say to you that I was in sympathy with the Administration policy in Washington? A. Yes, you said that.

Q. And did I say to you wherever possible to help conditions I am for the Government? A. That's right.

Q. And I made an appointment with you for the 18th, did I not? A. Yes.

Q. And you had someone in your office from Washington—Mr. McDonald—this gentleman right here behind Mr. Rice? A. Yes, he was there.

Q. And you had two attorneys from the Code Authority present? A. They are in the office all the time.

Q. You called them in the conference? A. Yes.

Q. Didn't you tell me that before I say anything you want everybody to sit in the conference? A. Yes, we generally do that. Mr. Wechsler of the N. R. A. was there and somebody from the slaughter house group.

Mr. Rice: Now if your Honor pleases, I believe that counsel will agree that Mr. McDonald was not present.

The Court: I don't know anything about that. He is talking about the 18th, and if the witness doesn't know I don't know.

Q. Isn't that correct? A. Isn't what correct?

1634

1635

1636

Leroy Peterson—By Govt.—Cross

Q. All those gentlemen were called in by you into this conference? A. That's right.

Q. Do you remember making this statement at the conference; if you want to file a report you can but the entire matter is in the hands of Washington, did you say that? A. I did not.

Q. Did your counsel say that? A. No.

Q. Did your counsel say that? A. He did not.

Q. He did not say that? A. No.

Q. You are positive about that? A. I am.

1637 Q. He didn't say anything about it? A. He did not.

Q. Did he consult you the following day about a letter he received? A. Who?

Q. Mr. Loeb, one of your counsel. A. Are you asking me if Mr. Loeb or Mr. Dale said that?

Q. Either they or you. A. They did not.

Q. You are sure about that? A. I am.

Q. Did you see a letter, or was a letter called to your attention the day following the conference, by Mr. Loeb, from me?

1638

Mr. Rice: If your Honor please, this is not at the conference where his clients were present.

Mr. Heller: This is as a result of the conference.

The Court: I think that is admissible.

Mr. Rice: All right.

Q. Were you handed a letter coming from me as attorney for the defendants by Mr. Loeb, do you remember that? A. I do not recall unless you refresh my mind about the letter.

Q. Let me show you a copy of the letter, letter dated June 19th, addressed to you. A. I received such a letter.

Leroy Peterson—By Govt.—Cross

1639

Mr. Rice: May I see the letter?

Mr. Heller: Sure. Have you any objection if I offer this?

Mr. Rice: For what purpose.

Mr. Heller: For what it is worth.

Mr. Rice: I should like to have a statement from counsel showing that it has a purpose, indicating that it is relevant or material to any of the issues here.

Mr. Heller: The letter speaks for itself. I do not have to make any explanation.

The Court: Let me look at it. I think he can offer that. That is confirming something that happened on the 18th.

1640

Mr. Rice: It, of course, your Honor, is a self-serving declaration.

The Court: Of course it is, but it is supposed to be confirmatory of something that was said on the 18th?

Mr. Rice: Very well, then I think the response to that letter ought to be allowed in.

The Court: Surely, if that letter is allowed in the answer to that will be allowed in, of course.

1641

Mr. Heller: Of course.

The Court: That goes without saying.

(Marked Defendant's Exhibit in evidence.)

The Witness: Mr. Heller, in connection with that letter, that was following the conference of the 18th; at that conference was Mr. McDonald present?

Q. I do not remember, to be honest with you.

Mr. Heller: Were you present, Mr. McDonald?

1642

Leroy Peterson—By Govt.—Cross

Mr. McDonald: Yes.

The Witness: Then I wish to correct my statement that at the previous conference Mr. McDonald said that the matter was now in the hands of Washington; at the conference of the 18th Mr. Loeb stated that.

1643

Q. Then we have the statement now that a few days before the 18th, whenever this conference took place, he said the matter was in the hands of Washington? A. Had been sent to Washington.

Q. That is correct, thank you. When was the matter referred to Washington? A. That was handled by our attorneys; I do not know.

Q. The week before? A. I do not know.

Q. They work under your jurisdiction, do they not? A. Oh, yes.

Q. The attorneys? A. Yes.

Q. Have you records to show when the matter was referred to Washington?

1644

Mr. Rice: I do not see how it can be material to show in what manner the Department of Justice or Department of Agriculture proceeded.

The Court: It was referred before this time; that is sufficient.

Mr. Rice: We have no objection to disclosing our entire record, but it will simply waste the time of the Court.

Mr. Heller: All I want to know is the date. Give me the date and I will cease questioning with reference to that.

Mr. Rice: I do not know the date.

549

Leroy Peterson—By Govt.—Cross

1645

The Witness: I might state that we are in daily touch with Washington about all matters that come up.

Q. I am concerned with this case only, not with all matters. A. We get in touch from day to day with Washington about all matters that come up, any case that might come up.

Q. You have a great many cases coming up in the poultry industry? A. We are discussing cases constantly.

Q. You have a great many violations to handle since the Code came into being? A. Yes.

Q. Quite a number? A. Yes, indeed.

Q. As far as you know this is the first criminal prosecution in the poultry industry, is that correct? A. I believe it is, yes.

Q. And I take it it is your statement that the Code became operative and your office was first organized on May 17th, is that it? A. I think it was the 16th.

Q. May 16th? A. I believe it was the 16th, yes.

Q. Of 1934? A. That is right.

Q. And on June 1st, I take it you sent out this accountant for an examination of the books, that is what he stated? A. That accountant?

Q. Yes. A. Who do you mean?

Q. The accountant that testified before. A. No. I didn't send him out. When you asked me if I do these things, we have rather a large office force, and for instance, all matters having to do with auditors going out to examine the books of various concerns who we think might have violated the Code or for any purpose, Mr. Gallaway sends them out, and he had entire charge of the sending out of auditors to examine books during this period of time.

1646

1647

1648

Leroy Peterson—By Govt.—Cross

Q. In other words, what the previous witness meant was he received his instructions from Mr. Galloway? A. That is it.

Q. As I understand, Mr. Galloway engaged these accountants? A. After he had consulted with me.

Q. Yes, and the reason for engaging these accountants was that they had had experience in different poultry sources? A. That is right.

Q. So the young man who testified that they had never audited the books of poultry concerns was mistaken? A. No, he didn't say that.

Q. Oh, yes, he did. A. Excuse me, if I may correct you on that. You asked him if they were now auditing books of poultry concerns, and he said no, but they did previously.

Q. Previous to when? A. Previous to the Code.

Q. They had audited books of poultry concerns? A. They had audited books previous to the Code; they were one of those firms that did that.

Q. For the poultry line? A. Of the poultry business.

Q. As I take it, from May 16th, for the first week, you say everybody obeyed the Code, as far as you know? A. As far as I know.

Q. That would be May 23rd, is that correct? A. That is right.

Q. So that some time before June 16th, but after May 23rd, this matter was referred to Washington? A. Will you say that again, your dates?

(Reporter repeated the last question.)

A. Right.

Leroy Peterson—By Govt.—Cross

1651

Q. That is in a period of about three weeks?
A. That is right.

Q. On June 8th did you send this—did your office, rather send this notice (handing a paper to the witness)? A. Yes.

Mr. Heller: I offer that in evidence.

Mr. Rice: Is it counsel's contention that this notice was sent to Joseph Schechter's place at 991 Rockaway Avenue, Brooklyn?

Mr. Heller: I contend no further than what the letter says. The letter speaks for itself.

1652

Mr. Rice: If your Honor pleases, this letter is addressed to Samuel Schechter, 991 Rockaway Avenue, Brooklyn. Now, if it is counsel's position that this was sent to Joseph Schechter, who operates the market, or who did at that time operate the market at 991 Rockaway Avenue, then we have no objection whatever to it; otherwise I cannot see how it is material.

The Court: Who is Samuel Schechter?
He is not in this case?

1653

Mr. Rice: He is not a defendant.

Mr. Heller: I am offering a letter sent by the Code Authority, it is on their stationery, to 991 Rockaway Avenue. It is claimed in the indictment that a corporation operated the market, 991 Rockaway Avenue, so I take it it is very material.

Mr. Rice: Then, will you concede, Mr. Heller, that Joseph Schechter was operating a market, a live poultry slaughter house market, at 991 Rockaway Avenue, under the name of Schechter Live Poultry Market, Inc.?

1654

Leroy Peterson—By Govt.—Cross

Mr. Heller: I will concede this, that the lease and the health certificate is under the name of S. Schechter.

Mr. Rice: Yes.

Mr. Heller: And that the financial interest is that of Joseph Schechter.

Mr. Rice: Very good.

(Marked Defendants' Exhibit D in evidence.)

Mr. Rice: When you said "is" you meant "was at that time"?

1655

Mr. Heller: Was at that time.

Q. Now, I understood you to say—you read this letter, did you not? A. Yes.

Q. Dated June 8th, isn't it? A. That is right.

Q. I understood you to testify that as early as June 1st the Schechters told you that they did not intend to comply with the Code; is that correct? A. Joseph Schechter told me that.

Q. He told you that? A. He said not only that he had been violating the Code ever since it had been in existence, but it was his intention to continue to do so.

Q. And the Code was operative since May 23rd? A. May 16th.

Q. And the first seven days everybody complied; that brings it up to the 23rd? A. As far as I know, everybody complied. I am not at all convinced that everybody did, but evidence would show that most people did.

Q. So that between the 23rd and June 1st, was the period of time he told you he did not comply and that he would never comply with the Code, is that correct? A. That is right.

Q. Do you know from your own knowledge whether or not the place at 991 Rockaway Ave-

1656

Leroy Peterson—By Govt.—Cross

1657

nue was doing business during the month of May or during the month of June? A. What would you consider my own knowledge?

Q. Do you know? A. Did I see it? I never visited the place.

Q. Have you any records to show how much poultry was sold, if any, between May 23rd and July 2nd, 1934, at 991 Rockaway Avenue? A. It would indicate as of June 8th that the Schechters had violated the Code by not sending in weekly reports, so we certainly did not have them on June 8th.

Q. You mean the letter addressed to S. Schechter? A. At that address.

Q. Is a request for a report and the payment of assessments, is that correct? A. From the people doing business at that address.

Q. Do you know whether they did any business? A. Personally, no.

Q. Have you any records to show that they did any business during that period of time? A. Statement—

Q. At that address? A. From Joseph and Alex Schechter.

Q. He told you that he was doing business at 991 Rockaway Avenue? A. No, he said he was in the poultry business at those two addresses.

Q. Did he tell you how much poultry he sold?

Mr. Rice: Who is "he"?

Mr. Heller: Joseph Schechter.

Q. Did he tell you whether he sold any poultry from May 25th to July 2nd at 991 Rockaway Avenue? A. It was either Joseph or Alex.

The Court: July 2nd?

1658

1659

1660

Leroy Peterson—By Govt.—Cross

Mr. Heller: From May 23rd to July 2nd—June 16th, rather; that is the conference.

The Court: Surely.

The Witness: Now, after June 16th or before?

Q. Before.

Mr. Rice: Let us get this straight. Don't you mean June 18th?

1661

Mr. Heller: I will withdraw that question and rephrase it.

Q. Didn't he say to you— A. Who?

Q. Joe Schechter, on June 18th, that due to an accident, 991 Rockaway Avenue was closed and wasn't doing any business? A. I recall his saying to me he had broken his leg and had temporarily gone out of business, but when he heard along early in May that there was going to be a Code he decided to open again because he thought everybody in the poultry business was going to be able to make a lot of money.

1662

Q. Did he tell you what day in May he opened the place? A. No.

Q. Do you know as a matter of fact whether or not he opened the place? A. No. You mean if I visited the place? I have not.

Q. Under the Code a dealer is to pay wholesale slaughter houses how much? A. Four cents a hundred pounds.

Q. For every hundred pounds he sells, is that correct?

Mr. Rice: There is no charge in the indictment as to an offense of failure to pay assessments. It isn't part of this case.

Leroy Peterson—By Govt.—Cross

1663

The Court: Failure to make reports is.
Mr. Rice: Yes.

The Court: Failure to make reports, but he is trying to show they weren't doing any business and did not have anything to report.

Mr. Heller: That is correct.

Mr. Rice: Now, if your Honor please, he is questioning him about the amount of assessments.

The Court: I know; we are not concerned with that.

1664

Q. It is true that if a man does no business he can't file a report, is it not? A. Oh, yes, he can file a report that he is not doing any business.

Q. You call that a report? A. Yes, that would be a report.

Q. And you would assess the amount that is due on the basis of what he didn't do? A. We would assess him on the basis of that report; if he did no business at all, there would be nothing to pay.

Q. There would be one dollar at least? A. No, not if he did no business.

Q. He would pay nothing? A. Pay nothing.

Q. If he did some business he would pay—

A. If he did any business—

Q. Four cents per hundred pounds? A. And a minimum of one dollar.

Q. Irrespective of whether he had lost or gained? A. That is right.

Q. Now, Mr. Peterson, you are being paid, are you not? A. I am.

Q. Who pays you? A. The Code Authority, the Industrial Advisory Committee.

1665

1666

Leroy Peterson—By Govt.—Cross

Q. In other words, the industry that is being governed by this Code, that is, the market people, commission merchants, they are the ones that pay you, is that correct? A. They are now; for a while we weren't collecting enough money to pay us.

Q. The people were not paying any money? A. That is true.

Q. And you are being paid by them for the work that you do in regulating their conduct and their business, is that correct? A. No, for enforcement of the Code.

1667 Q. And your salary per year is what? A. \$10,000.

Q. And you get \$3,000 for expenses? A. That is right.

Q. Then your salary is \$13,000? A. The total income I receive from this industry is \$13,000 a year, if it is collected.

Q. And your job depends upon whether or not there is enough money, is that correct, coming in? A. No,—

1668

The Court: He said if it was collected.

Q. In other words, when no money comes in you get no salary? A. That is right.

Q. And you have two attorneys, have you not? A. No.

Q. You had two? A. We had two.

Q. What did you pay them? A. We paid them \$6,000 a year.

Q. Each? A. No.

Q. Together? A. Together.

Q. And the industry pays that? A. The industry pays all bills of the Code Authority.

Q. That is, the commission merchants and the market people, is that correct? A. That is right.

Leroy Peterson—By Govt.—Cross

1669

Q. And you have an assistant to the Code Supervisor? A. That is right.

Q. Who is he? A. Mr. Garland Galloway.

Q. Is he being paid? A. Whenever the money is collected.

Q. How much does he get a year? A. He gets a hundred dollars a week.

Q. And— A. The present total payroll and expense is about \$45,000 a year.

Q. And you have stenographers in your office? A. Yes.

Q. What do you pay them a week? A. Well, I am ashamed to tell you that we pay them as low as \$25 a week.

Q. You think that is too little for a stenographer? A. For a really good stenographer, I think it is.

Q. How many stenographers have you? A. I think four.

Q. So the four stenographers get a hundred dollars a week? A. That is right.

Q. And that comes out of the industry if and when it is collected, by way of assessments? A. That is right.

Q. And then you have clerical employees? A. No, only one.

Q. You have, your budget calls for four in number, does it not? A. Yes, but the budget—I believe you recall I said our budget was approved as a budget of eighty-eight thousand dollars, of which we are only using about half.

Q. But it calls for four clerks? A. The budget calls for a great many things that we haven't got, because we are not able to collect the money.

Q. And you have one clerk at present? A. One girl we pay \$15 a week.

1670

1671

1672

Leroy Peterson—By Govt.—Cross

Q. And you have inspectors? A. Yes.

Q. How many? A. Five.

Q. The budget calls for ten? A. That is right.

Q. What does each inspector get? A. Twenty-five, thirty, and thirty-five dollars a week.

Q. What are the duties of those inspectors?

A. To go from one slaughter house to another during the time of killing, during the time of operation of the slaughter house, to investigate it, to attempt to get compliance with the Code, and if they are unable to get compliance they begin to collect evidence for a case to enforce the Code.

Q. And therefore I take it that the industry pays these inspectors for the purpose of investigating themselves as to whether or not violations occur? A. That is right.

Q. And the industry pays for that, is that right, if and when the money is collected? A. That is right.

Q. You have other expenses such as telephone and telegraph? A. That is right.

Q. The industry pays for that? A. When we collect it.

Q. Office equipment? A. No.

Q. The industry doesn't pay for that? A. No.

Q. The Government donates that? A. The Government donates that; the Government donates our rent, gas, light, heat and rent.

Q. Stationery supplies? A. No.

Q. The Government pays for that? A. No, the Government does not pay for that.

Q. That is paid for by the industry, if and when collected?

Mr. Rice: If your Honor please, I think we can save time by conceding that the

1673

Leroy Peterson—By Govt.—Cross

1675

industry pays for everything in connection with the Code Authority; the witness has so testified, and I think we are wasting a lot of time.

Mr. Heller: I haven't complained that you have been wasting time. Give me a chance, Mr. Rice.

Mr. Rice: Very well, Mr. Heller.

Q. Among your duties, Mr. Peterson, is 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 the supply and demand factors? A. That is one of our duties, yes.

Q. Is it a fact that the present method is not very efficient? A. I wouldn't say that.

Q. Is there any particular reason for using the words "a more efficient method of truly reflecting supply and demand factors"? A. I think so.

Q. There is a reason for using that? A. Yes.

Q. Will you tell us the reason? A. We find from time to time when this market is made at 60th Street and Eleventh Avenue that the actual pure factors of supply and demand are not always allowed free function, and it is the desire of us of the Code Authority to make a long investigation over a long period to see if we can discover what factors enter in to keep the pure laws of supply and demand from functioning.

Q. In other words, am I right in saying that up to the present time it is not very efficient? A. I didn't say that.

Q. Is it efficient? A. What do you mean by efficient?

1676

1677

1678 *Leroy Peterson—By Govt.—Cross*

Q. Is the system now used an efficient, accurate system? A. Do you mean does it actually reflect supply and demand?

Q. Yes. A. Some days it does.

Q. And others it does not? A. Yes.

Q. And that is the purpose for this provision in the Code? A. That is right.

Q. Is it your function to establish a Labor Advisory Committee? A. That is right.

Q. And additional advisory committees as may be necessary? A. Yes.

1679 Q. Have you heard of a Compliance Board as part of the Industrial National Recovery Act? A. You mean the National Recovery Act?

Q. Yes. A. Yes.

Q. There is such a thing as a Compliance Board? A. Yes.

Q. In other words when a violation takes place notice is sent for a hearing, is that correct? A. I haven't anything to do with the N. R. A. Compliance Board.

Q. But you say there is such a Board? A. There is such a Board.

1680 Q. Code supervisors report certain violations to the Compliance Board? A. I do not know of any Code that has a code supervisor except the Poultry Code.

Q. All other industries have no code supervisor? A. I do not know of any other that has one.

Q. Would you say that there are others that have not?

The Court: He said he didn't know.

The Witness: I do not know of any that has.

Leroy Peterson—By Govt.—Cross

1681

Q. You do not know either way? A. As far as I know the Live Poultry Code is the only code in existence in the United States that has a code supervisor in charge of the Code.

Q. Is it the duty then of the code supervisor to assume sole function, to determine whether a man violates the Code or not? A. No.

Q. Is there any discretion in the matter? A. Yes.

Q. What is that? A. What is what?

Q. What is necessary besides prosecution, what can be done besides criminal prosecution in enforcing the Code?

1682

Mr. Rice: If your Honor please, I do not see what the remedy has to do with this case.

The Court: What has it to do with it? They have a code supervisor, that is all; whether he is necessary or not does not mean anything in this prosecution.

Mr. Heller: I have read to the witness subdivision 10 of the Administration Page which provides for advisory committees.

1683

The Court: All right.

Mr. Heller: I wish to question him as to the purpose and function of these advisory committees.

The Court: But you were asking him about the necessity for code supervisors, that hasn't anything to do with it.

Mr. Heller: I asked him first about the Compliance Board, and he said there was none in this industry—

The Witness: No, I didn't say that.

Q. Is there a Compliance Board in this poultry industry? A. Yes, indeed there is.

1684

Leroy Peterson—By Govt.—Cross

1685

Q. Will you explain what this Compliance Board is? A. When we get word from a member of the industry or any other source that any member of the industry is not living up to the Code our first procedure is to ask, our procedure is to go to the place of business and examine the situation and see if this person is violating the Code. If we are satisfied after having gone over there on half a dozen visits that this person is a flagrant violator, our usual procedure is to write a letter to that person asking them to call at our office to discuss the matter of the violation or the alleged violation. If we find that a conference of that kind is of no account and the person continues to violate, we have the Investigating Division of the Agricultural Adjustment Administration begin an investigation of the concern, to accumulate evidence for a case. Now I may say that on May 16th, when the Code became operative, we had not set up, the machinery had not been set up for such a Compliance Board. It did not get under way until some time in July because of the multitudinous duties that came on the Code Authority and, therefore, we were unable to get the Compliance Board operating as such.

1686

Q. Who is on this Compliance Board? A. Up to the present time our attorneys and myself act in that capacity.

Q. In other words, when a violation comes in you send for the violator and ask him about the violation, why he doesn't comply? A. Talk over in as friendly a fashion, and in as intelligent a fashion as we can with this individual, that if he will comply with the Code, and usually the people we send for are what we find easy, you might

Leroy Peterson—By Govt.—Cross

1687

call, the ringleader of the violators in any area. We find in many sections at least 85 per cent of the industry wants to live up to the Code, or maybe 95 per cent. We get calls, maybe a dozen in one morning, that a certain person is flagrantly violating the Code. We call them on the telephone, ask them, "Please kill straight," or whatever it might be that they are violating. If we get nothing, we write them a letter and ask them to come in.

Q. In this particular case did you hold such a hearing? A. No. As I said, this case—the case you are referring to is the Schechter case?

Q. Yes. A. Came up before we had set up such an arrangement.

Q. Did I understand you to say, Mr. Peterson, that the present Advisory Board consists of you and your counsel? A. No.

Q. Did you make that statement a minute ago? A. No, I did not.

The Court: Compliance Board.

The Witness: You just said Advisory Board.

1688

Q. No, Compliance Board. A. That is right.

Q. You had a counsel on May 23? A. Yes; we had two men then, we have one now.

Q. You had no difficulty in sending for them then? A. No. I said we had not set up that arrangement for handling our Code at that time.

Q. But the attorney had been on your payroll, hadn't he, as of May 23? A. I don't recall the date. I think he was on before that. You see, May 23—I believe you are referring to April 23, are you not?

1689

1690

Leroy Peterson—By Govt.—Cross

Q. May 23. That is the date when you started to function, I take it? A. No, we started to function on May 16th.

Q. Excuse me. May 16 thereafter—June 2nd, take that date, for instance; the two attorneys were then in your employ, were they not? A. They were.

Q. You could have sent for them and given them an opportunity, couldn't you? A. Sent for who?

1691

Q. Sent for the Schechters and set it down for a hearing. A. Instead of sending for them, I talked to them on the telephone.

Q. Isn't it a fact that I arranged for a conference voluntarily? A. I talked to them on the telephone before that.

Q. Before June 1st? A. On June 1st.

Q. After June 1st? A. After a man said to me on the telephone that he has no intention whatever of living up to the Code, I see no occasion for calling him in and talking to him in a friendly fashion about living up to the Code.

1692

Q. Did you make an exception in this case? A. No.

Q. Of calling him on the phone? A. No.

Q. Is the procedure the same way now? A. No.

Q. You send for them? A. We send for them now.

Q. Take stenographic minutes? A. No.

Q. Have a talk with them in your office? A. That is right.

Q. You did not think it advisable to do it in this case? A. Or in several other cases where we have had flagrant violations. Where a man admits he violates the Code and he has no intention of living up to it, we do not send for him.

Leroy Peterson—By Govt.—Cross

1693

Q. And the Code was effective for two weeks, was it not? A. From May 16, to June 1st.

Q. And one week everybody complied to the best of your knowledge? A. To the best of my knowledge.

Q. So that the Code, or the violations alleged to have been existing existed for one week? A. Probably; might have been two weeks.

Q. So after your telephone conversation you were convinced they were not going to comply, is that correct? A. Yes.

Q. You did not send for them, did you? A. No.

1694

Q. To your office? A. No.

Q. You did not think that they had a right to find out whether or not they were permitted to let someone—

Mr. Rice: I object.

The Court: Sustained.

Mr. Heller: Exception.

Q. Instead of sending for them you started to accumulate evidence against them for the purpose of prosecution? A. Particularly after he said he had no intention of living up to the Code.

1695

Q. You immediately went to get evidence against them, is that correct? A. Yes, not—

Q. This Code was only in the formative stage?

Mr. Rice: Just a minute. The witness wanted to qualify his last answer.

The Court: Yes, he may finish his answer.

The Witness: We had several people who gave us the same answer, somewhat

1696

Leroy Peterson—By Govt.—Cross

the same answer, and we didn't always send for them.

Q. You did not send that complaint down to Washington for the purpose of criminal prosecution? A. Which complaint?

Q. People who told you, gave you the same answer over the telephone. A. Nobody gave us the same answer. The same type of answer.

Q. Same effect. You did not send those complaints on down to Washington? A. Yes, I think some of them have gone down to Washington.

1697 Q. Has any criminal prosecution ensued? A. I don't know yet.

Q. Didn't you make a statement to the industry that you intended to make an example by picking on the Schechters? A. No, I did not.

Q. Are you sure of that? A. I am sure.

Q. You never discussed the Schechter matter with any of the commission merchants? A. Oh, yes, indeed.

Q. You did, didn't you? A. Discussed the Schechter matter.

1698 Q. And the Code was only in its early stage on June 1st, was it not? A. Well, it went into effect on May 16th.

Q. But it started to operate on May 16? A. That is right.

Q. And from May 16th to the 23rd, as I understand, most people complied so we had one week of the Code, is that correct? A. What do you mean, we had one week of the Code?

Q. From May 16th to June 1st was two weeks, wasn't it? A. Yes—no, May 16 to June 23rd is more than two weeks.

Q. May 16th to May 23rd. A. That is one week.

Leroy Peterson—By Govt.—Cross

1699

Q. And from May 23rd to June 1st was one week? A. That is right.

Q. You are required to study the industry and make suggestions for changes, and so forth, isn't that correct? A. No, I am hired really to enforce the Code.

Q. Aren't you also required to study the operation of the provisions of the Code? A. Yes.

Q. Make suggestions to Washington? A. Yes, that is right.

Q. And it will take some time before you can ascertain whether some of the provisions are practical or not? A. Yes.

Q. It will be necessary sometimes to ascertain whether additional provisions are necessary? A. That is right.

Q. That takes a little time, doesn't it? A. That is true.

Q. You did not take sufficient time in this case to see whether the Code should be amended or not before you made the complaint with regard to the Schechters to Washington, did you? A. I might answer that by saying that by the end of the first week I suppose the Code Authority received 500 congratulations for the success of the Code because everybody, practically, was living up to it, but they said at that time, a great many people in the industry, if the Schechters and other people of that calibre will live up to the Code, we won't all have to start violating it.

Q. Will you tell me now how many complaints you received that the Schechters were violating the Code, the dates, the names of the persons and their addresses? A. I haven't——

Q. From May 23rd. A. I haven't the slightest idea how many. They were so many I made no effort to keep track of them.

1700

1701

1702

Leroy Peterson—By Govt.—Cross

Q. Can you name any? Name five members of the industry that filed complaints with you that the Schechters were violating the Code. A. Every competitor of Mr. Schechter, in the district in Brooklyn in which he operates, made a complaint.

Q. Every competitor? A. That is as available to you as much as it is to me.

Q. You say every competitor made a complaint? A. Every person in the slaughter house business is a competitor.

1703 Q. And many others make complaints of other people? A. Nothing to compare with the complaints made against your clients.

Q. In other words, from May 23rd to June 1st all of the complaints came in that the Schechters were violating the Code, is that it? A. No, I did not say that.

Q. How many came in? A. Oh, dozens of them.

Q. How many dealers are there in his neighborhood? A. I haven't any idea.

1704 Q. Don't you know how many commission merchants are in the Borough of Brooklyn? A. I think there is one—

Q. Wholesale— A. There is one commission merchant in Brooklyn.

Q. Wholesale slaughter houses. A. I don't know offhand.

Q. Have you any record? A. At the office we have very accurate records.

Q. Do the records show how many wholesale slaughter houses are in the vicinity of 858 East 52nd Street? A. We have a pin map that shows every slaughter house in the city.

Q. Will you produce it on Monday? A. It is pretty large, about the size of that wall.

Leroy Peterson—By Govt.—Cross

1705

Q. Will you produce your records to show just how many slaughter houses are within the vicinity of 858 East 52nd Street? A. I will be glad to give you the list of all the slaughter houses in Brooklyn, if you want to.

Q. Very well.

Mr. Heller: I will ask your Honor for an adjournment, and ask him to bring those records on Monday.

The Court: He says he will give you a list of everybody in Brooklyn and you can determine—

1706

Mr. Heller: All right, with their addresses, and I will continue my cross examination on Monday.

The Court: He says he will give you a list of every slaughter house in Brooklyn and its address.

Mr. Miller: That is right. I wish to ask him about that. I want to cross examine about it.

The Court: We are going to stop now.

Mr. Heller: I mean, I want him to bring them here on Monday.

1707

The Court: You can bring it on Monday, can't you?

The Witness: Yes, sir.

The Court: Gentlemen, do not allow anybody to talk to you about the case, do not discuss it between yourselves and do not form any opinion until it is finally submitted to you. Be back Monday morning at ten o'clock.

(Adjourned to Monday, October 22, 1934, at 10:00 A. M.)

1708

Leroy Peterson—By Govt.—Cross

Brooklyn, N. Y., October 22, 1934.

(Met pursuant to adjournment at 10:00
A. M.; present as before.)

LEROY PETERSON resumes the stand:

Cross examination (continued) by Mr. Heller:

Q. Mr. Peterson, did I understand you to say that you have now inaugurated some sort of Conciliation Board? A. A what?

1709

Q. Some sort of Conciliation Board, or Compliance Board? A. Compliance.

Q. Consisting of yourself and your counsel? A. That is right.

Q. And did I understand you to say the last time that you hold informal hearings, without taking stenographic notes of the complaints? A. No, no.

Q. You didn't say that? A. Oh, no, we don't take notes of those meetings, but we have the complaint on file before we call the meeting.

1710

Q. And then you merely talk to the man and ask him to comply? A. Well, in a friendly way go over the whole situation with him, explaining how he is violating the Code, and in as helpful a manner as possible show him how he can comply.

Q. For how long have you been doing that? A. I believe we started some time in July.

Q. July 1st? A. I say, some time in July.

Q. You were appointed on April 16, 1934? A. April 23, 1934.

Q. And your counsel was appointed on April 23, 1934? A. No, they were appointed between April 23 and May 16.

Leroy Peterson—By Govt.—Cross

1711

Q. And you had one month within which to organize, is that correct? A. No, we had about three weeks.

Q. From April 23 to May 16? A. That is right.

Q. And the quarters were given to you by the Government? A. Yes, in the Federal Building.

Q. So that the only thing left to organize was the staff? A. No, we had to print forms. We first of all had to devise the forms, print them, get a staff together, of course, get telephones in, arrange for—well, you know all the things you have to arrange when you open an office. Apparently there may not seem to be many details until you start to do it, but to do it, you know, as well as I do, probably, what it requires to open an office.

Q. Did you know Joseph Schechter prior to June 1, 1934? A. I had seen him.

Q. Personally? A. Yes.

Q. Spoken to him before June 1? A. I don't believe so, no.

Q. Wasn't the first time that you became acquainted with Joe Schechter the time when I brought him up to your office on June 18? A. I think that is the first time I met him, that is, formally met him.

Q. Do I understand you to say that on June 1st, after that telephone conversation you had with Joe Schechter, you were convinced that they intended to violate the law, is that correct? A. Well, Joe Schechter told me that he intended to violate the law. I mean, it was in my opinion. He clearly stated that he intended to do so.

1712

1713

1714

Leroy Peterson—By Govt.—Cross

Q. You there and then came to the conclusion that he was going to violate the law? A. I took his word for it.

Q. Without bringing him up for a hearing or the filing of charges? A. Well, when a man says a thing as distinctly as that, as distinctly as he did, he means what he says.

Q. Without having seen him before that time? A. The evidences of the violations were so clear, that his statement simply conformed to the facts.

1715 Q. Now you were present the bookkeeper testified the other day? A. Yes.

Q. At that time the non-compliances consisted of his refusal to show the books? A. Oh, no.

Q. Other complaints? A. Yes, we had innumerable complaints.

Q. About 400 did you say? A. No, I said that there are about 400 slaughter houses.

Q. Well, how many complaints did you receive after May 23rd? A. As I said Friday, innumerable, I haven't been able to check up how many.

1716 Q. Have you made a list of them? A. I have prepared here a list of the slaughter houses in Brooklyn that you asked me for Friday.

Q. No, did you make a list of all the complaints as they came in the office? A. No.

Q. Well, did they come in over the telephone? A. From the market over the telephone, by telegraph and by personal solicitation.

Q. And you had such records on file? A. Oh, no. I discussed it since Friday with our men and they all recall that the complaints—

Q. Never mind what they all recall; from your personal knowledge, how many complaints did you receive personally? A. So many that I did not attempt to keep track of them.

Leroy Peterson—By Govt.—Cross

1717

Q. Did you receive any personally? A. Oh, yes.

Q. Personally? A. Well, people wanted to talk to me on the telephone. They said that Joe Schechter is violating the Code, what are you going to do about it?

Q. Do you have their names? A. No.

Q. You claim those complaints were from competitors of Mr. Schechter? A. People in the slaughter house business which by the very nature of things I presume are competitors.

Q. Did you hear Mr. Tottis say that strictly speaking there are 50 wholesale slaughter houses? A. Yes, but I think he overstated it—I wonder if you understand what he means by that.

Q. There are less than 50 strictly wholesale slaughter houses? A. I believe that is correct.

Q. Now will you give me the names and addresses of the nearest competitor or competitors of Joseph Schechter? A. I haven't any idea.

Q. Isn't it a fact that the nearest competitor is two and one-half miles away from 858 East 52nd Street, Brooklyn? A. I haven't the slightest idea.

Q. You are the Code Authority supervisor, are you not? A. Yes, sir, I am.

Q. Have you made it your business to know or investigate as to the location of the various competitors of Joseph Schechter? A. Not of him any more than anybody else.

Q. Didn't I please ask you to get this information for me for today? A. You asked me to get a list of the slaughter houses in Brooklyn.

Q. I asked you to get me the names and addresses of the nearest competitors of Joseph Schechter. A. I don't recall you asking me that.

1718

1719

1720

Leroy Peterson—By Govt.—Cross

The Court: Well, if he gives you all of them he will be sure to give you the nearest one.

Mr. Heller: But you cannot tell from the addresses, your Honor.

The Court: He does not know, he says. There are the addresses of all of them and you can easily prove which is the nearest one.

1721

Mr. Rice: I believe your Honor will recall counsel did ask Mr. Peterson to produce a list of all the slaughter houses, wholesale and retail.

The Court: He says so and that he has them. He may not know Brooklyn as well as some of the rest.

Q. How many wholesale slaughter houses are there in Brooklyn? A. I don't know.

Q. Have you a list of all the wholesale slaughter houses in the Borough of Brooklyn, wholesale slaughter houses, wholesale and retail? A. I have a list of all the slaughter houses.

1722

Q. Well, are they distinguished in the list? A. No.

Q. Can you produce a list of the wholesale, pure and simple wholesale slaughter houses? A. Yes, indeed, but before I produce that I want to be clear as to what you want, whether you know exactly what you want.

Q. Now do you understand what I am asking you for? A. I am not sure that you do.

Q. Well, when I get on the stand then you can question me. A. Well, please do not misunderstand me. It is very difficult to distinguish what a wholesale slaughter house and what a whole-

Leroy Peterson—By Govt.—Cross

1723

sale and retail slaughter house is and what a retail slaughter house is.

Q. Did you listen to Mr. Tottis' testimony? A. Yes, indeed.

Q. And did you hear him say that a wholesale slaughter house sells strictly wholesale? A. Yes.

Q. And did you hear him say that a wholesale and retail slaughter house sells wholesale and to retail customers? A. Yes.

Q. That is the distinction, isn't it? A. No, that is not the distinction in the trade.

Q. What is your idea of what is a wholesale slaughter house and what is a wholesale retail slaughter house? A. Almost exactly the same as Mr. Tottis, but I want to make clear that there are practically no wholesalers who do not at times sell a little retail. We do not distinguish them as wholesale, retail. We have had difficulty in trying to decide what is strictly wholesale. Is a wholesale man a man that does twenty thousand pounds of business wholesale and two thousand pounds of business retail—

Q. What was your understanding on June 1st, Mr. Peterson? A. The Code requires that a wholesale slaughter house shall be considered a wholesale slaughter house who does a business of 3,000 pounds or more of slaughtered poultry for resale. We think that is incorrect. We think that the definition should be nearer to 2,000 pounds. That is a matter of opinion.

Q. Now, you are governed by the Code? A. In Code matters, certainly.

Q. And the Code says that a wholesaler shall be a person who sells three thousand pounds or more, so then we are correct in assuming that that is the proper definition of a wholesale

1724

1725

1726

Leroy Peterson—By Govt.—Cross

slaughter house? A. No, that is the Code definition.

Q. You mean you disregard what the Code provides? A. Well, we follow the Code, but we may made an amendment to the Code.

Q. But no amendment has been made up to today? A. No.

Q. Therefore we are to understand that a person who sells 3,000 pounds of poultry is considered a wholesale slaughter house? A. No, that slaughters 3,000 pounds or more for resale.

1727

Q. Have you a list showing just how many slaughter houses in the vicinity of 858 East 52nd Street slaughter 3,000 pounds or more for resale? A. We have the records at the office.

Q. And will you be good enough to get them for me? A. Yes, indeed.

Q. Do you know how many colored people live in the vicinity of 858 East 52nd Street? A. I do not.

Q. Isn't it a fact that there isn't one colored person that lives in the vicinity? A. I don't know.

1728

Q. Now, coming back to June 18th, was there a stenographer present while I was there with all the people that you mentioned, taking notes while we had this conference? A. There was a stenographer present, but I don't recall whether she took any notes.

Q. As a matter of fact, no notes were taken at that time while I was there? A. Which conference are you referring to?

Q. June 18th. A. I am not sure whether Mr. Dale or Mr. Loeb made notes during the conference or not.

Q. Did I understand you to say that a memorandum was prepared by your counsel, which

Leroy Peterson—By Govt.—Cross

1729

memorandum you used to refresh your recollection? A. Yes.

Q. And that was after the conference was over? A. Less than five minutes after.

Q. You left the conference, didn't you? A. During the conference I did, and then I came back at the end.

Q. Were you present at the end while I was there? A. I was in and out several times and I frankly do not recall whether I was there at the actual end or not. I had several other matters to attend to. I was called away two or three times.

Q. Isn't it a fact that Mr. Loeb took up with you the question of filing reports as to days after this conference ended? A. I don't know whether it was two days or not. I know that we discussed it right away.

Q. Immediately after you received my letter? A. I don't think it was immediately after; it was at that time.

Q. Can you tell us the reason for making a memorandum of what transpired on June 18th, after I left? A. Quite often on conferences where there are counsel present we find it is advisable to make notes of those conferences.

Q. I understand you to say that the matter had been referred to Washington prior to June 18th. A. I did not say so, no.

Q. But counsel conceded that? A. Yes.

Q. You had nothing to do with the matter being referred to Washington? A. What do you mean?

Q. Hadn't you filed reports of the situation? A. I do not actually mail them.

1730

1731

1732 *Leroy Peterson—By Govt.—Cross*

Q. Your office, I mean? A. Our office takes care of such matters.

Q. You had filed certain memoranda at the Washington office? A. I believe it was in the shape of letters and telephone conversations.

Q. And the fact was that the idea of making these notes was to build up a case against the Schechters, isn't that a fact?

1733 Mr. Rice: I do not see how it is relevant to go into the question as to just how this case was built up.

Mr. Heller: I will show in a few minutes that it is. I ask the question, subject to connection.

Mr. Rice: We have nothing to conceal whatever, but I do not think that this is necessary.

The Court: I will let him answer.

A. I will say no.

Q. Didn't you ask me to tell you the connection of each of the Schechters with each of the corporations at this conference on June 18th? A. I didn't; I believe Mr. Loeb did.

Q. And I gave the answer? A. I believe you answered it, yes.

Q. Do you remember Mr. Loeb in your presence asking me what Joseph Schechter was, what his connection was with the 858 premises? A. I believe he did.

Q. Do you remember my giving an answer that Joseph Schechter guaranteed the accounts of that address? A. No; you enlarged on that considerably, I think.

Q. Wasn't it to that effect? A. I think you enlarged considerably on it. I believe you said

Leroy Peterson—By Govt.—Cross

1735

enlarging on that that Joseph Schechter was the head of Schechter Brothers.

Q. Did I say that he had guaranteed the accounts of 858? A. I believe you said he guaranteed all accounts.

Q. Did I tell you he had a separate place of business at 991 Rockaway Avenue? A. I do not recall in detail whether you said that or not.

Q. Did you tell me that you were going to take notes prior to the conference of June 18th? A. Did I tell you?

Q. Yes. A. I do not recall having said that to you.

1736

Q. Do you know of your own knowledge that an examination was had of the Schechter Brothers books shortly after I left your office? A. I know the Schechter books were examined, yes.

Q. And you remember that two men from the Government were there sitting in their place inspecting the records of Schechter Brothers? A. I know the Schechter books were examined by the Government officials.

Q. And a complete examination was made, isn't that correct? A. I gather we got the information that we desired. I think they took notes particularly of the poundage, of the volume of business done by the Schechters the first week of the Code, and I believe, Mr. Heller, that this poundage jumped that first week of the Code from 24,000 pounds to, from 32,000 pounds to 48,000 pounds, the first week of the Code.

1737

Q. We will show you the books, so it is useless for you to speculate. A. It isn't a question of speculation; I thought you might be interested in knowing that.

1738

Leroy Peterson—By Govt.—Cross

Q. We are interested and the jury are interested in the real facts, and we will show what the books show.

Now, Mr. Peterson, have you ever heard of Bulletin No. 7, Manual for the Adjustment of Complaints? A. Of what organization?

Q. Of the N. R. A.? A. No.

Q. Never heard of it? A. I have heard of it, yes, indeed.

1739

Q. But I understood you to say on your direct examination that you were connected with a great many codes in Washington prior to becoming the Code Administrator of this industry? A. No, I said that I had sat on the hearings of a great many codes, not being connected with any of them.

1740

Q. You had an opportunity to familiarize yourself with the methods of enforcement and adjustment of the National Industrial Recovery Act? A. I think it might be well to explain to you that the codes that I sat on were not strictly N. R. A. codes; they were codes that the N. R. A. had assigned under direction of General Johnson to Secretary Wallace, and the enforcement of the agricultural codes or codes under the Agricultural Adjustment Administration are handled in an entirely different manner than codes under the N. R. A.

Q. Do you know from your own knowledge that there are certain rules and regulations which guide and govern Code Administrators? A. Having to do with N. R. A. codes?

Q. Is this an N. R. A. code? A. This is an N. R. A.-A. A. A. Code.

Q. But it is part of the N. R. A. Code, is it? A. I think I just explained that, that it is strictly speaking a code under the direction of the Secretary of Agriculture.

Leroy Peterson—By Govt.—Cross

1741

Q. It is a code nevertheless, isn't that right?
A. It is a code.

Q. It is enacted by Congress because of the National Industrial Recovery Act, is that right?
A. That is right.

Q. That gives it life and being, isn't that right? A. That is right.

Q. As an administrator did you familiarize yourself with the requirements contained in the Manual for the Adjustment of Complaints by directors and code authorities? A. Yes.

Q. Have you read it? A. I have read it almost entirely, but may I ask——

Q. We will come to that in just a moment.
A. Yes, sir.

Q. I show you this piece of paper and ask you if you ever saw that in your life? A. I do not believe I have ever seen a copy of such a——

Q. You never saw it? A. No.

Mr. Heller: Have you any objection if I offer it?

Mr. Rice: I haven't the slightest idea of what it is.

Mr. Heller: It is a Government document.

Mr. Rice: If your Honor please, I do not see that this has the remotest bearing on this case. I do not see any purpose in cluttering up the record with a lot of rules and regulations on the part of the N. R. A. It isn't established that this particular rule or regulation or advice, really, is applicable to the Live Poultry Code, and apparently it is not, since the Code Supervisor doesn't know about it.

1742

1743

1744

Leroy Peterson—By Govt.—Cross

Mr. Heller: That doesn't follow, Judge.

Mr. Rice: At least we should have some affirmative proof showing that it is connected.

Mr. Heller: Now, if it please your Honor, as Code Supervisor, he is bound by the rules and regulations, and he is bound by the Manual which provides and specifies—this is part of the manual—

1745

Mr. Rice: Let us find out whether he is bound by it or not, let us find out whether he is bound by this document.

The Court: That doesn't mean anything; I do not know what that is.

Mr. Heller: I will offer the entire manual in evidence.

Mr. Rice: I do not know what this manual is.

1746

Mr. Rice: I haven't had an opportunity to examine this, your Honor, but it seems to me that as a condition precedent to offering it it must be shown that it has some bearing upon the issues of this case, or, at least, it must be shown that it applies to the Live Poultry Code, which the Code Supervisor—

The Court: There is no evidence as to that.

Mr. Heller: This applies to all the Codes. It speaks for itself.

Mr. Rice: Let us have some proof on that.

The Court: This witness has already said that this Code is under the Secretary of Agriculture and not generally under the N. R. A. That is all the evidence

Leroy Peterson—By Govt.—Cross

1747

we have. It may happen that you have other evidence.

Mr. Heller: It has been testified that this Code came into existence by virtue—

The Court: He has already testified, as I say to you, flatly, that the Code that he is now attempting to enforce is one that is under the Secretary of Agriculture and not generally under the N. R. A. That is his testimony. If you want to controvert that, you will have to call somebody.

Mr. Heller: I respectfully except.

The Court: That does not mean that you cannot offer it; it means that there must be some foundation laid. You haven't it with him because he has said to the contrary.

The Court: We will take a recess for ten or fifteen minutes. Gentlemen of the jury, do not discuss this case among yourselves, do not permit anyone to discuss it with you, and do not form any opinion until it is finally submitted to you. Please step out because I want to take up some other criminal business.

1748

(Jury leaves the room.)

1749

(Jury returns after the recess.)

LEROY PETERSON, resumes the stand:

Cross examination by Mr. Heller (continued):

Q. Do you know Mr. Frenzel? A. I do.

Q. Do you know a Mr. Forsmith? A. Yes.

1750

Leroy Peterson—By Govt.—Cross

Q. Do you know what connection Mr. Frenzel has with the Slaughter House Association? A. He hasn't any as far as I know.

Q. Was he at any time the president thereof?
A. He was.

Q. Do you know whether he still is?

1751

Mr. Rice: If your Honor please, I do not know what the character of Mr. Frenzel, or the relationship between Frenzel and Forsmith has to do with any of the issues of this case, and from what I know of the situation, I think it is very probable that counsel will establish no such relationship. Therefore, I think he should be called upon to state what purpose he has in mind

The Court: I do not know. What was the question?

1752

(Reporter repeated questions and answers as follows: "Q. Do you know what connection Mr. Frenzel has with the Slaughter House Association? A. He hasn't any as far as I know. Q. Was he at any time the president thereof? A. He was. Q. Do you know whether he still is?")

Mr. Rice: I think your Honor excluded some questions about Frenzel the other day on that theory.

The Court: I do not know what it is. I will let him answer.

The Witness: May I hear the question?

(The reporter repeated the last question.)

A. He is not.

Leroy Peterson—By Govt.—Cross

1753

Q. Do you know how many times he was up to your office during the month of June? A. A great many times.

The Court: What has that to do with this?

Mr. Heller: I will connect it.

The Court: You will have to show some reason for it.

Mr. Heller: I do not like to state the reason because the witness will know what I am driving at.

The Court: All right; but I do not see what connection it has with this case.

Mr. Heller: Well, make it subject to connection.

Mr. Rice: I think the purpose might be stated to your Honor personally.

The Court: Oh, no. Everything has to be in the presence of the defendants.

Mr. Rice: Very well.

The Court: If you will state to me as lawyers that there is some connection, I will take it subject to connection.

Mr. Heller: That is my purpose, your Honor.

The Court: But understand me, I expect you to make good.

Q. You said very many times. A. Yes, a great many times, during June and July.

Q. Did he make any complaint about Mr. Joseph Schechter?

The Court: I do not think that any officer is obliged to give the names of people who make complaints to him; that has never been held to be so, otherwise many

1754

1755

1756

Leroy Peterson—By Govt.—Cross

people would not register complaints with officers. The only complaints that have to be open and above are complaints that are made in writing, otherwise you can inquire into many things. I do not think that he has to answer that.

Mr. Heller: The rules provide definitely with reference to the enforcement of the N. R. A.

1757

The Court: Not any different than anything else. No officer is obliged to give the names of everybody that gives him information, that is not so. He may get his information where he may, but he cannot testify to the information that he gets, that is not evidence.

Mr. Heller: If your Honor will permit me at this time to offer the rules in evidence, your Honor will see that the rules are to the contrary.

The Court: Show me the rules.

1758

Mr. Rice: I think, if your Honor please, that just two questions to this witness will elicit the facts that this manual does not apply.

The Court: He has already said so. If he talked to him about these people and others in connection therewith all right, if he talked to them generally about the N. R. A. we are not at all concerned.

Mr. Heller: I am concerned with reference to these defendants first.

The Court: Yes, but he might have talked to him about everything else in the world.

Mr. Heller: Will your Honor permit the reporter to repeat my question?

Leroy Peterson—By Govt.—Cross

1759

The Court: Yes, read it.

(Last question read by the stenographer.)

The Court: All right, I will let that go in.

Q. Did he? A. I do not think it would be fair, since there are so many slaughter house men in the audience, to publicly say who made the complaint about any other slaughter house. I feel that the whole effect of the Code would be defeated if we would have to come into a public place and make such a statement.

1760

The Court: Then you don't have to. You may have your exception, Mr. Heller.

Mr. Heller: Exception.

Q. Do you know where Mr. Frenzel's place of business is? A. I know it is in Brooklyn.

Q. Do you know whether or not it is anywhere near 198 Rockaway Avenue?

Mr. Rice: Now if your Honor pleases, counsel is pursuing his questioning; he is trying to circumvent your Honor's ruling.

1761

The Court: I don't know that.

Q. Do you know? A. I don't know, I know that he is in Brooklyn.

Mr. Heller: Now, your Honor, at this time with reference to this manual, if your Honor will look at the indictment, the indictment charges a violation of the Industry Act itself and then the trade practices.

Now, if your Honor will examine Government's Exhibit 26 you will find that it

1762

Leroy Peterson—By Govt.—Cross

is part of the National Recovery Administration—this Code.

The Court: That may well be, but this gentleman has already testified—anyhow, I don't see why I should go over it so many times and I am not going to. I have been over it three times. When you lay sufficient foundation then we will consider it.

1763

Q. I show you this book and I ask you whether you have ever read this? A. I have seen it, I do not think I have read it through fully because it does not apply to our Code. When I saw it, and saw that it did not apply to the Code I saw no need of making a study of it.

Q. Will you look at it again; look at the heading and I ask you now whether it refers to the Code Authority or does not? A. It refers to the N. R. A. Code Authorities. As I explained previously, our Code is N. R. A. and A. A. A. If you will look at page 3, Part 1 of the introduction—

1764

Q. Just a minute.

Mr. Rice: Why not let the witness finish.

The Court: You asked him to look at it and he did.

Q. When you say it is part of the N. R. A. and the A. A. A. do you mean it is under both? A. I do.

Q. And this part applies only to the N. R. A.? A. This applies, for the last four months applies to no part of our Code.

Q. Do you know that this was adopted in January of 1934? A. I don't know when it was adopted.

Leroy Peterson—By Govt.—Cross

1765

Q. Do you know whether it was the practice under your Code to hold preliminary hearings?
A. I don't know what you mean by that; I established all the practices.

Q. You personally? A. As Code Supervisor.

Q. Did you establish any practice for a personal hearing? A. I believe we went into that in some detail.

Q. Did you establish it in the month of June?

Mr. Rice: If your Honor pleases, this has been gone into two or three times.

The Court: I so understood it. The gentleman has told you fully that it does not apply. That is the end of that so far as we are concerned.

Q. Did you establish any practice for any hearing during the early part of June, 1934, with reference to complaints?

Mr. Rice: Counsel went into this fully last Friday. He went into it again this morning. This is the third effort of his to get into this topic. It seems to me it has been fully covered and we are just wasting time.

The Court: Yes, as far as this witness is concerned because this witness said only two minutes ago that it does not apply.

Mr. Heller: I will take an exception to your Honor's ruling. That is all.

1766

1767

Redirect examination by Mr. Rice:

Q. Mr. Peterson, I believe you stated on cross examination that there are wholesale slaughter

1768 *Leroy Peterson—By Govt.—Redirect*

house markets and there are also combination wholesale and retail slaughter house markets? A. That's right.

Q. Is that true? A. That's true.

Q. Approximately how many slaughter house markets are there in Greater New York which are either exclusively wholesale or wholesale and retail? A. The reason that I hesitate is it is difficult to know under what interpretation one wants the classification between wholesale and retail made.

1769 Q. I mean grouping the two groups together —how many would there be in the aggregate? A. I should say in the five boroughs there are between 150 and 175 wholesale and wholesale-retail slaughter houses.

Q. Now you were asked by counsel for the defendants, last Friday, to produce a list of the slaughter house markets in the vicinity of the A. L. A. Schechter Poultry Corporation. A. Yes.

Q. Have you done so? A. I have.

1770 Q. Will you produce the list? A. Here it is (producing list).

Q. You were again asked this morning by defense counsel to make up a list of those slaughter house markets in the vicinity of the A. L. A. Schechter Poultry Corporation Market which did at least 3,000 pounds of wholesale business per week? A. That is right.

Q. And would this list also cover that questioning? A. It would.

Q. It would answer that question, would it? A. Yes, sir.

Q. Fully? A. Yes, I should say fully, as fully as could be answered. I might add that the