

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 57

THE ASSOCIATED PRESS, PAUL BELLAMY, GEORGE FRANCIS
BOOTH, ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA

No. 58

TRIBUNE COMPANY AND ROBERT RUTHERFORD McCORMICK,
APPELLANTS,

vs.

THE UNITED STATES OF AMERICA

No. 59

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

THE ASSOCIATED PRESS, PAUL BELLAMY, GEORGE FRANCIS
BOOTH, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN
DISTRICT OF NEW YORK

VOL. V

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1977

[fol. 2434] IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK

[Title omitted]

NOTICE TO TAKE DEPOSITIONS UPON ORAL EXAMINATION—
Filed April 5, 1943

To Francis Biddle, Esq., Attorney General of the United
States, Washington, D. C.

Tom C. Clark, Esq., Assistant Attorney General of the
United States, Washington, D. C.

John Henry Lewin, Esq., Charles H. Weston, Esq., and
Charles B. Rugg, Esq., Special Assistants to the Attorney
General of the United States, 225 Broadway, Borough of
Manhattan, New York, N. Y.

Weymouth Kirkland, Esq., Messrs. Townley, Updike &
Carter, 220 East 42nd Street, New York, N. Y. Attorneys
for Tribune Company and Robert Rutherford McCormick.

SIRS :

Please Take Notice that at the times, dates and places below specified the undersigned defendants in the above-entitled action will take the depositions of the organizations listed below. The depositions will be taken upon oral examination pursuant to the Federal Rules of Civil Procedure, before an officer authorized by law to take depositions. [fol. 2435] The oral examinations will continue from day to day until completed. You are invited to attend and cross-examine :

*The Following Depositions Will Be Taken at 10:00 A.M.
on the Dates Specified, in Room 605, Bar Building, 36 West
44th Street, New York, N. Y.:*

April 12, 1943

New York Times Company of 229 West 44th Street, New
York, N. Y., by Arthur H. Sulzberger, Edwin L. James and
Fred E. Meinholtz.

April 14, 1943

New York Tribune Inc., of 230 West 41st Street, New
York, N. Y., by Howard Davis and Harry Staton.

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April 16, 1943

Reuters, Limited, of 50 Rockefeller Plaza, New York, N. Y., by R. Vivian Haley and D. Kimpton Rogers.

April 19, 1943

United Press Associations of 220 East 42nd Street, New York, N. Y., by Hugh Baillie and Edwin M. Williams.

April 23, 1943

United Features Syndicate, Inc., of 220 East 42nd Street, New York, N. Y., by George Carlin.

April 24, 1943

Times-Mirror Company of 201 West First Street, Los Angeles, California, by Norman Chandler and Thomas Lewis.

April 26, 1943

Acme Newspictures, Inc., of 461 Eighth Avenue, New York, N. Y., by Fred S. Ferguson.

[fol. 2436] *April 28, 1943*

NEA Service, Inc., of 1200 W. Third Street, Cleveland, Ohio, by Fred S. Ferguson.

Science Service, Incorporated, of 1719 N Street, N. W., Washington, D. C., by Watson Davis, Hallie Jenkins and Alvin C. Stewart.

April 30, 1943

King Features Syndicate, Inc., of 235 East 45th Street, New York, N. Y., by J. V. Connolly.

May 7, 1943

North American Newspaper Alliance, Inc., of 247 West 43rd Street, New York, N. Y., by John N. Wheeler and James L. Freeman.

Bell Syndicate Inc., of 247 West 43rd Street, New York, N. Y., by Henry M. Snevily and Kathleen Caesar.

May 9, 1943

Jewish Telegraphic Agency Inc., of 106 East 41st Street, New York, N. Y., by Jacob Landau and Boris Smolar.

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Overseas News Agency Inc., of 101 Park Avenue, New York, N. Y., by Jacob Landau and H. Wishengrad.

Woehrle News Service of 153 Centre Street, New York, N. Y., by Alexander J. Woehrle.

May 12, 1943

The Federated Press of 30 Irving Place, New York, N. Y., by John Dunn, H. Richard Seller and Marc Stone.

[fol. 2437] *May 14, 1943*

World Feature Service of 220 East 42nd Street, New York, N. Y., by George A. Carlin.

Metropolitan Newspaper Feature Service, Inc., of 220 East 42nd Street, New York, N. Y., by George A. Carlin.

Consolidated News Features, Inc., of 247 West 43rd Street, New York, N. Y., by Kathleen Caesar and Joseph B. Agnelli.

The following Depositions Will Be Taken at 10:00 A. M., on the Date Specified at 33 North La Salle Street, Room 3200, Chicago, Illinois:

May 3, 1943

The Chicago Daily News, Inc., of 400 W. Madison Street, Chicago, Ill., by Carroll Binder and Lynn Aldrich.

May 5, 1943

Chicago Tribune-New York News Syndicate, Inc., of 220 East 42nd Street, New York, N. Y., by Arthur Crawford, Molly Slott, J. A. Derham, Ray Mason, Donald Maxwell and J. Loy Maloney.

Dated, New York, N. Y., April 3, 1943.

Yours, etc., Milbank, Tweed & Hope, Attorneys for
Defendants, The Associated Press, et al.

[fols. 2438-2455] [File endorsement omitted]

1980

[fol. 2456] IN UNITED STATES DISTRICT COURT

U. S. vs. AP

Narrative Statement of Depositions Taken Before Trial

ABSTRACT

Deposition of Carroll Binder, Chicago Daily News, Chicago,
May 4, 1943

Direct Examination.

By Mr. Pfeiffer:

I am the foreign editor and director of the foreign service of the Chicago Daily News. I have been connected with the foreign service 17 or 18 years and director of the foreign service for better than seven years. I was in newspaper business for 30 years, a practicing newspaper man for about 25 years. I started as a reporter on the Philadelphia Press in 1912 and from there I went to Harvard. I resumed newspaper work after the war. I made occasional trips as a correspondent abroad in the early 1920's. From 1927 to 1931 I was continuously abroad as a resident correspondent, roughly as follows: two years in Italy, seven or eight months in Russia, shorter periods in Geneva, the Balkans, and other parts of Europe, and in 1930 and 1931 as chief correspondent in London. Since then I have made occasional trips to the Far East, Europe and Australia.

All of my foreign service has been in association with the Chicago Daily News. The Chicago Daily News has maintained a foreign service for 45 years. It was the first American newspaper to have an American staffed comprehensive foreign service. Victor Lawson established it about the time of the Spanish-American War. He was the sole proprietor of the Chicago Daily News from the 70's until his death about 1925. Since the Spanish-American War the Chicago Daily News has continuously maintained a foreign service staffed by Americans. At the present [fol. 2457] time it has 12 foreign correspondents in active service and three home on leaves of absence. That is about the average number of employees the service has had over the last six or seven years. These correspondents at present are in the following localities: Nat Barrows, Stock-

holm; Robert J. Casey, with the Navy; Paul Ghali, Bern, Switzerland; Allen Haden, Buenos Aires; Helen Kirkpatrick, London; Bernard McQuaid, with the fleet in the Pacific; Victor Gordon Lennox, London; Richard Mowrer, Allied headquarters, Algiers; David Nichol, Moscow; A. F. Steele, Chungking; William H. Stoneman, Tunisia; George Weller, New Guinea; on leave of absence in the United States, Leland Stowe, Wallace Deuel, and John Whittaker. Bureaus or offices outside the U. S. are maintained in London and Bern, and perhaps an office in Moscow. Formerly elaborate offices were maintained in the major capitals, in Paris, Berlin, Rome, London, Moscow, Shanghai and Tokyo, but the war has changed that. There are interpreters employed in Moscow and Chungking and from time to time in other places. There is a secretary in London, and an assistant in Bern.

In New York where the radio and cable reports are received, two people are exclusively devoting their time to the expansion of the cable dispatches. In Chicago, in addition to myself, there is one man employed in foreign service full time and another man on the sixth day. I have a secretary who devotes all of her time to the functioning of the foreign service.

On most papers the managing editor is accustomed to direct the work of the men abroad, if they have a staff of foreign correspondents. The Chicago Daily News found that it gets more satisfactory results by having the managing editor confine his responsibilities to the direction of [fol. 2458] correspondents within the U. S. and the editing of the domestic report, and the foreign editor is the director of all of the correspondents abroad. He decides what use shall be made of all news matter originating outside of the U. S. In addition, I write at least once a week a commentary on foreign affairs which is not only published in our columns, but is carried on the leased wire to the clients of the foreign service, and is used by both the newspapers and for broadcasting over the radio.

A conservative estimate of the average wordage received by the Chicago Daily News from its foreign correspondents would be 5,000 words per day six days per week. It might be as much as 50% greater for a period of weeks, depending on the degree of activity in the foreign field, or on the time when the authorities release dispatches. The trans-

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mission of foreign correspondents' reports, to our reception point in New York, is both by wire and by wireless, and by cable. The preponderance at present comes by radio. In either case they are received in New York and sent out from there on the leased wire which operates simultaneously to all points in the U. S. and Canada so that we receive the report simultaneously with the 50 other papers that are receiving it.

The Chicago Daily News foreign service is sold to other newspapers. Daily News foreign correspondents are accredited to the U. S. armed forces on the same basis as the press agency correspondents. In the sale by the Chicago Daily News to newspapers, it is in competition with the agencies of the New York Times, New York Herald-Tribune, the Chicago Tribune, and to some extent with the North American Newspaper Alliance. Within the limited [fol. 2459] field of the Chicago Daily News foreign service, it is in competition with the press agencies, to the extent that the press agencies represent they have an adequate report, and therefore we must persuade each of our prospects that there is something unique in our offering that they should have. That is the job of our salesmen and our representatives.

Three radio stations buy our service in cities in which it is not carried in the newspapers, and, in addition, one of these stations broadcasts my weekly articles. I do not broadcast. We merely make available to the radio stations our report, as though it were a newspaper. It is then up to them to decide whether they broadcast any of the report. As a promotional activity Chicago Daily News now has a 15-minute program in Chicago on which some of our dispatches are broadcast.

Cross-examination.

By Mr. Rugg:

I ordinarily have nothing to do with the salesmanship of the foreign service. This is covered by Mr. Aldrich. Our paper is not published on Sunday; however, some papers who take our service may carry the Saturday news report in their Sunday edition. The leased wires are not open on Sunday. The report is only on the six week days. The number of foreign correspondents has not changed

more than by one or two since the outbreak of the war. Today and for recent years we have had no string men. With the fall of Manila the last of our string men were out of service. We concentrate on the work of full time staff men who do nothing but represent us. They are not permitted to represent broadcasting agencies or any other publications. That is why we have a smaller staff than some of the competing organizations who have string men listed as their correspondents. We have no arrangements [fol. 2460] with foreign newspapers for the exchange of news. We sell our reports in toto to the London Daily Telegraph and to perhaps four Canadian papers, in part to two South American papers, and also to several papers in Australia and New Zealand. The Australian and New Zealand papers are sold through one agency and we do not know how many papers there carry our dispatches. We receive the reports of the Press Associations—AP and UP. Our foreign news service does not distribute any domestic news.

It took 45 years to build up the present foreign news gathering staff, but our staff had attained world wide renown before the first world war and we had a staff at least as large then as today. The Chicago Daily News could publish its paper in substantially its present form and with its present standard of quality with reference to foreign news without using the AP service, but with the UP and our own foreign service. On certain occasions we would find that our competitors had a particular story that we did not have, but the readers would have an accurate picture of the world abroad by the judicious use of our dispatches and the UP report. The Chicago Daily News foreign service is not a substitute for the foreign service of the AP. Our report alone, without any other press association report, would not be adequate for a metropolitan paper. We regard the Chicago Daily News foreign news service as a service which is supplementary to that of the other press associations, a special auxiliary service. It is not available for sale to more than one subscribing paper in a community because the sole worth of our service is that it is available to one newspaper in a given area and not to others. We have at times felt that our dispatches [fol. 2461] were not getting through as quickly as they should in competition with reports of other press associations. However, the other agencies have no doubt felt at

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times that we got the breaks. We have a more limited period of transmission for our report than the 24-hour around the clock associations and the weekly magazines. Our leased wire operates from 7:00 to 11:00 New York war time. Anything received after 11:00 A.M. is sent either by Western Union or Postal Telegraph to our paper or to such of our clients as care to pay for it at the telegraphic rate. Some of our clients have a standing order as to the character of dispatches which shall be sent. Others would say query us before it shall be sent. Our service is geared up primarily for afternoon or evening papers. We have a few morning papers which cherish these dispatches so much that they are glad to print them next day, but our field is primarily the evening field. I am not on any staff committee of the Chicago Daily News that supervises the over-all policies of the publication of the paper.

[fol. 2461a] Chgo. D. News—Aldrich

[fol. 2462] U. S. vs. AP

ABSTRACT

Deposition of Lynn E. Aldrich, Chicago Daily News,
Chicago, May 4, 1943

Direct Examination.

By Mr. Pfeiffer:

I am the Treasurer of the Chicago Daily News, Incorporated, which is an Illinois corporation publishing the Chicago Daily News.

I have a statement showing the expenditures for the foreign service of the Chicago Daily News for the year 1942. The total expenditures for that year were \$293,257. This is broken down as follows: Salaries, \$95,788; correspondents' expenses, \$59,688; office expenses, \$7,402; office rent, \$1,506; cables and wireless, \$55,091; New York office, \$2,270; client wire costs, \$47,313; selling expenses and promotion, \$24,199. The item under salaries includes all salaries including that of Mr. Binder, but does not include any administrative or overhead expenses. None of the figures given in the breakdown includes any administrative or

overhead expense. The total figure for 1942 is greater than that for 1941 by \$24,285. The Chicago Daily News foreign service is sold to approximately 55 newspapers and three radio stations (See pages 29, 30 and 31). The witness read into evidence a list of the newspapers to which the Chicago Daily News foreign service was furnished during all or part of the year 1942.

We also sell certain serial stories as a separate package to newspapers who do not take our foreign service. We have a written contract with the newspapers to whom we sell our foreign service. The witness produced a form of contract to be marked for identification.

[fol. 2463] (Whereupon said document was marked Defendants' Exhibit for identification Ch-1.)

The Register & Tribune Syndicate of Des Moines, Iowa, does all of the selling of Chicago Daily News foreign service, and the expense of that to the Chicago Daily News amounts to some \$24,000 as included in the breakdown of figures submitted. The Chicago Daily News foreign service is sold to only one newspaper in a given city. There is no instance where two newspapers in the same city have this service except where the two newspapers are owned and published by the same person. There have been instances, however, as in Salt Lake City where the Deseret News has agreed to permit the sale to a radio station in its locality for part of the fee which they would ordinarily pay for the purchase of the service.

Cross-examination.

By Mr. Rugg:

The Denver Rocky Mountain News gave up the service during 1942 and the radio station KFEL thereupon took on the service. Chicago Daily News is now subscribing to the following domestic and foreign news and photo services:

Associated Press News Service, Associated Press Photo Service, AP Wide World, Acme Pictures, Bell Syndicate, Publishers Syndicate, United Features Syndicate, Press Features, LaFare, Register & Tribune Syndicate, Western Union Market Reports, Illinois Telegraphic News, City News Bureau, Washington

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City News Bureau, New York Herald Tribune Syndicate, and United Press.

The Bell Syndicate service supplies comic cartoon strips, cross-word puzzles, and special articles. The Publishers [fol. 2464] Syndicate service also has special comics and features. The United Features Syndicate is not a part of UP. It handles comics and features. It is affiliated with the Scripps interests. Press Features is a small syndicate from which only one comic strip is purchased. The LaFare Syndicate handles comics and feature services. The Register & Tribune Syndicate is similar to United Features and LaFare. The Western Union market reports are the commodity markets. The Illinois Telegraphic News handles Illinois news of some kind. The City News Bureau is a local news gathering organization in Chicago. The Washington City News Bureau is some kind of a local news gathering organization. The New York Herald Tribune Syndicate sells the Chicago Daily News only comic strips—no foreign news. I have prepared a tabulation of the volume of AP and UP material, including AP and Acme pictures, used in the Chicago Daily News in comparison with the total news material used, pictures included, for the week ending April 24, 1943. Leaving out the fractions, it is as follows: AP news, 60 columns; AP pictures, wire photos, 43 columns; UP news, 29 columns; Acme pictures, $\frac{1}{4}$ of a column. Total 748 columns. The only foreign news services used by Chicago Daily News in 1942 were AP, UP and its own. There is no special allocation of costs to the Saturday paper.

We maintain a Washington Bureau. We have employed there one man engaged in collecting or rewriting news, another man who is a special writer, and a girl who acts as office manager and stenographer. The only bureaus in the U. S. are in Chicago and in Washington. Outside of these two cities there are no full time employees engaged in the collection and rewriting of domestic news. We have about 100 space writers, who have been paid at space rates, [fol. 2465] located in cities other than Washington and Chicago. The majority of them are employees of other newspapers. I do not know how many of the subscribers of the Chicago Daily News foreign news service are members of AP. Of the subscribers to our foreign service, four are newspapers which are exclusively morning newspapers.

Approximately five are both morning and evening papers out of a total of 55 subscribers and three radio stations. The arrangement with the Register & Tribune Syndicate is that it is an exclusive agency. The Chicago Daily News has published promotion material respecting its foreign service. The witness produced some first pages of the Editor & Publisher. These were offered in evidence as Plaintiff's Exhibit Ch-1 for identification.

(Whereupon said documents were marked Plaintiff's Exhibit Ch-1 for identification.)

The United Press buys from us Carroll Binder's weekly review and delivers it to La Razon in Buenos Aires. UP has no resale rights on this material in the U. S. The AP makes up a file out of our dispatches of about 1000 words and transmits that file to La Razon in Montevideo, Uruguay. We sell that to AP for a flat sum. Their rights of republication are limited only to Montevideo. The total revenue received by the foreign press news service for 1942 from the sale of its services to all its clients was \$191,786. That includes Canadian and foreign newspapers. This service is delivered to the paper so that we pay the wire transmission cost, except on overhead special wires that may come in from time to time. We have not taken service from the North American Alliance since December of 1941. With respect to our competitive position with NANA in selling the foreign service, the changes made in NANA policies have [fol. 2466] not deteriorated our competitive position.

The Chicago Daily News also publishes what are known as two-week serial stories. These are syndicated through LaFare. These are literary productions purchased from the authors. Here the witness read into evidence a list of papers who purchased these serial stories. The total revenue received by the Chicago Daily News in the year 1942 for the sale of this service was \$3,842.89. The story is sent by mail. We also try to sell a daily short story to clients. This is a literary production, a short story complete in one issue. The clients who bought the daily short story for the calendar year 1942 were listed by the witness; the list was read into evidence. The total revenue received from the daily short stories by Chicago Daily News was \$2,008.74. This is sold through United Features Syndicate, which is paid a commission on the sale. Shoe-

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maker's cartoon is also sold. He is paid a salary by Chicago Daily News. There is one customer who pays on a use basis; the rest pay a weekly sum. These cartoons are distributed through the Register & Tribune Syndicate of Des Moines, Iowa. The witness read the names of eight papers who purchased these cartoons. The net revenue was \$70.

I have been with the Chicago Daily News since 1927. The question was asked, "Assuming the Associated Press, operating under its present rules and by-laws, in your opinion could the Chicago Daily News publish its paper substantially in its present form and with its present standard quality, without the Associated Press Service, not including AP pictures?" This was objected to. The witness said he had no opinion about it, that it was not something he could answer. The witness was then asked a similar question with respect to operating without AP picture [fol. 2467] service. This was objected to. The witness said he had no opinion, notwithstanding the fact that Chicago Daily News published 43 columns of AP pictures as compared with $\frac{1}{4}$ of a column of Acme pictures during the week of April 24, 1943.

The sample form of contract for the sale of foreign news lists the hours of service by wires as from 6 A. M. to 8 A. M. central time. That has now been modified; the hours are now 6 A.M. to 10 A.M. central war time. The hours of 6 to 10 would make the service of no value, so far as spontaneous news is concerned, for morning papers in the eastern and central time zones. It would be to some extent available to morning papers west of the central time zone, but the morning papers there would have to hold their presses until some time after 4 A.M., even on the west coast.

All of the contracts for the sale of foreign news service are not terminable on 90 days written notice. Some might be shorter; some might be 60 days' notice and some might be a year's notice. I recall some that are terminable at an interval shorter than 90 days but do not recall any contracts terminable on a year's notice. They are all exclusive within some defined territory. All the contracts have the commitment contained in clause 7, or the substance of clause 7.

Redirect examination.

By Mr. Pfeiffer:

In March 1942 the Chicago Daily News extended its wire system to the Pacific Coast and up to Vancouver.

Plaintiff's Exhibit Ch-1 for identification, which is a full page ad from Editor and Publisher from the issue of March 28, 1942, advertises the foreign news service of the Chicago Daily News. It advertises the completion of the [fol. 2468] new private wire from Omaha to the West Coast. It states that a mighty group of newspapers are now simultaneously receiving and publishing the war news reporting of America's finest foreign staff. Together, this group of newspapers—more than 50 in all—have a daily circulation equal to more than half of the combined daily circulation of all the 419 English-language morning newspapers in the United States, and equal to almost one-third of the combined daily circulation of the 1,548 English-language afternoon papers in the country.

Redirect examination.

By Mr. Kirkland:

I did not make a breakdown of the front page stories of UP as compared with AP of the Chicago Daily News. Frequently our paper carries its lead story from UP. Examining the Daily News for Monday night, April 26, two stories in the right hand column were certainly leading stories. The leading story was the story of the Soviet breaks tie with Poles. On the front page there are three UP stories and four AP stories. The leading story of the day, about the Soviet breaks tie with the Poles, is a UP story, and the next leading story is a UP story. One of the AP stories is a very short story and the other two AP stories are very long. Examining the newspaper of April 27, we find the leading story is from AP and there are three stories from Daily News foreign service. Two of the three leading stories are from our own staff. Examining the issue of Wednesday, April 28, the lead story of the day is by our own staff writer, Richard Mowrer. The story to the right, alongside of that, is a UP story, a domestic story. There is also a UP bulletin followed by our own story from Bern. There is a UP story on the right

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hand corner of the front page. Examining the issue of [fol. 2469] April 29, I find there are two foreign stories by our own service. There is an AP story about the President's being home after a tour of the U. S. war camps; and there are two small UP stories. Examining the issue of Friday, April 30, the lead story in the right hand corner is a UP story, and the other is by our own staff writer in Washington. Then there is one story by the Chicago Daily News foreign service; an AP story on Martinique; three small UP stories and one small AP story. In the issue of Saturday, May 1, there is a double 8-column heading of a story about the coal mines being taken over by the U. S., which is by UP. This was clearly the story of the day. There is a North African story by Richard Mowrer of the Chicago Daily News foreign service. The derby story is by own our correspondent, John P. Carmichael. There is only one small AP story on the first page of that issue, a story of six lines. I would call that an average week.

Recross examination.

By Mr. Rugg:

The Chicago Daily News is an afternoon paper. The edition of the paper I examined for Mr. Kirkland was what is known as the Red Streak edition, which is the last edition; it goes to press about 6:00 P.M. The masthead over the editorial column reads: "Member of The Associated Press. The Associated Press is exclusively entitled to the use for republication of all news dispatches credited to it or not otherwise credited to this paper and also the local news published herein. All rights of publication of special dispatches herein also are reserved." This masthead is always carried. The clause about being a member of AP is always used.

Mr. Victor Lawson had died before I became associated with the Chicago Daily News. It was his paper. He had been publisher of it his whole life.

[fol. 2469a]

Chgo. Trib.

[fol. 2470]

U. S. vs. AP

ABSTRACT

Deposition of William Donald Maxwell,
Chicago Tribune,
Chicago, May 4, 1943

Direct examination.

By Mr. Kirkland:

I live at 820 North Michigan Avenue, Evanston, Illinois. I have been in the newspaper business all my life. I am assistant managing editor and city editor of the Chicago Tribune. I have been city editor since January 1938 and have always served as assistant managing editor. About six months ago I was designated on the payroll as managing editor.

When I was 16 years old I commenced working for the Greencastle, Indiana, papers, the Banner and the Herald. I worked on the Indianapolis News as a reporter and assistant financial editor. In 1918 I worked on the Cleveland Press as a reporter and assistant sports editor. In 1920 I came to the Tribune, at the end of my junior year in college. I worked for the Tribune and went to the University at the same time. A year later I worked as news editor of the Vancouver Sun. I came back to the Tribune and worked as a reporter for another year. I became copy reader on the local desk, and then worked on the feature pages. I handled the financial pages. I have been assistant dog watch editor. I have been the picture editor. I was sports editor from 1925-30. I was news editor from 1930-38, for eight years. I have been city editor since 1938 and assistant managing editor. I have served as acting managing editor during that time for approximately two or three months of each year and also [fol. 2471] one day a week. I was actively associated with and trained by Mr. Edward Scott Beck, who was managing editor of the Tribune for some 35 years, and was actively trained by Robert Morton Lee, who was city and managing editor of the Tribune.

As city editor my duty is to supervise and direct the work of some 120 persons; those are the reporters, copy

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readers, rewrite men, sub-editors who handle the news for the metropolitan area. Under the city editor are the metropolitan editor and a staff of 20, the financial editor and his staff, and the various feature writers. The city editor also serves as assistant managing editor. The managing editor is J. L. Maloney. He started on the Tribune two years before I did, and I have worked with him the entire time. Mr. Maloney and I consult with each other on everything that is done.

The publisher of the Tribune is Colonel Robert Rutherford McCormick. The daily circulation in 1942 was about one million, ten or fifteen thousand and the Sunday circulation was about one million, two hundred and fifty thousand. It is the largest circulation for a standard size newspaper in the U. S. There is no larger circulation than that of the New York News.

The Tribune editorial staff has some 344 employees, full time. The administrative staff consists of the managing editor, the assistant managing editor, the news editor, the night editor, the assistant news editor, and the dog watch editor. The dog watch editor is a man who comes on after the first final edition has gone to press. He is practically an acting managing editor during the hours when the managing editor and the assistant managing editor and his staff have gone home. Under these administrative heads [fol. 2472] would come the city department, under the city editor; the telegraph editor and his staff of about 10 men—copy readers and rewrite men—and under him would be the bureaus and correspondents throughout the U. S.; then there is the sports editor and his staff; the financial editor and his staff, and the metropolitan editor who supervises the gathering of the local news which is run in the Sunday paper—this is news which does not go into the daily paper. Then there is the reference room, the feature writers, the art director and his staff of 18, the society editor and her staff of 4 or 5 girls, the cable editor and his transcribers and copy readers and correspondents—they handle nothing but foreign news; the Sunday editor and his staff of about 30 persons. There are different departmental features, such as the farm editor, all working under the general administrative staff. The New York News is organized on the same pattern as the Tribune.

With reference to domestic news there are 344 persons who work under the managing editor of the Tribune. This includes those referred to as the metropolitan editor and his staff of about 20. The material of the metropolitan staff would not be used by the Tribune Press Service because it consists of local items. Deducting the 20 employees under the metropolitan editor would leave 324 collecting and editing domestic news which is available to the Tribune Press Service, which is the service that sells news and pictures to newspapers. There are 121 persons on the Tribune payroll who are engaged in collecting and editing news for the Chicago metropolitan area which includes an area of about 50 miles. This includes myself, my assistants, the city day editor and the assistant day city editor, my desk slot man and his assistant, my copy [fol. 2473] readers and rewrite men and reporters on the city editor's staff.

The Tribune has a bureau in New York City of seven persons. It has a bureau in Washington of 10 persons. It has a bureau in Milwaukee with two men. During the legislative session, there is a bureau in Springfield with two men. The bureaus report directly to the telegraph editor but they are also under the managing editor.

Figures which I have given refer only to those on the regular payroll. We have listed in our files and keep a card index of 947 persons who are correspondents of the Tribune. They are not regular full time employees of the Tribune. A paper entitled "the 947 correspondents and string men in the U. S. are located as follows" was marked for identification.

(Whereupon said document was marked Defendants' Exhibit Ch-3 for identification.)

Defendants' Exhibit Ch-3 is a correct description of the correspondents and string men and their locations. We paid 700 of them something last year. I examined that list myself and made it up. Correspondents' names are kept on cards. Each one of them has a substitute to be called upon in case he is not available. The list shows 211 in the State of Illinois. In the State of New York, in addition to correspondents we have the entire file of the New York Times and the files of the New York Daily News.

Both the Times and the Daily News have press associations working for them.

For correspondents we try to pick men who are city editors, managing editors, publishers or editorial executives in these towns and cities. We do this because there is a larger turnover in reporters than there is in the executive branch. The majority of our correspondents will be [fol. 2474] either city editors or managing editors on their home town papers. Some of our correspondents have been with us for 10, 15 or 20 years; some over 25 years. Not more than 50 are personally known to me. Many of them call on the telegraph editor when they come to Chicago, and his rewrite men talk on the telephone to a great many of them and get to know them. We have two rewrite men on the telephone desk who talk to these correspondents by telephone. When one is found to be deficient or missing or unsatisfactory, notices are given and a new correspondent is picked. Wherever one serves unsatisfactorily, the telegraph editor calls it to the attention of either the managing editor or myself, and we usually write him a letter. Most of them notify us when they are leaving the community or are quitting. We paid 300 of them last month, and during the year we have sent checks to 700 of them. We have one in the capital of each state in the Union—that is the first thing we make sure of—and in the larger cities. Some of them are reporters. They are not permitted to act as correspondents or string men for another morning paper in Chicago because we want an exclusive report from them. “Exclusiveness is one of the essentials of a successful newspaper, and we would not want our correspondents covering the news for an opposition paper.” We call the five states around Chicago the Chicagoland territory. They are Indiana, Illinois, Michigan, Wisconsin and Iowa. The bulk of the Tribune’s circulation is in these states.

The Chicago Tribune-New York News syndicate is a Delaware corporation which sells fiction and comics and features. They have an exclusive feature in their sales contract. The syndicate has a subsidiary called the C. T. P. S., the Chicago Tribune Press Service. It is not [fol. 2475] incorporated, it is really a department of the syndicate. The Chicago Tribune Press Service sells news but not features or fiction. The syndicate sells the comics

as well as the fiction and the features. The C. T. P. S. does not sell news in the Chicagoland territory. The Chicago Tribune has an arrangement with the Los Angeles Times News Bureau which sends any news the Tribune wants. There is an exchange agreement—they have a correspondent in the Tribune office and we have the use of any of their news. We have an exchange agreement with the New York Times in which we have all the news printed by the New York Times available to the Tribune; they likewise have our news. We have the same arrangement with the New York News. We have an arrangement with the San Francisco Chronicle bureau under which we order news from them, but it is not an exchange agreement. We have the Dow-Jones financial ticker service in our financial department. The Chicago Tribune Press Service has 17 customers who agree to furnish C. T. P. S. any news that the Tribune asks them for. We have AP but not UP or INS.

The foreign department on the Tribune is directly under the publisher, Colonel McCormick. The managing editor and the assistant managing editor and the cable editor, under Colonel McCormick, handle the administrative problems of the foreign service. We have 11 men on the regular payroll as foreign correspondents and about 21 men who are paid on space rates, making a total of 32 correspondents. Preceding the outbreak of war in 1939 there were 26 foreign correspondents. The regular correspondents are as follows: S. P. Brewer, now in Ankara; David Darragh, assigned to Vichy, but now interned in Germany. Of course, his salary goes on. S. M. Corman, in North Africa. J. H. Thompson, in North Africa. Both of those boys, incidentally, went from the city editor's staff. E. R. [fol. 2476] Noderer, in London, assigned to London. He has not arrived there yet. Larry Rue, in London; H. A. Small, in India; R. A. Chromie, in Australia. Chromie was our man in Guadalcanal. G. H. Gowran, assigned to the South Pacific; Warren Baker in Alaska; Charles Lavelle, now assigned to Central America.

The list of string men and their location is as follows: A. L. Dinkley, Mexico City. Harold Tatem, Buenos Aires; S. L. Sheppard, St. Johns, Newfoundland; J. R. Smith, Ottawa, Canada; John Conklin, Winnipeg, Canada; Gustavo Reno, Havana, Cuba; Emilio Robert, Costa Rica;

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Peter Brennan, Canal Zone; Anthony Patric, Rio De Janeiro; W. A. O'Carroll, New South Wales; Quintin Pope, Wellington, New Zealand; Manuel Lyra, Lisbon, Portugal; Earl Kelly, Vancouver, B. C.; A. H. Collins, Toronto, Canada; G. J. Fitzgerald, Montreal, Canada; W. F. O'Reilly, San Juan, Porto Rico; C. M. Griffis, Lima, Peru; Gordon Roberts, Quebec, Canada; Hugh Currin, Dublin, Ireland; Harwood Hall, San Juan, Porto Rico; M. N. Negru, Montreal, Canada; Colin A. Sebastian, Toronto, Canada; Everett E. Bauman, Buenos Aires.

Last month we paid 18 of the string men. The regular correspondents are well known to the office, of course, but these men I have given you later are known by correspondence to the cable department. The string men were picked by our own staff men when they visited this country or were picked by the cable department after correspondence with them. I recall no instance where we found them untrustworthy.

Before the outbreak of war in September 1939 we had correspondents in the Philippines, in Japan, China, in Madrid, Spain; we have a bureau in Berlin, Tokyo, and Holland. We had correspondents in Vienna, Sweden, Denmark and Norway. We had a regular bureau in Rome. [fol. 2477] We had a man in Warsaw and one at Gibraltar. The Tribune has paid the London Telegraph and Post a stipulated amount each year for the full use of the news proofs of that paper. This amounts to some \$7,000 a year or 1400 pounds. There was no exchange of news. We just bought their news. Our correspondent, Rue, selected such news from them as he thought worth sending to us. It was available to the Tribune Press Service. Rue has the use also of the Parliamentary News Service, which is a London service. Anything that appeared in the New York Times from the Swiss Telegraphic Agency or Reuters or Aneta of Holland was available to the Chicago Tribune and available for resale to any newspaper west of the Mississippi, exclusive of St. Louis, where the New York Times had a prior contract with the Globe-Democrat.

We have correspondents in most of the principal cities of Canada. We secure Reuters news through the AP. AP also distributes Canadian news in this country.

The 11 regular foreign correspondents are with the armed services of the U. S. or other countries. In this

country we have a man on maneuvers with the army and a staff man traveling most of the year visiting the army camps. He is also aviation editor. We have two men with the North African expeditionary forces, and a man covering our forces in India. We have Gowran in the South Pacific covering the activities of the fleet. We have Chromie covering McArthur's headquarters. We have Pope covering our forces in New Zealand. We have Baker attached to the American forces in Alaska. Mr. Corman, who is now in North Africa, is assigned to the headquarters in London.

We get AP picture service and wire photo service and the Acme picture and wire photo service. The AP sends [fol. 2478] us pictures by mail, and we buy a great many from individuals. We also buy pictures from a score of picture services. We run some 20 columns of pictures a day. For the Sunday Tribune we purchase pictures from the following sources: Acme Newspictures, Inc., Associated Press, International Newsphotos European Picture Service, Black Star, Ewing Galloway, Ferdinand Hirsh, Paul's Photos, Kaufmann & Fabry, Underwood & Underwood, a man named L. Jacobi, agent for Pix, Schostal, Pictorial Publishing Company, Henle, Three Lions, Publix, Monkmeyer, British Combine, Keystone, Sovfoto, and Authenticated News. We buy about 200 pictures a week, exclusive of the ones furnished to us by the services. There are government agencies, such as the British, Russian, Chinese, and Australian agencies, as well as some South American agencies, that furnish pictures, most of them propaganda pictures. The Tribune was the leader of the newspapers in the development of sending pictures by wire. The Tribune interested itself in Telepix and in the Bartlane process. It organized a mutual association of newspapers to investigate and back the furtherance of sending pictures by wire.

The Telepix and the Bartlane process were later purchased by Acme pictures. Telepix was principally backed by the Tribune and the New York Daily News. The Atlantic & Pacific Photos was a mutual company which the Tribune and New York Daily News formed with the Los Angeles Times and a number of other papers. That is the company that became Acme. We have a photographic staff of 26 photographers and an art room with 16 artists and we have

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a color studio with five photographers. The Tribune took the lead in taking color pictures for newspaper work. Our color studio is probably the largest, and produces the most colored prints of any newspaper studio in America. The [fol. 2479] other newspapers in the country send their films to Eastman to develop. We develop our own and so does New York Daily News. There is seldom a day when we do not have a news photographer out of the city on an assignment. These photographs, with the exception of those purchased from AP and Acme, are available to the Press Service if requested. Eight of the 16 artists in the art room work on maps constantly. The Tribune prepares an average of four maps a day. We have secured base maps from every source we could find to insure accuracy. We have the finest base maps in the country on Russia. Those maps are available to the Tribune Press Service. We have a reference room called the morgue which has more than a million items and pictures.

(A statement of the expenditures of the Chicago Tribune and New York News for the collection of news in the year 1942 was marked as Defendants' Exhibit Ch-4, for identification.)

This statement of expenditures was prepared by Mr. Coty of the auditing department. I am sure this is accurate. I cannot vouch for the New York Daily News expenditures. The figures under "Local and domestic staff salaries" include the salaries of everyone under the city editor, the telegraph, cable, sports and financial editors. It does not include the salaries of executives outside of the editorial staff nor does it include the Sunday departments, which are listed separately, or the cable department. "Miscellaneous space payments" are payments made to casual or string correspondents of the city editor in this 50 mile area that constitutes the metropolitan area. It does not include all of the 947 string men. That is listed under domestic telegraph dispatches. "Local and domestic expenses" includes traveling expenses of reporters and photographers and correspondents who are asked to move from place to place, [fol. 2480] and telephone tolls. "Domestic telegraph dispatches" is the amount paid to correspondents for their contributions and for the telegraph tolls on those reports. \$91,919.14 includes the pay of these correspondents and string men for one year. That does not include cable dis-

patches, which are listed under foreign. The first item under "foreign" is the salaries of the regular foreign correspondents and cable desk. Under foreign the next item is "Space payments and miscellaneous news services", which refers to payments that are made to people in various parts of the world that are not listed as our regular correspondents. "Expenses" would include the traveling expenses of correspondents. "Cables and radio" refers to cable tolls.

Press Wireless was founded by Chicago Tribune, New York Daily News, New York Herald Tribune, Los Angeles Times and the New York Times. The item of \$53,647.77 for services is the amount that was paid to the AP for their news reports. The next item of \$24,974.12 is the amount that was paid to AP for their wire photo pictures. The "Patsy" comic, \$1300, is the AP comic that the Sunday paper purchases. That is the only comic we purchase from AP. The other comics we purchase from the Chicago Tribune-New York News syndicate.

Washington City News Service, \$1,270.65, refers to the "Service purchased by our Washington Bureau to make it more efficient". "City News Association Service", which was paid \$41,336.68, is a local news bureau. The other three items under the heading "Chicago Tribune-New York News Syndicate, Inc." show *show* the amounts paid to that syndicate for features, fiction and comics. The figures under "Photographic department" are exclusive of AP service. They are salaries paid to our photographers. [fol. 2481] "Domestic salaries" are salaries paid to photographers. "Photographs" refer to photographs purchased from individuals and through other services. The item of "Domestic Expenses" under the photographic department refers to the expense of running our studio, and traveling expenses. The item of \$38,633.19 under "Color studios, salaries and expenses" refers to the five men who take the color pictures.

Under "Sunday departments, salaries, articles and expenses" are the salaries of the 30 people who work in the Sunday department. The item "Articles" is the money paid for articles published in the Sunday paper. Expenses are the traveling expenses of staff men who have gone out to get feature stories. These three items which amount to \$191,458.42 under "Sunday departments" are over and above the daily papers. The above totals do not include

any portion of the management's executive salaries, social security taxes, group life insurance premiums, pension expenses, or any allocation of switchboard salaries and expenses which totaled \$42,000 in 1942. The Chicago Tribune does not pay anything to the Chicago Tribune Press Service for the news it may receive from it. This statement bears Mr. Coty's signature. The books of the Chicago Tribune Press Service are kept in New York.

The Chicago Tribune Press Service was organized in 1916 and was run by a member of the city editor's staff. About 1933 it was transferred to the syndicate. It was run by the syndicate, and Mr. Arthur Crawford was the manager of the syndicate. About three years ago Colonel McCormick told Mr. Maloney and myself to supervise and direct it. We placed a member of our local staff, George [fol. 2482] Shreiber, assisted by the city editor, in charge of it. Mr. Shreiber went with the army and in his absence we appointed Mr. Mason. We have about 18 employees. About three years ago we changed from the Morse system and went over to the teletype system.

We have not pushed the Press Service to obtain a great number of clients. Colonel McCormick's idea was to make a connection with newspapers of fine standing and prestige rather than to solicit a great number of papers. We have only one salesman out. We have tried to make our report very selective and exclusive so that the member who receives the report will have 15,000 or 20,000 words of well-written news coverage. There are now 17 members including the Tribune. The syndicate salesmen were more concerned in selling comics and fiction than in selling the news service. They had no experience in selling news service.

We think the Press Service adds to the Tribune's prestige. We also look upon it as a news gatherer because the contract provides that the newspapers which buy the C.T.P.S. shall provide us with news. We have a potential news gathering organization of great value to us. If it is a story in Detroit, we can call upon the client in Detroit, the Free Press; or, if it were in California, we could call upon the Los Angeles Times. These customers are located in key cities throughout the country and are newspapers of standing, as for instance the Kansas City Star, the Los Angeles Times, the Salt Lake City Tribune, the Portland Oregonian and the Boston Post. The service furnishes us with news from the New York Daily News and the New

York Times. It has its own wires into New York and all these other cities. It furnishes the New York Daily News with news matter of the Chicago Tribune and these other [fol. 2483] newspapers in other cities. Wires pick up news from all of the 17 papers. There is a wire to Los Angeles. There is a wire to New Orleans. The paper served in New Orleans is the Times Picayune, one of the leading papers.

There may be 150,000 words of news available to send out on the wires but only 10 or 15 great stories a night. Mr. Maloney and I have stressed picking out these important stories and being sure that the background and the writing is accurately given so that the client who receives this report will have a very fine coverage on the principal news of the day. This is appreciated as is shown by the papers' use of this service. The papers use Chicago Tribune Press Service stories over the stories they receive from other press associations. Mr. Maloney and I do not read the entire report, but all questions of good taste or judgment are referred to our desk.

The press service has the use of the bureaus I have named. They have five employees in New York. They have the use of the Tribune's bureau in New York and the entire staff of the New York Daily News and the full news report of the New York Times. The employees in New York consist of a filing editor, his assistant and the telegraph operators, and an office boy or two. In Chicago there is a manager, a salesman, a file editor, and the operator. Mr. Mason is the acting manager of the Press Service. There are a total of 18 people employed in the New York and Chicago offices—14 regularly employed and four for relief. Mr. Mason has been a copy reader and reporter and wire chief for 15 or 20 years.

Some of these men were in the employ of the Tribune before they went with the Press Service. In fact all of them [fol. 2484] were. They are paid directly by the Tribune so they won't lose their pension rights. The Press Service reimburses the Tribune for that. The money paid by customers or clients to the Press Service goes to the Press Service office rather than to the office of the Chicago Tribune or the New York Daily News.

There is available to the Press Service the entire file of the city staff of the Tribune with the exception of what is called spontaneous news. That would mean 20,000 words would be available. The service is entitled to the entire

cable file. They also receive the benefit of the editing that is done on that. The cable stories often need work on them in the office. Verification of dates and a check on facts and background. The service receives all of New York Times copy for use west of the Mississippi. They also have all of the copy produced by the New York Daily News, excluding of course the spontaneous news items covered by the city editor's staff. It does not get news to which AP is entitled under its by-laws. They receive everything that is in the Tribune and the New York News with the exception of AP news and local news of a spontaneous origin. They receive all the news that the Tribune develops from its 947 correspondents. They would probably have 100,000 or 150,000 words a night out of which to pick the 20,000 words with which they serve their clients. I would think they use about 10,000 miles of leased wire. One of the clients is the Washington Times Herald. One of the New York wires runs through the Washington Times Herald office. One of our wires runs right into the New York Times office and another runs into the New York Daily News office. I would not call the news sold by the Chicago Tribune Press Service supplemental to the AP news. In many instances the [fol. 2485] C.T.P.S. news is of primary importance to the newspaper. Its service is a joint service, companion service, not a supplementary service. I have issues of the paper in which the C.T.P.S. news was the prime news printed and the news from the other press services was the supplementary news. In today's edition of the Chicago Tribune the first page does not have a single AP dispatch on it. All of the news on the front page originated from our own correspondents, our own staff men, our own bureaus. Our opposition had only two small items an inch long each from a press service. Their news all originated from bureaus and staff men; I mean the Chicago Sun.

The C.T.P.S. sells spot news. It would not be difficult either to enlarge the amount sold or the amount gathered. We have held it down to this size because we thought that would fit the needs of the client. We could double the file or treble it overnight, and we could bring in five times as much news from the clients who buy the news service as we now bring in. One of the selling points of the Press Service is the fine reports of our foreign correspondents. If J. H. Thompson is on page one of the Tribune, he would also be on page one of these other 16 newspapers.

There are 40 or 50 morning papers in the territory tributary to Chicago in the five surrounding states. There is a strong morning paper in Gary; there is a good morning paper in Milwaukee; there are morning papers in Aurora and Elgin, in Rockford, Springfield, Peoria, Fort Wayne, South Bend, Indianapolis, Evansville and Grand Rapids. The C.T.P.S. does not sell to more than one paper in any one town. We want our report to be exclusive and so does the paper who purchases it. There is no such provision in the blank contracts, but that is the policy. In the territory [fol. 2486] surrounding Chicago there are two or three times as many afternoon papers as there are morning papers. I believe we looked it up and that there were some 300 afternoon papers in the five states and only about 40 or 50 morning papers. In those towns where we meet opposition our circulation is only a fraction of the circulation of these other papers. We have competition with the afternoon papers in that territory because of the length of time it takes to send the Tribune to the home town.

Since the Herald-Examiner stopped publication in 1939, there have been four papers in Chicago, and the Sun made it the fifth. The Chicago Tribune, the Chicago Daily News, the Chicago Herald-American which was the name of the paper after the Herald-Examiner merged with the American. The American was founded in Chicago in 1900. The Times was founded about 1928 after the purchase of the Journal by Mr. Thomason. The Herald-American receives INS, AP and UP. Chicago Daily News receives AP and UP. The Chicago Times receives AP and UP. The Chicago Tribune is a morning paper. The Times is an afternoon paper. The Chicago Tribune has only AP. The Tribune buys only from AP, the CTPS and the Washington agency to which they paid some \$1300 in 1942. The Journal of Commerce is a morning paper. It is a financial paper published in the morning. Its circulation is about 20,000 or 25,000. From the time the Herald-Examiner ceased publication until the time the Sun started, the only paper that had morning delivery to the home was the Chicago Tribune.

The Chicago Herald-American publishes its first edition at 8:19 the morning. It gets to the loop newsstands at 9:05 in the morning and to the outlying stands at 10:00, and to the suburban stands at 10:20 A. M. It is delivered to the homes from 3:00 to 5:00 P. M. The Chicago Daily News is

[fol. 2487] published at 10:30. It is on the loop stands at 10:40, the outlying stands at 10:45 and the suburban stands at 11:10 A. M.; the home delivery is from 3:00 to 5:00 P. M. The Chicago Times is issued at 8:12 A. M., reaches loop stands at approximately 8:40 A. M., gets to the outlying stands at 9:05, to the suburban stands at 9:30, and is delivered to the homes from 3:00 to 5:00 P. M.

The circulation of the Chicago Times in 1942 was around 400,000, of the Chicago Daily News around 450,000, the Chicago Herald-American 470,000. All three of these papers have five or six editions. The Chicago Tribune does not use the word "editions"; it is called replating. The Chicago Tribune is replated 10 or 12 times a night, depending on what the news is. We are able to replate much faster than the other newspapers. There were five regular editions in 1942. There were editions at 6:20 P. M., 8:30, 10:00, 11:30, and 3:00 A. M.

The early editions of the Tribune are on the stands along with the late editions of the afternoon papers. The afternoon papers sell up to midnight. For instance, if I get off the "L" at Main Street, Evanston, I will have in front of me all the afternoon papers, the late editions, and the first editions of the morning papers. In the morning the first edition of the afternoon papers will be on the stand at the same time the final edition of the Tribune is on the stand. A newspaper in Chicago is available to you on the newsstand 24 hours a day; there is no time in the 24 hours when the Chicago Tribune does not have to meet the competition of the three afternoon papers, each of which has the AP service.

There are different places on the newsstand that papers have at various hours and various times, but that has nothing to do with the fact that they are on the stand. The Chicago Sun started publication in December 1941. It has editions that coincide with ours within 20 minutes. They meet every edition we have. Some nights they may get out more editions than we do.

They claim some scoops. A scoop on domestic news does not amount to anything, normally, because it is impossible for one newspaper in a city of any size to have an exclusive story for more than 30 or 40 minutes. The minute a newspaper appears, the first copies go to the rivals' editorial rooms. That may take five or ten minutes. Within five or ten minutes any rival has checked the story on the telephone

or telegraph or by a reporter on the spot, and has gotten up a story that is just as good or sometimes better and has gotten his paper out on the streets.

I am conversant with the history of newspapers since 1900 in Chicago. There have been 16 daily papers in that period. There are now five. Eleven of them have either merged or been sold out or closed down. There was the Chicago Record; there was the Record Herald, which became the Herald. There was the Journal. That was the oldest paper in Chicago, and was founded in 1843. It was sold in 1928 to Mr. Thomason, and in 1929 it was sold to the Chicago Daily News. The Post was founded about 1895. It was also purchased by the Chicago Daily News in 1931 or 1932. It was an afternoon paper with a circulation of about 80,000. The Herald-Examiner was the Hearst morning paper, founded in 1918, when Hearst purchased the debts and liabilities of the Herald. This paper went out of business in 1939. Of the papers that went out of business, nine of the eleven which folded up or had been merged or sold since 1900 had AP news service. The Chicago Tribune [fol. 2489] is the only one of the four newspapers here that never merged or never bought out a rival. The News bought two, and the American is the result of a merger with the Herald-Examiner and the Times, and was formed by purchasing the Journal. The Herald Examiner had been a morning paper. The American had been the Hearst evening paper and they took the name Herald-American after the Herald-Examiner quit.

I am familiar with the AP by-law about the return of news to AP. The Tribune follows that by-law. We send proofs of all our local news to AP and AP has a man in our office to see that those proofs do get there. But the only news that we do not make available to the Tribune Press Service is the news of spontaneous origin, even though we send all of that to the AP. In 1900 when the Associated Press of New York was formed they had no staff and they did not have many correspondents, and they wanted the news of all member papers. That was all the news they had. Since that time the AP has grown until it has big bureaus and staff members, and does not depend upon the news from the members to this extent. In 1900 we did not have the telephone. The telephone has completely revolutionized the gathering of news. It has been

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the biggest factor in changing the collection of domestic news of anything in the country.

The exclusiveness of a paper's news report, or the way it tells of the event, is the thing that distinguishes that paper. An important domestic story depends on the report brought to it by the news association. We have a staff of nine rewrite men. They get on the telephone and talk direct to the officials at the scene of the crime, we will say; they talk direct to the relatives of someone who has been injured, or to eye witnesses. The Tribune story is [fol. 2490] thus gathered by our own staff men, written in the Tribune office, and we think written better and more accurately and quicker than it would be brought to us by the news service. For instance, at the time Mrs. Ickes was killed in an automobile accident in Arizona, a Chicagoan who had been a reader of the Tribune for years passed the scene and recognized Mrs. Ickes. Injured with her was Mrs. Genevieve Forbes Herrick, one of our former reporters. He phoned the Tribune, I answered, he was directed to go with the ambulance, and the Tribune had the story two or three hours before anyone else in the country could get it. We had all the facilities in the office; we had all the history and records of the principals in the accident; we had the pictures in our morgue; we covered that story without any press association at all.

Another instance, a year or two ago, there was a wreck near Utica, New York, on a train of the New York Central. I got the name of every newspaper within 15 miles of the accident and called the publisher or editor, or city editor or whoever was listed, and asked him to check the hospital in his town and help us gather the story. Within a half hour I had a staff of 15 people working on that story for us. Within two hours we had a list of 75 injured, all the dead, and eye-witness stories. Our story was so complete within an hour or two after the wreck that the New York Times used it. The telephone has done that.

The broadcasting of news has changed the value of the rule with respect to the exchange of news idea, local news. It has thrown it completely open. It made the rule rather foolish, because news reports are broadcast throughout the country every 10 or 15 minutes. The highlights of the news are on the air throughout the 24 hours. UP news is [fol. 2491] broadcast, so is INS, and so is Reuters. Trans-

radio Press, too, is broadcast. It was founded as a radio news gathering organization. Chicago Tribune broadcasts news on WGN. New York Times broadcasts news every half hour. (Mr. Pfeiffer says every hour on the hour.)

The small newspapers have a different news gathering problem from the metropolitan newspapers. A smaller paper would not be interested in gathering a news event outside of its local territory. They gather their local news more efficiently than they used to because of the telephone. The papers in the smaller communities, such as Little Rock, Arkansas, outside of page one in a ten or twelve page paper, use mostly news gathered from small towns or localities. Most of the newspapers in the country, outside of Chicago and New York, have their own "state editor" and that state editor has scores, and may be 100 correspondents in small towns. This state editor runs an item in his paper on almost anything that happens in these hamlets or towns.

As a news editor, I have handled the UP reports for two or three years of the Tribune. The Tribune bought the UP report for the Sunday edition for two or three years. I worked on the Cleveland Press which handled nothing but UP reports. For two years the Tribune got out its first edition without any wire service at all; that is, without news from one of the press associations. The reason for that was the deadline strictly imposed by the AP; they refused to let a morning newspaper publish any AP items if it appeared on the street before 8:00 P.M. The war changed that strict interpretation of that rule.

I am familiar with the contents of the UP report. The AP report is one of the finest that could be purchased. The same can be said about the UP. The INS is a smaller report, but it is very fine in its composition. I have known [fol. 2492] papers that existed on nothing but INS reports and have been very successful. The Chicago American had nothing but INS and gained this big circulation and was very prosperous. It started in 1900 and it ran until 1932. Its circulation was over 400,000. The New York Journal had only INS. The largest circulation was over 800,000. The New York Mirror, another Hearst paper in New York, ran a long time with only INS. The New York Daily News ran from 1920 to 1929 with only UP and got over 1,000,000 circulation. The New York Times, the New

York Herald Tribune, the Chicago Tribune Service, and the Chicago Daily News foreign service are very fine services. I think the New York Times service is one of the finest the country has ever had. The New York Herald Tribune service, I do not know much about, but the Herald Tribune is a very fine newspaper. The Chicago Daily News foreign service is outstanding and the Chicago Tribune Press Service is good.

I asked Mike Kennedy, our Sunday editor, to give me a breakdown of the editorial content of the Sunday Tribune. He chose last Sunday. Out of a total of 432 columns of editorial content there were only 59 columns of news matter. About 29 columns of that was wire service in the news section. That does not include sports or financial. Sports would have the bigger percentage of wire service, but this would be routine news that could be obtained from half a dozen sources. Western Union, for instance, furnishes box scores on all major league games. A great deal of the wire service in the sports department comes from our own staff. We have 19 members in our sports department. There was about 29 columns of wire service in the news section out of a total of 432. This would be about five or six per cent.

[fol. 2493] I made a breakdown of the Tribune issue of May 4, the final edition. It had a total number of news lines—agate lines of news—of 11,559, and out of that 8,750 lines were of non-AP origin, and 2,809 were from AP. Breaking it up into items, 38 items were furnished by AP and 91 items were non-AP items. They would come from our local staff and from our correspondents and from our foreign staff, from our C.T.P.S., the New York items, or from the New York News.

I then added the number of lines of photos. There were 1,356 lines of AP photos and 2,998 lines of non-AP photos.

Then we had our own editorials which consisted of 610 lines. Then we had our own cartoons which constituted 775 lines. In the feature section there were 50 items of 9,058 lines of non-AP, there were 44 AP items constituting 4,205 lines, and there were 193 non-AP items constituting 22,461 lines.

In a breakdown of an average edition of the Tribune, the editorial content would be 140 columns in all. There would be 20 columns of sport news, about 20 columns of

financial news, about 17 columns of women's interests, of the color feature news, about 7 columns of cartoons, 8 columns on the editorial page, 20 columns of art, that is pictures and maps, a column of summaries, about 4 columns of radio, and the rest will average 38 or 40 columns.

Rather, that would leave about 43 columns for telegraph, cable and local news. That will vary from day to day, one column, or two columns, or three columns, but I have given a standard makeup. The remaining columns will be divided between foreign, local and domestic, and would run about 40 columns, so that you can say between one-third and one-fourth of the paper is divided between foreign, local and [fol. 2494] telegraph. The local will run 13 columns at least, which leaves about 27 columns for telegraph and foreign. You can split that in two, which will leave 14 columns for cable and 13 columns for telegraph. And if you take the same percentage of AP that I have given you on one issue, you can say that about one-fourth of the 27 columns would be produced by AP. That would be about six per cent of the total editorial content brought in by AP. The percentage of AP on Sunday of the editorial content, domestic and foreign, would be about two and one-half or three per cent. If the Tribune were unable to obtain service in AP it would not ruin the Tribune. I say this because AP is only a component part of the editorial content of the Tribune. It is 1/12 or 1/14 of the things that go to make up the editorial content which sells the Tribune. It would be a stiffer blow to lose all our cartoons—they constitute seven or eight columns of our paper—than to lose AP. I do not think you could ruin the Tribune by taking any one of those component parts away from it, because if we have a smart management, and if we have the editors, we will meet that blow you have given us.

As for the elements that go to make up the publication of a successful newspaper, I would say the most essential thing is a smart editor, or rather a smart publisher; that is first, and I think the historical record of newspapers will demonstrate that. If you have a Lawson or if you have an Ochs you have a smart publisher. Then the management that is chosen by that publisher comes second, and third would be the appeal that that management is able to put into the editorial content. It may be different in different cities. What made the Denver Post successful might not

make the Chicago Daily News successful, and what made the New York Times have a great appeal might not satisfy [fol. 2495] the readers of San Francisco who like the San Francisco Examiner or the readers of the Kansas City Star. Just as important as the editorial content is the efficiency of the newspaper plant. You must have efficient presses, better presses than the other paper has. You must have a well organized distribution system. You must have an aggressive and smart advertising department. All of those things fit into the picture of what makes a successful paper. You could not take any single one of those things and be a successful publisher, because if that were true anybody could start a successful newspaper and have that one thing, if it were cartoons, or if it were advertising, salesmen or circulation, or color, and he would immediately be successful, which is not true in the newspaper business. The successful papers in the country have the smallest turnover in their editorial staffs. The Milwaukee Journal has very little turnover on its editorial staff, and it is a great paper. The Kansas Star is another example, also the Indianapolis News and the Cleveland News. The New York Times is an outstanding example. Men have been with it 20 years.

The Tribune Press Service could be trebled over night if we wanted to do that. As to whether the services of AP, UP or INS are absolutely indispensable to the life of any paper, I would say no, because there are hundreds of papers getting along without any wire service at all. As for the Chicago Tribune, we would have to have domestic news to furnish the kind of newspaper that the readers would want, but we do not have to have any of these wire services because we could do it through our correspondents, through the New York Times, and through a hook-up with the London newspapers on foreign, we could buy Reuters and get a very fine foreign service. We use AP because we consider AP a very fine news service which is insurance to the Tribune that we will be covered and well covered [fol. 2496] on foreign and domestic news. AP gives us a tremendous number of news reports from many places every night, and it is a very fine aid to our presentation of what happens day by day in the world. It enables us to have a less extensive foreign staff.

If we did not have the use of the AP foreign staff we would have to engage our own foreign staff. If we did

not have AP we would have to increase the number of domestic correspondents and we would have to ask them to file much more than we now want them to do or ask them to do. We would have to increase the use of C.T.P.S. on bringing in stories from those clients to whom they now sell news and receive news.

The Chicago Tribune has been a member of AP since the present AP of New York was organized in 1900. It is the only morning paper in Chicago that has been a member continuously since 1900. As a result of that the Chicago Tribune has built up the reader acceptance of AP to some extent. The newspaper is bigger than the news service, vastly so, and the Tribune has built up reader acceptance of AP in Chicago because the Tribune has had 700,000 to 1,000,000 readers who have every morning seen that AP logotype.

The right to get service from any one agency, say, AP or UP would not be determinative of the success or failure of that particular paper. There have been successful papers that had one agency; the Cleveland Press and the Pittsburgh Press had one, the UP. The Times Herald in Washington has the largest circulation of any paper in Washington and it has UP and C.T.P.S. The Hearst papers have been leaders in circulation in their cities and have had only INS. There is not enough difference between AP and UP to mean the difference between success and failure in a particular paper.

[fol. 2497] If I were starting an opposition paper in Chicago as a rival to the Tribune I would want a different report than the Tribune has. I do not know what you would be offering your customers if you did not have. If they can get all the Tribune features and then you have only offered them the same news report of the Tribune, I do not know what you have to sell them. The Times Herald in Washington and other papers that take UP have all shown increases in circulation during the war. The UP has just as good coverage of the war as AP, in my opinion.

I know of no reason why UP cannot get the same cooperation on war news as AP. I would judge there are as many as 64 men in the Washington office of UP. The local UP man told me they have 70 or 75. The New York Herald Tribune has one of the large bureaus in Washington. It is approximately the same size as the New York Times

office. The Chicago Sun takes the services of the New York Herald Tribune. In addition, there are hundreds of press agents in nearly every bureau in Washington. Every department of the Government has press agents who hand out to all bureaus and to all these services the same reports.

The Chicago Sun advertised that it has 18 men in its Washington bureau.

(An advertisement sent out by the Chicago Sun was marked Defendants' Exhibit Ch-5 for identification.)

Defendants' Exhibit Ch-5 is an advertisement sent out by the Chicago Sun boasting that it has 18 top-flight news men, each a specialist in a particular field, comprising its Washington staff, and that this bureau is so good that the Washington Post has added to its columns the news gathered by those 18 experts. I have seen scores of other advertisements from the Chicago Sun about their Washington bureau in the Editor & Publisher and in other trade publications; also in their own papers. All of them boasted that they had the 18 men in order to have a superlative Washington service.

(A facsimile of an ad which the Chicago Sun ran in the Editor & Publisher was marked as Defendants' Exhibit Ch-6 for identification.)

This facsimile is that of an ad the Chicago Sun ran in Editor & Publisher on February 28, 1942.

Mr. Kirkland: I want to read into the record from the Defendants' Exhibit Ch-6 for identification:

"Newspaper readers don't have to be convinced of the importance of Washington news. They know their Capital is today's 'World War Capital!' That it is busy history making twenty-four hours a day, seven days a week. They are aware that decisions about the food they eat, the clothes they wear, the war they're fighting and the taxes they pay, come from Washington. The biggest service you can do for these readers is to give them this news COMPLETE and understandable. This staff of news specialists, the Chicago Sun Washington bureau can do the job for them—for you!"

(Defendants' Exhibit Ch-7 was marked for identification.)

Mr. Kirkland: This document marked Defendants' Exhibit Ch-7 appears to be the back page of Editor & Publisher for November 21, 1942. I want to read this one paragraph into the record. It has reference to the Allied Newspapers, Limited of Great Britain, taking the Chicago Sun's syndicate. "Allied augmented their already thorough and reliable news coverage, not for the sake of quantity (they now have A.P., U.P., and Reuters), but because their editors are keenly alert to the fact that, at a time when English newspapers are restricted to four and six pages, they need added QUALITY."

(Defendants' Exhibits Ch-8 and Ch-9 were marked for identification.)

Mr. Kirkland: Exhibit 8 is a reference to the addition of the Washington Post to the Chicago Sun syndicate list of customers. The last paragraph reads: "The life and purse of every citizen of the United States is affected by today's Washington news. You'll do your readers a service by giving them this vital news in a form understandable, complete, direct from America's leading staff of experts The Chicago Sun Washington bureau."

Defendants' Exhibit 9 is an ad by the Chicago Sun Washington bureau which refers to "18 pairs of eyes and ears for your readers in Washington". It has pictures of their staff on it. I will read one paragraph.

"Washington, world's busiest city, is jam-packed with bureaus, agencies, divisions so numerous their coverage would appear an impossible task . . . NOT SO when you have it blanketed with these 18 specialists, members of The Chicago Sun's Washington Bureau!"

And at the bottom it says, "Telephone, write or wire today for exclusive territorial rights."

Witness: With reference to Mr. Field's letter in which he states that in the area around Chicago the Sun has been forced to maintain its own correspondents, I state that the Chicago Tribune maintains its own correspondents. We have some 200 correspondents in Illinois alone, and also we have men in every suburban city and hamlet around Chicago. The Chicago newspapers rely on their own correspondents to a large extent for local news, and most metropolitan papers do likewise. With reference to [fol. 2500] Mr. Field's statement in his letter that the ab-

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sence of appropriate local news service is of peculiar importance at this time because of an important senatorial election, the Tribune had a political correspondent, during the senatorial elections last year, in every county of the state who sent in a weekly report to our political editor. The political editor has done this for many years. Near the close of the campaign he analyzes and digests the reports from these special correspondents, all of whom get paid for sending in the report to him. We never depend upon AP for this political coverage.

UP has an Illinois state wire and a strong Springfield bureau. I think the UP bureau remains open four hours at night, longer than the AP bureau does. In the last senatorial election the Tribune sent out five squads of poll takers, each squad in charge of a Tribune staff man, and we took thousands of sample ballots. Prior to election day we depend upon the reports of our own correspondents and the analysis we make of the poll. UP made the claim that they were a thousand precincts an hour ahead of the AP in covering the election. The Sun's political writer is a former AP political bureau chief in Springfield, Illinois. As to an opinion about the coverage in the Sun of the senatorial election as compared to AP coverage, my opinion of the coverage in the Tribune and Sun would be prejudiced, but the UP on election night was just as adequate as AP on sending in election results. What Field is complaining about is the pre-election forecast and dope on trends in counties, and on that, the Tribune relied upon its own correspondents and its own political staff in the office. Incidentally, the Tribune political editor has been on the Tribune 35 years. The Sun's political editor's name is Bob Howard; the Tribune's political editor is Parke Brown.

[fol. 2501] (Defendants' Exhibit Ch-10 was marked for identification.)

With reference to Mr. Field's statement in his letter that the Sun was forced to spend several hundred dollars a week on business information and news because of lack of the AP report, the Sun takes the Dow-Jones Service. The Sun acquired the financial news and reports of the New York Herald Tribune. Before the Sun was launched, the business report of the New York Herald Tribune was taken by the Chicago Journal of Commerce.

Mr. Kirkland: Defendants' Exhibit Ch-10 is a facsimile of a letter addressed by the circulation manager of the Chicago Sun, Mr. Donald J. Walsh; it is just a form letter and refers to Mr. Phil S. Hanna as a famed editor and business commentator who left the helm of the Chicago Journal of Commerce to make the Sun's business pages the best in America.

I will continue to read from Exhibit Ch-10: "No newspaper west of the Hudson so completely fills the daily needs of the country banker, providing him with all of the principal tools needed in his business. Only in THE SUN will you find complete bond and stock tables including New York bid and asked prices, livestock, packing house products, a wide range of farm commodities, grains, cotton, produce, and all commodities handled on the Mercantile Exchange.

"Complete markets, the trends, and ALL THE NEWS! News through the regular channel PLUS news from THE SUN'S own famous Washington Bureau—18 top-flight experts digging out, sifting and analyzing the vitally important news that can come only from Washington—important Government purchases and sales of commodities, coming changes in governmental regulations and laws governing the farm program—"

[fol. 2502] Witness: The Sun at the time of its launching gave more space to business news than the Tribune did. Most of it was obtained from UP. As to the statement of Mr. Field's that the bowl football games had to be handled by the Sun through special assignment although members of AP received news of these events, the Tribune sent a special staff man to each one of these bowl games. I have photostatic copies of the Tribune's reports on each of the four games. As to Mr. Field's complaint about the UP coverage of the recent All Star Professional Football Game in New York, this was sponsored by The Herald Tribune in 1942; the New York Herald Tribune is the news agency which furnishes New York news to the Sun. As to Mr. Fields' complaint that the Sun has been forced to maintain correspondents at flat weekly rates at all the Big Ten colleges, the Tribune has had local correspondents at all the Big Ten colleges for sporting news as far back as I can remember.

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I have seen some of the advertising of the Sun about their sporting department. They use superlatives about their sporting department.

With reference to Mr. Field's complaint that the full texts of speeches and public reports available to AP members do not reach the Sun, the Sun, because it devoted more space to editorial content than the Tribune in its first year, printed more reports of speeches than the Tribune. I can conceive of no important report of any speech made on the radio or in Washington or anywhere else that would not be just as available to the Sun or UP as it would be to the Tribune or AP or to the Herald Tribune or the New York Times.

(Defendants' Exhibit Ch-11 was marked for identification.)

Defendants' Exhibit Ch-11 is a copy of the final press [fol. 2503] handout from the U. S. Department of Agriculture dated January 27, 1942 and for immediate release. It is a statement by the Secretary of Agriculture, Claude R. Wickard. This is the one referred to as having been overlooked by the Sun. There was nothing to prevent the Sun's bureau or the UP bureau or the New York Herald Tribune bureau in Washington from getting this from the Department of Agriculture. In fact the Chicago Journal of Commerce published a story under a Washington date line on that same night, and the editor of the Journal of Commerce told me they got it from UP. The Wall Street Journal carried the story from its own Washington bureau, and the New York Times and New York Herald Tribune both published the same dispatch. I would surmise that the financial editor of the Sun merely overlooked it. The Department of Agriculture sends their releases to all bureaus in Washington and to all press services.

As to Mr. Field's complaint that AP had an eye witness of the sinking of the battleship "Barham" and that the Sun obtained inferior coverage only after several editions had appeared, AP was fortunate in having Larry Allen, one of their foreign correspondents, on the Queen Elizabeth which was in the same fleet as the Barham, and he witnessed the sinking and wrote a dispatch. That has happened throughout the war. One editor or service would have a man at the scene of a great story. The Tribune had the only correspondent on the Lexington when it was in the

great battle of the Coral Sea. The Tribune gave the dispatches of that correspondent to all news services. The UP has claimed numerous war scoops. The INS has claimed numerous war scoops. I do not know how to cover a world war and be at every spot at every great happening. I do not think any press service knows how to do it.

[fol. 2504] Mr. Kirkland: Here is another release from the Department of Agriculture which is dated January 29, 1942, which speaks of a statement by Mr. Wickard concerning corn prices, which was one of these two that he must have been referring to.

(Defendants' Exhibit Ch-12 was marked for identification.)

The Witness: May I add that on April 19, 1943 UP furnished the Sun with a scoop called "Shangri-La revealed as carriers" which AP did not have and never carried, and which the Sun ran an eight column line on.

Defendants' Exhibit Ch-12 for identification was a release the day after the story they complain about. The one they complain about is January 27 release, and this is a January 29 release. The Tribune ran that story, and the other editors ran it on the 28th. It was the same type of handout.

(Defendants' Exhibit Ch-13 was marked for identification.)

Defendants' Exhibit Ch-13 refers to the Shangri-La story on which the Sun had a scoop. The Tribune had to take a very inferior story out of New York from our press association on a radio report, and our story in comparison to that sent out by UP could be called inferior.

Mr. Kirkland: The paper he refers to is the front page of the April 19th Tribune.

(Defendants' Exhibit Ch-14 for identification was marked.)

(Defendants' Exhibits Ch-15 to 33 for identification were marked.)

Witness: Referring to Defendants' Exhibit Ch-15, which has across the top "Newsmen of the Chicago Sun's wire [fol. 2505] service made three great news beats", at the time these were furnished they were more important stories than the Barham, because the Barham story was old and

these were spot news stories and were exclusive. I would not call that inferior coverage by AP because they did not have it. These stories were not offered to the Chicago Tribune by the Sun, or to any other editor unless they paid the Sun for it.

Mr. Kirkland: Defendants' Exhibit Ch-22 reads in part: "Knicks's—" that is Knickerbocker—"story was a beat, exclusive in the best two months old tradition of the Sun." And the one marked Defendants' Exhibit Ch-21 is an ad of the Sun stating what H. V. Kaltenborn had to say about Mr. Knickerbocker's beat. Defendants' Exhibit Ch-20 is another advertisement of the Knickerbocker beat.

Defendants' Exhibit Ch-19 reads in part: "The Sun scores news beats, big and little, local, national and international—day after day; has given Chicago better news service and more news than it ever had before. And Chicagoans are appreciative of a better paper."

The others that are marked are very much along the same line. They refer to Washington and Chicago news.

Defendants' Exhibit Ch-16, the second paragraph says: "This newspaper has consistently, day after day, scooped the competition on important news stories, international, nationally, state, local. These stories are matters of record."

The Witness: Defendants' Exhibit 13 for identification is a facsimile or photostat of a page of the Chicago Tribune. We got the story of the Missouri lynching as follows: The rewrite man for the telegraph editor got that story from the scene by talking to the officials, and wrote the story in the Tribune office, or wrote the story from the correspondent [fol. 2506] ent's file. Part of the story is from our own correspondent and part of it is a story gathered by the telephone. None of it is AP.

Defendants' Exhibit Ch-30 is the UP story on the same event, which the Chicago Sun ran. Apparently the Sun did nothing to develop the story. Even AP and UP sometimes miss stories, but not of that type. That is a crime, and I doubt if any news service misses a crime such as that. But the coverage was not as full and reliable as we got because of the use of our own staff and our correspondent.

With reference to Mr. Field's complaint about the Roberts report on Pearl Harbor not being fully available to it, Defendants' Exhibit 32 is a photostatic copy of the front page of the Chicago Sun for January 25, 1942 con-

taining "complete text of findings in isle disaster" by the Roberts Board. That was a report of 12,000 words.

As to whether news agencies like AP or UP send out 12,000 words in a report is a matter of the news service editor's judgment. The AP send the report out over their financial wire. The UP offered it in full to any of their clients. Some of the clients chose to have it sent to them over their own wires. In this case the Chicago Sun had it sent over their own Washington wire. It was delivered to their bureau by the UP and sent by the bureau to the Sun here. When a wire service sends excerpts from a long speech or report the telegraph editor or managing editor or whoever is in charge decides whether or not he wants the full text. If he does, he asks the news service to over-head it to him, and the member paper pays the overhead charges. Every bureau in Washington was on the look out for the Roberts report, and the Herald Tribune undoubtedly furnished the whole text. I did not verify that, but I expect they did.

[fol. 2507] With reference to Mr. Field's complaint about a radio interview involving a trans-Atlantic talk between the first American soldier to land in Ireland and his fiancée in Minnesota, saying the Sun did not receive this story, this was a publicity stunt by one of the radio networks, and the interview took place in the afternoon and was open to anyone who chose to listen to it. It was broadcast in Chicago. The Sun could have gotten it from their own correspondent. They could have gotten it from UP or they could have asked the network for it and the press agents of the network would have given it to them. We receive tips constantly from subscribers who listened in to some broadcast and wanted the Tribune to know about it. I have one fellow who listens to subscribers calling up and tipping us off on broadcasts that they think are newsworthy. The Sun has what is called a listening post for overseas broadcasting, usually run on the second page.

Defendants' Exhibit 29 for identification consists of the latest figures prepared by the auditing bureau of circulation, on the circulation of newspapers taking the Chicago Tribune Press Service. It tells whether they are morning, evening, or Sunday papers. The "1" in the second column means the circulation report as of March 31, 1942. They were not all taken at the same time.

Wednesday, May 5, 1943

WILLIAM DONALD MAXWELL resumed the stand and testified as follows:

Further Direct Examination,

By Mr. Kirkland:

The average wordage that we get every night over the AP is about 100,000 words.

Examination by Mr. Neill:

The population of Chicago is about three and one-half [fol. 2508] million. The last census showed about three million and three hundred thousand. Including the suburbs, there is a territory around here of about four and one-half million. As to the effect on a paper with a circulation of 25,000 in a sparsely settled community without AP membership, I think there are great differences in the needs and operations of the small town paper as compared with the paper in a city the size of Chicago. Problems of the two are undoubtedly different. Knowing the problems of the small town paper, I do not think they are the problems of the editor of the Tribune. If a paper with a circulation of 25,000 were not able to take the AP, the UP or the INS service, I think it would buy the C.T.P.S. or New York Times service if it were in the east. Then he would buy Reuters if he felt there was a need in his territory for foreign news. I cannot imagine an editor being shut off from a news service. He would have to have some foreign news, not a great deal. The radio is broadcasting foreign news almost every fifteen minutes of the day. I have known editors in small towns who compile a very interesting report of foreign news from radio reports. A small town paper prints only the highlights of foreign and domestic news. The details of news which the smaller papers use are the details of local news in the community, and to get that there are many avenues open to any editor for getting the highlights of foreign and domestic news.

There are about 50 syndicates selling comics. As to the expense, relative to what it would cost him with one of the news services, I cannot answer yes or no, because it might and it might not be more burdensome, according to what kind of service and how much he wanted. I think the AP is a good buy. I think the UP is a good buy, or the INS is a good buy. I would have to know the problems of the

[fol. 2509] individual publisher before answering such a question. The individual publisher in the small town who has AP gets a very fine service, but I think he gets a very fine service if he has UP or INS and I think he could get a very fine service from CTPC. As to whether his problem would be a more expensive one without one of these three services, it would all depend on what he would want. If he wanted the same service that AP, UP and INS offered him, the same amount of words, it probably would be a problem for him to solve, to get the comparable service that these three press associations now offer him, or any one of the three. The matter of working that out will depend on many factors, the size of the town, the competition that he had, the purposes he had in mind and his ideas of how to serve his community and what kind of newspaper he wanted to get out. There are newspapers that pay very little attention to foreign and domestic news, and are very successful in publishing local news. There are other newspaper publishers who are very successful stressing the domestic and foreign news. It is hard to answer your questions without knowing the individual problems of the publisher. They are different in each instance.

I was wrong in stating that I became City Editor in 1938. Mr. Lee, the Managing Editor, died January 8, 1939 and I did not come on the payroll as City Editor until that time, but I had been acting as City Editor while Mr. Maloney was in Florida.

Cross Examination.

By Mr. Rugg:

The Chicago Tribune carries on its masthead a statement, "The Chicago Tribune, and then we call ourselves the World's Greatest Newspaper". I do not think that is a definition but a characterization. I think it is one of the world's greatest newspapers. Modesty might forbid my [fol. 2510] going further.

Mr. Rugg: There is a discrepancy between the answers of the Chicago Tribune to the interrogatories with reference to the amount paid for services of AP by the Chicago Tribune as against the figures submitted in Defendants' Exhibit Ch-4.

Mr. Kirkland: I imagine the exhibit is more accurate. I will check it up.

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(A copy of the form of contract which CTPS makes with its subscribers was marked Plaintiff's Exhibit Ch-2 for identification.)

The Witness: This form of contract is between the Chicago Tribune-New York News Syndicate, Inc. (CTPS), and not between the Chicago Tribune as a publishing newspaper.

Mr. Kirkland: There is no written contract between the Chicago Tribune as a paper and the Chicago Tribune Press Service or the Chicago Tribune-New York News Syndicate, Inc., so far as the CTPS service is concerned.

The Witness: There is no clause in the contract (Exhibit Ch-2) which states that the service is sold exclusively in a particular area to a particular subscriber, but it is understood. For instance, a salesman for the news service made tentative arrangements or contracts with some newspapers within 50 miles of the Los Angeles Times, and when the home office heard about it he was immediately instructed to break off all negotiations, inasmuch as the Los Angeles Times had for years been a client of the news service, and I know of no instance where the CTPS violates that practice, except the City of New York. The reason for furnishing the New York Times and New York News is that the Tribune [fol. 2511] has had long time contracts and arrangements with the New York Times, contracts that began before the origin of the New York Daily News, and nothing has ever been done in making contracts with the New York Daily News that abrogated any of the provisions of the contract that we had with the New York Times. As to the New York Daily News and the New York Times, I have never heard of any argument or any objection from either one of those two newspapers on that score, inasmuch as they have a very much different field. The New York Daily News has a mass circulation of two million daily, whereas New York Times has a circulation of some 400,000. I do not think the editors of the two papers think that the fact that both get this service hurts them in selling news to their different circulations. That is an opinion of mine and does not carry so far that if in any area other than New York there were two papers in different fields that we would not be bound by our practice of giving an exclusive service to one. I think we would be bound by it. We would keep the service exclusive. No news that the New York Times

gives the Tribune is given back to the New York Daily News and no news that the New York Daily News gives CTPS is sent back to the Times.

As to the Chicago Tribune News Syndicate having access to the full Reuters report through the New York Times, the New York News and the Times both have access to the Reuters report through AP. If the Times used anything from their foreign sources in their news report, it is available to the Tribune and to the Tribune CTPS clients west of the Mississippi, exclusive of St. Louis. Reuters will sell about 50 papers in one city. There is no exclusiveness about Reuters. The Chicago Sun buys Reuters direct from London, whereas AP gets the report of Reuters in New York and then re-services it to their members in this [fol. 2512] country. The AP Bureau in London receives Reuters report and then selects what it wishes and sends it to their New York office for distribution in this country, but the member paper of AP does not get the full Reuters report. It gets only what the AP London office sends to New York, and whatever New York decides to send out in this country. I do not know of any city other than New York in the U. S. where Reuters is now selling more than one newspaper. I do not know of Reuters clients or the details of where Reuters are selling. CTPS and the Tribune would receive from the Times only what the Times incorporated in its cable report. Whether that would be a verbatim lifting of something from Reuters or not, I do not know.

The Times would send out every night 15 or 20 thousand words on a cable report and that is what the Tribune and the CTPS clients west of the Mississippi would receive. The Tribune has access through CTPS and New York Times only to that portion of the Reuters daily report received by the Times which they actually incorporate in their news columns.

We get approximately 100,000 words daily on AP wires. AP has four or five teletype machines in our office, and one of them may be a state wire, one of them may be what they call their financial wire, another may be the trunk line wire on which the general news is sent. How many machines are working each day depends on the allocation made that day by the AP. AP decides how many wires they are using to send a report to us on that particular day. We have duplicate teletypes so we can get two copies

of an AP report, but that necessitates only one wire. With the exception of the Illinois State wire from AP all the other kinds of wires are national in their scope; that is, they are of national interest, not confined to Chicago or the State of Illinois. It includes both domestic and foreign [fol. 2513] news. I will find out how many trunk lines the Tribune has from AP, and the exact number of wires that we get in direct from AP. I do not know that because it is of no moment to us whether we get 90,000 words or 110,000 words. We get very much more than we use. The news of CTPS is edited both in New York and Chicago, with Chicago being the final authority. It comes to Chicago before it goes out. The trunk lines all emanate from Chicago. Stories delivered west of the Mississippi, with the exception of St. Louis, can include things that the stories delivered east of the Mississippi cannot include. We have to have two stories or else we would have to eliminate from the eastern wire some of the material that we would send on the western wire, because we do not re-service the New York Times copy east of the Mississippi. The New York Times services that direct.

We have only about four subscribers east of the Mississippi; Boston, Buffalo, Detroit and Washington, and the New York Times—six including Chicago. We would not send back to the New York Times over CTPS a story we were using on our west wire that had originated in New York. That would be a duplication of everything. We send the New York Times the same story that goes to the Boston Post, the Detroit Press and the Washington Times Herald if it originates in Chicago or from our other members or from clients on our wires. If a story originates in Los Angeles, we would send that to New York and it would be the same story we would send our other clients. The Boston Post would get the same story that goes to the New York Times unless the story originated with the New York Times. We cannot send the Boston Post a story that emanates from the New York Times. A story that goes to the Boston Post is the identical story that goes to the New York Times if it [fol. 2514] originates in Chicago or west of the Mississippi or from our other members or from one of our other clients. We would not send a story which emanated from the New York News to the New York Times but we could send it to the Boston Post. The theory of that is just the same as AP would not take a story from the Tribune and give it to

another or competing member of AP in Chicago. No news that the Tribune furnishes AP is given to one of our competing papers. If a story of prime magnitude occurred in Chicago, of a spontaneous nature, which we put on the AP wire, that story would be sent to members outside of Chicago but not to Chicago members. I do not think we are on any of the direct AP trunk lines. Their trunk lines come into their divisional office and then their divisional office services the Tribune on a full report that they received from the various trunk lines. I think the AP would be a better source of information on the trunk lines than I am. My understanding is that their divisional office might receive in Chicago a long report over their western trunk line and send only part of that report on east, depending on the editing that is done in the Chicago divisional office. I do not understand that anything that would come from San Diego, California, into the Chicago office would come direct into the Tribune. It must go through their divisional office and be edited or into their New York office and be edited.

It is my understanding that news that the Chicago Tribune is obligated to and does furnish the AP is not furnished by the AP to any other AP subscriber in Chicago. My opinion is that it is limited to the members publishing in the City of Chicago. It would not cover the five-state area in which the Tribune is sold. I believe the AP in Chicago would send out to papers in Illinois and Michigan stories which they received from the Chicago Tribune, of a spontaneous origin. If the Chicago Daily News got spontaneous news which it put on the AP wire, that would not be made available to the Chicago Tribune. I am not enough of an expert to know whether, so far as the city of Chicago is concerned, the Associated Press is a cooperative enterprise. I think that is a matter for the by-laws of the AP.

Mr. Kirkland: I agree with you, there is not much cooperation between the AP members in Chicago.

The Witness: If there were two members in the morning field in Chicago, I do not think the AP would take the news from one member and give it to the other member; they do not, in the afternoon field, where there are two or more AP members in Chicago. I have not heard of any different practice existing in any cities other than Chicago. I do not think the practice in Chicago is unique or different from that existing in other cities.

The Washington Times-Herald and the St. Paul Post are the only clients of CTPS which do not have AP. The St. Paul Post, which is listed as a weekly, is a paper which has just become a daily. CTPS furnished it service as a weekly before it became a daily. It became a daily within the last month.

Mr. Kirkland: The CTPS does not any longer serve the Macon News-Telegraph.

The Witness: As to the character of news which the Chicago Tribune furnishes the CTPS, I looked over last night's report when I was in the office, and we furnished to CTPS last night stories from our London Bureau, stories from the North African war front, stories from several of our correspondents in the United States. The correspondents referred to were the 947 domestic correspondents [fol. 2516] I testified yesterday we had. We do not furnish any news of spontaneous origin emanating from the City of Chicago. CTPS carries no news emanating from Chicago of a character which we are obligated to furnish AP, but a great percentage of the Chicago news will not fall into the category of news of spontaneous origin, so that CTPS can be furnished with a great deal of Chicago news. A couple of weeks ago we had a series which ran ten days, detailing the invasion of union labor by the gangsters in Chicago. That news would not fall under the category of spontaneous origin, but it would be Chicago news. It was news that originated through the individual enterprise on the part of the Chicago Tribune. We try very hard not to violate any of our obligations to AP.

I cannot state whether any of the news we get from the 947 correspondents which we have scattered throughout the country is news of spontaneous origin. Many of our correspondents are employees of newspapers; and I do not think that any of our correspondents would knowingly send to the Chicago Tribune a story which they were obligated to turn over to the AP. Assuming that one of our correspondents was an employee of a member of AP in Aurora, Illinois, and assuming it was not a violation of AP by-laws for him to furnish the Tribune with news of spontaneous origin from Aurora, the news which we would receive from the correspondent would have been obtained through the efforts and initiative of that correspondent. It would not be the same news report which that member paper on which

this correspondent worked had turned over to the AP in fulfilling its obligation.

With reference to Section 5 of Article VIII of the By-Laws of the Associated Press which provides that no member shall furnish or permit anyone in its employ to furnish [fol 2517] to any person who is not a member the news of the corporation in advance of the publication, I say that we never knowingly receive nor do I think the correspondents knowingly send to the Tribune the same story of spontaneous origin which that member paper has turned in to the Associated Press, but through the individual efforts and initiative and news gathering facilities of our correspondent, the Tribune may receive news of an event in that locality. The Tribune receives, and CTPS receives, spot news from correspondents throughout the U. S. I cannot testify as to whether or not that spot news is the same report or the same news that that member has turned in to AP, but I might hazard the opinion that no correspondent of the Tribune ever turns in to the Tribune the identical news report which his employer, whom you assume to be a member of the AP, has turned over to the AP in the fulfillment of its obligations.

(The home edition of the Chicago Daily Tribune for Wednesday, May 5, 1943, was marked as Plaintiff's Exhibit Ch-3 for identification.

The final edition of the Chicago Daily Tribune for May 5, 1943, was marked as Plaintiff's Exhibit Ch-4 for identification.)

Referring to Plaintiff's Exhibit Ch-3 for identification, this edition carries a six-line headline: "Fear 13 dead in Arms Blast." That was an AP item. Now, as to Plaintiff's Exhibit Ch-4, which is the final edition, there is a one-column headline entitled, "15 Are Killed, Scores Hurt in Arms Blast." This bears the same date line, Elkton, Maryland, as the AP item on Plaintiff's Exhibit Ch-3 but has the word "Special" in parentheses after the date line. The word "Special" means that the second story which you refer to was sent to the Tribune from one of our eastern correspondents. He may have been one of the 947. It may [fol. 2518] have come from the New York Times report or the New York Daily News report. All three sources are available to the Tribune. The story was undoubtedly AP in the first edition. The story in the final edition was another

story of the happening from another service; the editor picked it instead of the AP report because he wanted an exclusive story. He thought this special report was a more vivid or more interesting or more accurate story than the story sent by the AP. That is one of the strong arguments for having a special service like the CTPS, because the editor has the choice of several stories. When we publish news emanating from the New York Times Bureau we do not give them credit for the source. That may have come from a half a dozen different sources. It may have come from the Tribune's correspondent in the Times Building, and the Tribune correspondent may have re-written the Times story, or he may have sent us the Times story as it appeared in the Times. Somewhere in the preparation of this story the Tribune man, or Tribune enterprise, has made this story a better story than the story sent over the AP wires. It may have more facts, it may have a different treatment, it may be shorter or it may be longer. That depends on the judgment of the man who prepared it and the man who received it.

As to whether the story in the final edition, Plaintiff's Exhibit Ch-4, is news of spontaneous origin, the actual fact that 15 workers were killed and 54 were injured, that actual fact is of spontaneous origin. The story about how big the factory was and when it was founded and other facts in the story probably are not, but are background and all knowledge, and they are the effort of the reporters used in collecting the news. There are four facts in the special item, Exhibit 4, which do not appear in the AP story, Exhibit 3. [fol. 2519] The special story says, "A statement issued by Army, Navy and Company officials, all of whom were investigating, in addition to the FBI, said that five of the injured were in a critical condition." That is not written in the first story. The second story says that Maryland State Guardsmen patrolled the streets. That is not in the first story. The special story tells about members of the Red Cross having an annual meeting and party when the blast occurred and about their rushing home to change to Red Cross uniforms and serving the refreshments they had prepared for the party to the rescue workers instead. That is not in the AP story. The second story tells of the fact that traffic was halted a mile from the blast scene and at darkness only those admitted on relief and rescue work were allowed to pass. That is not in the first story. I see

in the second story—this is the fifth point—“About the streets of the city, citizens gathered and talked in anxious, subdued tones. Almost every family here *was* a relative in some section of the plant.” That is not in the first story. I would say this story is an improvement on the first story, and that the editor’s judgment was correct in the picking of it.

There may be stories different in quality, all stories of spontaneous origin; one can be an improvement on the other and both still be of spontaneous origin. A mediocre reporter would not turn in as good a story as an experienced reporter. That is why our news service is sometimes better than some AP reports. As to the special story in the final edition, I repeat, the fact that 15 workers were killed and 54 injured is news of spontaneous origin, but the additional facts which I have read to you are a matter of initiative, observation, and effort of the reporter, which is not news of a spontaneous origin. So that this story, which appears under a special headline, has color, descriptive and addi-[fol. 2520] tional facts which make it not spontaneous. If this story had originated in Chicago we would have turned the story over to the AP as a happening in Chicago, which we think would have had color, and statements, and background in it. But another reporter on the Tribune, who happened to be a correspondent for some other service, might have written a very much different, a more interesting, colorful story than the one which we turned in to the AP. It would not take away from the fact that the 15 people being killed in Chicago was news of spontaneous origin, but the treatment of that news would not come under the heading of spontaneous origin.

We give AP a report collected by the city editor’s staff. I do not know whether that is going beyond the by-laws.

Referring to Plaintiff’s Exhibit Ch-3 for identification, the story entitled “General and Bishop Killed” was an AP story. The foreign story, “Here’s How 6 U. S. Warships Routed 12 Japs”, was an AP story. The story of the Elkton explosion was an AP story. The story relative to the Ruml tax success emanated from our Washington Bureau. The story about a break in the Joliet prison, Illinois, was covered by one of our staff reporters stationed at the Chicago office. The story, “Navy Reports Chicago Marine Among Missing” was an AP dispatch. The eight-

column story from North Africa was an AP dispatch. So that on the front page of the home edition of the Tribune today one column of space is a cartoon; two columns of space are the news summary, which is both an index and a summary; one column is a Tribune staff story; and four columns are AP stories.

The news summary, which is also an index and a historical scrap book, is a news report for the busy man who does not have the time to read the entire paper. It is pre-[fol. 2521] pared by the Tribune. This form of news is available on CTPS. We do not send the page number out, of course, but we do send a news summary from CTPS which the editor of our client's paper can use. We do not send out the news summary as it appears in the Tribune. We send out a news summary on CTPS every night of the news for the use in the client's paper, if he wants to use it. It might be a paragraph in length, or it might be a sentence.

All foreign news, with the exception of the news summary, on the front page of today's paper, was of AP origin. There are four domestic stories on the front page and three of them are of Tribune origin. The prison break in Joliet does not come to us on the AP service. And the other domestic news on the front page, other than the Washington one, is of Chicago origin and does not come to us on the AP service.

On the second page there is a run-over on the Jap story, which is an AP story. Then there is the story about a bomber crash in Idaho, which is an AP story. There is a short item of an automobile accident which is of course of local origin and which does not come on the AP service. So the stories on the second page are all AP, with the exception of the one of local origin.

On the third page, omitting the advertising, the first column of news is by one of the local staff men who was sent to California to do this particular story. He was out there when this was written. The next item is of local origin. In the next column, referring to some Guadalcanal military action, is an AP story. And in the next column, referring to some military action in England, is an AP story. So that there are three and one-half columns of news matter on page three and two columns of it is of Tribune origin. There are five stories on the page; two of them are definitely local and consequently do not come over AP [fol. 2522] wires, two are AP, and one is Chicago Tribune.

The Witness: Now, will you take our final edition of that same issue and look at the front page and let me tell you how many stories are of Tribune origin. That is on the same day.

Mr. Rugg: Certainly.

The Witness: On the front page the first column is of Tribune origin. That is the same column that was in the first edition. The second column is of Tribune origin, and was in the first edition; that is the news summary and index. The third column is of Tribune origin and was not in the first edition. The cartoon is the same as in the first and is of Tribune origin. The story of the Joliet break is rewritten from the first edition and is of Tribune origin. The next column is a local story of Tribune origin. The sixth column is of Tribune Press Service origin. It does not show that it comes from one of our correspondents. The story of the Elkton Blast, even though it came verbatim from the New York Times, would be carried on the CTPS west of the Mississippi and exclusive of St. Louis. The story of the Elkton explosion was probably carried on our eastern wire. I would have to verify that. The seventh column in the final edition is a full column of Tribune origin from our foreign correspondent in North Africa. The only AP story left on the page is the story—or the two stories in the eighth column.

On page two, the first news story on the left in the second column is the story of Tribune origin, which was in the first edition, on how we bombed Tokyo. The two stories in the fourth column were of AP origin, and the story in the sixth and seventh columns is of Tribune origin, from one of our staff men, sent to Sioux Falls, South Dakota.

[fol. 2523] On page three, there is now only one story of AP origin and the rest of the page is taken up by maps created by the Tribune and descriptive of the AP story. The maps are all of Tribune origin, and there is one Acme Telephoto.

We sell the most of the final edition. The circulation of the final edition is about twice that of the first edition. I cannot answer yes or no to the question of whether the Chicago Tribune receives from its correspondents, that is, the 947, news of spontaneous origin, regardless of whether the correspondents are employees or connected with papers that are members of the AP. I do not know how

many of the 947 correspondents of the Tribune work for a member of the AP. Some of our correspondents are in the State of Illinois. In Alton, there is George Leighty. His address is the Alton Evening Telegraph, a member of AP. In Alton we also have Glen Averill. He is also with the Alton Telegraph.

In Aurora we have the City Editor. Aurora is only 40 miles from Chicago. In Belleville we have Al R. Schmidt. He is connected with the Daily Advocate, which is an AP member. At Benton we have Paul R. Lyon who works on the Evening news, a member of AP. We also have a substitute there in Benton, a Mr. Comstock, Jr. There is nothing to show whether or not he is on a paper. At Bloomington we have Cyril Sheppard. He does not work for a paper. At Cairo we have H. F. Ulsh who is connected with the Cairo Citizen, a member of AP. At Canton we have J. A. Murphy of the Canton Ledger, which is a member of AP. At Carbondale we have J. E. Mitchell, Jr., of the Free Press, a member of AP. At Centralia we have Jack Daniels and Gene Dillinger. Jack Daniels works for the Sentinel, a member of AP. At Champaign we have Harry A. Hills, who is not connected with the paper. I don't know what other connections he has, but it is not [fol. 2524] a full time job. None of these correspondents are full time. At Champaign, we have two or three correspondents in the University of Illinois, and we get information from the press agent of the University. In Charlestown we have Lee Lynch of the Charlestown Daily News, a member of AP. At Danville we have W. C. Hackman of the Commercial News, a member of AP. At Decatur we have Robert C. O'Neill of the Decatur Herald, a member of AP. At Dixon we have Frank A. Elmer who is agent of a Rockford paper. I don't know what that means. At DuQuoin we have Charles Rogers of the DuQuoin Evening Call, a member of AP. Elgin is covered under the City Editor's territory. We do not have a correspondent at Flora. At Freeport we have T. F. Lawless of the Journal Standard, a member of AP.

Mr. Lawless has not checked in for two or three years, so I don't know whether he is still there or not. That does not mean there has not been any news worth of using a correspondent. It means that we have gathered news by telephone from the Tribune office going direct to the source.

Correspondents are kept as insurance in a great many cities and places, and we gather news by our staff men, using the telephone, which has become very efficient.

At Galena we have Ray Grimm of the Galena News, or rather, the Galena Gazette, a member of AP. At Galesburg we have Florence Merdion with the Register Mail, which is a member of AP. At Jacksonville we have H. H. Bankroft, who has been our correspondent for 25 years. He is not connected with a paper. He is the only correspondent we have in Jacksonville. Joliet is covered by the City Editor. At Kankakee we have Robert J. Hawkins of the Kankakee Republican News, a member of AP. At Kewanee we have C. R. Ketrledge, care of the Star Courier, [fol. 2525] which is a member of AP. At LaSalle we have Roger Noon, with the Post Tribune which is a member of AP. At Lawrenceville we have Gordon Thompson with The Daily Record, a member of AP. At Lincoln we have L. B. Shroyer with no connection with a paper. At Macomb we have Louis A. Randolph, Managing Editor of the Daily Journal, which is a member of AP. At Moline we have Jack Thompson of the Dispatch, a member of the AP. At Monmouth we have Harold L. Herman, Professor of Journalism in Monmouth College. At Mt. Vernon we have Orien Metcalf with the Register, a member of AP. At Ottawa we have Miss Edyth White with the Daily Republican Times, a member of AP. At Peoria we have Fred Turk with the Star, which does not appear to be a member of AP. Peru is covered by George Noon at LaSalle. At Quincy we have Dave Tuffli with the Herald Whig, a member of AP. At Rockford we have Henry Ehle with the Morning Star, a member of AP. At Rock Island we have D. E. Wheeler with the Daily Times. The Argus is a member of AP but the Daily Times appears not to be. At Springfield we have our bureau during the legislature. We do not have a correspondent at this particular moment. When the legislature is over I will appoint one. At Sterline we have H. E. Kidd of the Gazette, a member of AP. At Streator we have M. H. Reed, no business affiliation given. At Taylorsville we have H. A. Burchfield, no affiliation given. At Urbana we are covered by Mr. Hill, the same man I gave you from Champaign. Waukegan we cover with our own staff.

As to whether out of 45 cities or towns 12 cities in which we have correspondents that are not employed by or con-

nected with any paper that is a member of AP is a fair average of the 947 correspondents located throughout the country, as to their connection with AP members, I have no way of determining. I do not know whether the AP [fol. 2526] has the same number in other states as in Illinois. We have more string correspondents in Illinois than in any other place.

In Boston we use the Boston Post, which sends its news to the CTPS. It is a member of AP. We have a string correspondent in Boston, Nathan Levinson of the Boston Globe, which is a member of AP. We have a man named Ernie Hill who is available to us. He was our correspondent at Oklahoma City. I don't know what paper he worked on. At Worcester, Massachusetts our correspondent is Francis P. Murphy of the Telegram, a member of AP. All the employees of the Syndicate or of the CTPS are in the Tribune office, and the Tribune office is a member of the AP. The fact that the people work for these different papers is acceptable. We do not ask whether it is an AP paper or a UP or an INS paper. We want them to be a good newspaper man, or woman.

We would not take a story from any of these correspondents who are employed by or connected with AP members if we knew it was a violation of any of the rules or obligations of the AP imposed upon the employer, nor would they send the story in violation of the rules. Referring to the rules contained in Article VIII of the AP by-laws, I do not know what was in the minds of the men who founded AP, but I think the increased efficiency of the telephone and the Western Union and the Postal and the radio have made it possible now for a paper anywhere, in any place, to gather news so cheaply and so quickly that that rule has lost a great deal of its importance, the importance that it apparently had in the minds of the people who framed it. I mean that it is now possible for a paper, such as the Chicago Tribune, to gather news from any place, either in the U. S. or abroad, without depending upon a report turned in to the AP by a member newspaper in the locality where the news occurs. A strict enforcement [fol. 2527] of that rule to the letter is not essential to the operation of the Chicago Tribune. There are hundreds of other factors more essential to the operation of the Chicago Tribune as a successful newspaper than the

operation of that rule. Fifty per cent of the AP reports of today of important news comes from war fronts, where the initiative and effort of an individual AP reporter is the sole origin of the news, and there are no members giving out reports at all. This is, *or* course, my opinion. It could not be taken as the opinion of the Tribune publisher.

As to whether the AP service would be as valuable to us without the rule as it is with it, I would have to see the AP reports under those conditions to make a comparison, but my judgment is that the Chicago Tribune can obtain domestic news without the enforcement of that rule, if that is an answer to your question. I cannot tell you that as of tomorrow, without the rule it would be as good a report as with the rule, but I can tell you that the Chicago Tribune would get domestic news without any rule.

As to whether the Chicago Tribune could get domestic news more easily if it were not a member of AP if this rule were not in force, I have explained that we do not ask any of our correspondents to give us news which he is obliged to supply to this corporation (the AP). We only ask our correspondent to give us news which he originates and which he gathers on his own initiative, his own ability and his own background. I do not think it would be easier for the Tribune, if it were not a member of the AP, to get its domestic news coverage without this rule than it would with the rule. It would not be easier for the Chicago Sun to get domestic coverage without the rule in force than with [fol. 2528] the rule in force because if the Sun will pick out 947 correspondents in the U. S. equal in ability and energy to the 947 correspondents which the Chicago Tribune has picked out, it will receive adequate coverage, or else the editor has not picked the right correspondents. I do not know whether the Chicago Sun could pick 947 correspondents that are equal in energy or performance to the correspondents that we have, if they were excluded from picking any correspondent connected with or employed by an AP member. That is too broad a question.

There are some 900 UP papers, many of them—or at least some of them—AP members also; and there are 200 or 300 INS clients, some of whom are AP members, I suppose. The Chicago American has been an AP member lately. It was not for 32 years, from 1900 to 1932, but it is

today. I do not know how many good newspaper men there are in the U. S. who do not work on any newspaper, or who do not work on papers having AP memberships, but I could find out. I am sure I could find 900 good correspondents in the U. S. who are not working for AP newspapers. When we picked our correspondents in Illinois we picked 34 who were employed by or connected with AP members, out of the total 45, without knowing beforehand whether or not they worked for AP members. I just picked good newspaper men. My card index does not show whether they work for an AP, UP or an INS member. It just happened in the State of Illinois that 34 out of 45 were connected with AP members. It might just as well have happened that they were working for papers taking UP or INS service.

I cannot tell you any state where the ratio is different than in Illinois because I have not made an examination. I could make such an examination. I will venture no opinion because I do not know. I make no implication that the ratio is different.

[fol. 2529] I do not think that the correspondents of the Chicago Tribune ever sent the Chicago Tribune any news which is in violation of the rule. When the correspondent sends us a story, I do not think he sends us the same story which his employer, being a member of AP, has turned over to AP. I do not know whether that would be a violation of the AP rules or not. A story which the paper has turned over to AP in fulfilling its obligations to AP might be a better story than the correspondent by his initial effort could get. In another case, the correspondent might get a better story. The CTPS furnishes to its subscribers news that the Chicago Tribune gets from its string correspondents, in whole or in part, but maybe not in the exact form which the correspondent has turned in to the Tribune. These stories which come from the correspondent are edited, revised, and re-written by the Tribune. They may be amplified or they may be boiled down, and the CTPS receives from the Tribune the news which the Tribune uses, but it may not be the identical news which the correspondent has turned in to the Tribune.

This news is furnished to all of the 17 subscribers of the CTPS, leaving out the New York Times office, and the New

York News office. This news goes to the Washington Times-Herald, and the St. Paul Post.

The news which the Chicago Tribune receives from its own correspondents, after it has been edited by the Chicago Tribune, is given to the CTPS which in turn furnishes it to all of its clients. Unless there is some restrictive feature, such as we have talked about, the New York Daily News would not be given to the New York Times or vice versa. The same story goes to the Washington Times-Herald from CTPS as goes to the Boston Post, unless it should be news of origin from the New York Times, because we would not sell the news of origin from the New [fol. 2530] York Times to the Washington Herald because it is east of the Mississippi.

As to whether the Washington Times-Herald gets identically the same story that CTPS sells the Boston Post, it might be or it might not be, because the Boston Post may have asked the CTPS to feature some Boston angle. That would be on exchange of query back and forth.

As an example of the handling of the regular routine story that is delivered regardless of queries, if our correspondent in Keokuk, Iowa, turns in a story to the Tribune which is the result of his individual effort, that story is edited and is furnished to CTPS; and that story would go to the Washington Times-Herald and the Boston Post. A story that came from our correspondent in Rockford to the Tribune, after it had been edited or altered, would be furnished the CTPS and it would go from CTPS to the Washington Times and the Boston Post.

As to whether the Chicago Tribune values very highly its membership in the AP, I testified yesterday that AP is a splendid news-gathering organization, but I did not say the best. I cannot say that AP, as a blanket service, would be the better or the best in comparison with the other services on all types of news. It may be on certain types of news and it may not be on other types of news. Because of the fact that the Chicago Tribune from the founding of the AP has used the AP, and has made the Associated Press valuable in Chicago to the morning readers, I think the AP is of more value to the Tribune than any other news service would be. But this is because of the importance and value which the Tribune has given the AP to its readers.

I do not know whether it is true that UP maintains but one trunk line to Chicago during the night for morning papers in comparison with more than one that AP maintains into our office. I do not know what the capacity of a [fol. 2531] trunk line is; I don't know whether one trunk line could bring all the news that we want to use or whether it would take four. Asked whether we had four or five lines during the night, I said we have many teletypes in there and I think there are two AP wires, a financial wire (I do not know whether that is a trunk line or not), a sports wire (I do not know whether it is a trunk line or not), and a general news wire (I do not know whether it is a trunk line or not). So I don't know whether one trunk line or ten trunk lines would serve our purposes.

Assuming that UP maintains but one wire into Chicago during the night for serving the morning paper, I can only answer whether that would be a factor in deciding that AP was a better service for the Chicago Tribune if I know how many words one wire can bring in to the Tribune. If one wire UP used to bring news into the Tribune were sufficient that is all we would ask. I do not know the number of wires or the volume it is possible to carry on a wire.

As to whether AP has more than one wire to the Chicago Tribune during the night, I think it does, but I know we have more than one teletype working. You understand that one wire is able to carry two or more reports at one time. I am not an expert, but I understand they have what they call duplex wires. As to whether I would consider the fact that if more than one wire was coming into the Chicago Tribune, if UP had only one wire during the night for a morning paper into Chicago, whether this would be a factor in making AP a more desirable service, if you are saying that UP is only able to bring in half of the reports that AP is bringing in, and I consider the difference in volume as being important, I would then object to the UP and ask them *in in* [fol. 2532] crease their file. I can not tell you what the UP delivers to the Tribune in Chicago, whether it would be adequate or inadequate, until I saw the file which the UP delivered.

The Chicago Times is a tabloid. Since I have been working for the Chicago Tribune, the Journal and the Post, which are Chicago afternoon papers, have gone out of existence. The Journal was purchased by the Chicago Daily News and ceased publication. The Chicago Evening Post was pur-

chased by The Chicago Daily News and ceased publication. Both were AP papers. As to whether the circulation of the Tribune increased, when these papers folded up, in a way which I attributed it to the cessation of publication of these afternoon papers, I would have to have the figures from our Circulation Manager for that specific time. My memory is not accurate upon that because I do not deal in circulation figures as of today and of yesterday. As to whether we jumped 10,000 papers on the day The Journal folded, or whether we lost 10,000 papers, I cannot give you that without access to our circulation figures. I cannot tell you that we increased 5,000, 10,000 or 20,000. We may have had that increase, I don't know. I have a recollection that we had a gain in advertising. Without consulting the records or asking the experts on the Tribune, I can not give you an answer as to whether we had an increase in circulation.

On advertising, if a local store had a budget for local advertising and there was one less paper to spend it on, one or all of these surviving papers would share in that. That is just as true with the purchaser of a paper. A man may allocate ten cents a day to the purchase of newspapers, and if he can not buy the Journal or Post, he could spend the money on buying the Tribune. But I have no present [fol. 2533] memory as to whether there was any effect on the circulation of the Tribune as the result of the folding of those papers.

It is too broad a question, whether Acme Pictures service is as good as the AP picture service. I think we publish more AP pictures than Acme pictures. Referring to Plaintiff's Exhibit 4 for identification—the final edition—, on page 1 there is neither Acme nor AP. On page 2 there is a Tribune photograph. On page three there is an Acme photograph. On page seven there is one Acme photograph and one released by OWI. OWI photographs come from either AP or Acme. I could not tell from which we got that one unless I investigated. It was probably Acme. On page nine is an Acme photograph. On page eleven is an AP photograph. On the Tribune's picture page there are three AP photos and eleven Tribune photographs. One of the Tribune photographs is a local photograph and nine of them are taken by Tribune staff photographers at the Army maneuvers. On page 13 is a Tribune photograph. On page 14 there is one Tribune photograph, local and one AP photo. On page 18 there is one Tribune photo; on page 19, one

Tribune photo—or rather, two tribune photos; on page 21, one Tribune photo; on page 23 is one photo from a correspondent, a Welbourne photograph, and one Tribune photograph; on page 24 are two Tribune photos; on page 25, four Tribune photos taken in our color studio; on page 29 are four Tribune photos; on page 31 are three Tribune photos; on page 32 is one Tribune photo; on page 33 is one Tribune photo; on page 35 is one Tribune photo; on page 36 is one Tribune photo, and one from the Tribune morgue; and on the back page there are eight columns of Tribune drawings by staff artists, fashion drawings.

The Tribune probably uses more AP photographs than Acme photographs. That is not true of the Sunday paper. [fol. 2534] The Sunday paper uses a great many more pictures purchased from other picture agencies than it does from AP or Acme.

Redirect examination.

By Mr. Kirkland:

If the press service of the Tribune has a customer or client in New York or Massachusetts, or somewhere east of the Mississippi, the CTPS will make arrangements with a client such as those to get service direct from the New York Times. That is one of the values of having CTPS service. They will get that service for the client on the request of the CTPS. That is particularly true in Detroit.

As to spontaneous news: a fire in the Stock Yards would be spontaneous news. If I sent a man out to make an investigation as to whether the fire were of criminal origin, that would not be considered spontaneous news, nor would the background and the history of the Stock Yards where the fire might have occurred.

Referring to the complaint, on page 16 in paragraph 51 the Government says that the AP morning service to Chicago, its report, consists of 273,000 words; and referring to page 23, paragraph 63, it says that the UP in the report to Chicago consists of 264,400 words. The two figures are so close together that the question of wire service would not enter into it. It is also true that the number of wires is not a test of a news report. They apparently get the same number of words here.

273,000 words may be the number of words received in the AP district office rather than the report sent to the Tribune.

The Chicago Post, for five years before its final death, had been a declining paper, and that is true of the Chicago Journal.

[fol. 2535] I waive the reading and signing of my examination before trial, and the attorneys agree to this.

It was agreed by the attorneys that Mr. Behfeld should send the original examination before trial, with the exhibits, to Mr. Bonyng, in New York so that Mr. Bonyng could file all of them at one time with the Clerk of the Court.

[fol. 2535a] N. Y. Trib. Miller

[fol. 2536] U. S. vs. AP

ABSTRACT

Deposition of Albert V. Miller,
New York Tribune, Inc.,
New York, April 14, 1943

Direct examination.

By Mr. Pfeiffer:

I am treasurer of the New York Tribune, Inc. and have been treasurer for over two years. The New York Tribune, Inc. is the publisher of the New York Herald Tribune, a morning newspaper published in the City of New York. It was founded somewhere back about 1860 as The Tribune. It became the New York Herald Tribune in 1926 when it absorbed the New York Herald. It is a member of AP and has been for many years. I am appearing pursuant to a subpoena.

The average daily circulation for January, February and March of 1943 was 296,958. I do not have the figures by individual months. The average Sunday circulation for those three months was 551,318.

It is a subscriber to the news service of the United Press Associations and has been since 1929. It is not a subscriber to the news service of Reuters, Limited nor is it a subscriber to any other news service. I have prepared a statement showing a comparison of AP and UP material published in the New York Herald Tribune for the week of March 14 through March 20, 1943. In the six issues of the daily paper AP had 106 columns of news and 75 columns of tables, that

is financial tables and related tables. The financial tables include the stock quotations—the Big Board, the Curb and the bonds and certain related tables. In the same six days we had 20 columns of UP news; we do not get any tables from UP. In the one Sunday paper of that week we had [fol. 2537] 21 columns of AP news and 13½ columns of tables, and we had one column of UP news.

The expenditures by the New York Tribune, Inc. for the year 1942 for the collection of local New York City news were \$808,296.48. That figure includes \$27,741.74 that we paid to AP and that we listed under local news cost. The figure of \$27,741.74 was part of the assessment of AP which was allocable to the collection of local New York City news. The total expenditures of the New York Herald Tribune in 1942 for the collection of Washington news was \$87,538.36. For the same period the total cost of domestic news other than the local New York City news and Washington news was \$74,513.46 and the total cost in 1942 for the collection of foreign news was \$181,663.21. I am not sure whether this figure includes amounts paid for cable and wireless and other charges for transmission of foreign news from abroad to the U. S. I will check that. New York Herald Tribune paid AP for the year 1942 the sum of \$86,530.78. The amount paid AP for the year 1942 is about 8% of the total amount paid by the New York Herald Tribune in 1942 for the collection of news.

At the present time New York Herald Tribune employs 83 people in collecting local news in New York City. The number employed in collecting Washington news is 10. Those employed in collecting other domestic news, that is, other than local New York City and Washington news, is 131. The latter figure includes active string men and correspondents. These are scattered all over the U. S. We have at present 11 foreign correspondents who are regular staff men. They are the only ones who supply us with foreign news except such as we get through AP or UP. We have no arrangements with foreign newspapers for the exchange or purchase [fol. 2538] of news. We are subscribers to the Dow-Jones ticker service, which is a sort of printer's service that picks up spot news of interest. It is more of a tip service or a condensed service which relates almost exclusively to the financial field, and it runs into our financial news department, which is a part of our local New York City news.

In addition to Dow-Jones we also have a Washington news ticker service. It covers certain financial as well as sport news. This is more in the form of a bulletin or news letter tip service. In Washington we have an arrangement with the Washington City News Service which furnishes a news service to our bureau. It is a bulletin service of local things in Washington. Then we have the Urner-Barry reports which cover news on the produce market for our financial news department.

We have a somewhat similar arrangement in the London bureau with the Exchange Telegraph Service which furnishes the London bureau with a local news bulletin service. In our bureau in Buenos Aires we have a similar arrangement with the agency of the Saporiti Service. That is a sort of local bulletin service in Buenos Aires. Those are the only types of services we have. Our 11 foreign correspondents are located in London, Moscow, Buenos Aires, North Africa, India, Australia and with the Naval Task Forces in the Southwest Pacific.

The New York Herald Tribune maintains bureaus outside its main office here in New York at Washington, London, Moscow, and Buenos Aires. All these bureaus are engaged in gathering news. There are 10 employees in the Washington bureau. I am not referring now exclusively to those who gather news but to the total number of employees and include three office people, making the total 13. In the London bureau there are 5, in the Moscow bureau one, as far as I know, and in the Buenos Aires bureau there is one. Immediately preceding the outbreak of war in September 1939 the Herald Tribune had 11 foreign correspondents, which was substantially the same number for several years preceding 1939. There were, in the period from 1933-1939, our bureaus in Rome, Shanghai, Tokyo, Manila and Berlin. To the best of my recollection, we had those as far back as 1933. They are all closed as a result of the war. We had at least one man in those bureaus during that period. I do not have the total number of employees which we had in each of those now extinct bureaus. In the period before the war the only arrangement we had with any foreign paper for the exchange or purchase of news was with our European edition that was published in Paris. The Herald Tribune published a newspaper in the City of Paris, France. This was until June of 1940. That paper was called

the European Edition of the New York Herald Tribune. It had its own staff. I do not know the size of its staff and I do not know whether it had correspondents and reporters in France. I know they had men in one or two spots. I could not tell you how extensive that was. That was a newspaper published in France and primarily containing American news. It was published in the English language. I do not recall its approximate circulation. I think at one time it ran about 30,000.

With the United States military forces we have correspondents with the men in Africa, with the men in England, and in Australia, covering operations. There are seven men that you might say are assigned to the field. That includes one man with the Naval Task Force in the Southwest Pacific. The others are scattered at various places around the world.

The Herald Tribune has a syndicate service. Within our organization we just call it the syndicate news service. The [fol. 2540] total revenue derived by the New York Tribune, Inc. from its syndicate service, including all features, during the year 1942 was \$388,424.37. I believe the Herald Tribune has been a member of AP since 1900. The New York Tribune, Inc. has no ownership relation to a publication called "This Week". The Herald Tribune is one of the participating papers in that group, under an arrangement by which we purchase so many copies of "This Week". This Week is a magazine section for Sunday newspapers, which is distributed as part of the Sunday papers by 20 odd newspapers around the country, including the New York Herald Tribune. We get so many copies which we order each week to go with our newspaper, and for which we pay This Week organization. The organization calls itself the United Newspapers or United Publications. It is a supplement to the Sunday paper.

Cross-examination.

By Mr. Lewin:

New York Tribune, Inc. took from UP during 1942 their general press service, both domestic and foreign, but none of their features, just news. We took everything that UP supplies to any newspaper in the general news field. We take the general news wires and the financial services, sport services and all other categories that are generally avail-

able and not among their features. This is true during the entire period that we subscribed to UP services.

It would take me quite a while to make a breakdown of the expenditures in 1942 for the collection of New York City news. I can tell you generally the type of expenses included in there. They are the salaries of staff people, the payments to string correspondents, those items of the press services charged to local news gathering, traveling expenses, telephone and telegraph, items like stationery and printing and miscellaneous office expense. It does not include any of [fol. 2541] the administrative expenses of the Herald Tribune such as the over-all expenses of the managing editor and his staff and the editorial writers and the editor. That is just the expenses we charge directly to the news-gathering part of the staff. It does not include the salaries of officers but it includes the salaries of the city editor and his assistants and men of that type, but none of the officers. I do not have the figure for full time reports segregated here. Our item of salaries includes all reporters and the city editor and people of that type in one lump sum of salaries. I have not got a breakdown of that.

We have some part-time reporters reporting news in New York City, such as district reporters that are part of the city staff. There may be others also who work for other newspapers. I could not name them offhand. I cannot tell you how many payments to string men were included in the figure of \$808,000 for collecting local news in New York City. I would have to have that analyzed. This figure of 83 people gathering local news in New York City does not include string men. I cannot give you the dollar amount paid string men during the period unless I had it broken down. I do not believe we had any string men in 1942 collecting Washington news. The figure which I gave for cost of collecting Washington news did not include compensation to string men. To the best of my recollection there were two regularly salaried staff men collecting domestic news in the U. S. outside of New York and Washington during 1942. One of these would be Mr. Steele in Washington, and the other would be Mr. Bates in Albany. He is in that capacity now and was in 1942. I do not recall their salaries offhand, but to the best of my recollection Mr. Steele gets something around \$75 a week and Mr. Bates gets \$55 a week. Their compensation is included in the total compensation figure

[fol. 2542] for the news gatherers outside of New York and Washington, which was \$74,513.00; and generally the rest of the compensation was to string men scattered over the U. S. So of the figure of 131, two were regular staff members and 129 were string men. A string man is a man who sends news material in on a space basis and gets paid accordingly, according to the space that he sends in that is ordered. I have not classified Albany as a bureau, or Chicago.

Outside of New York and Washington, the only places where we have news gathering facilities are Albany and Chicago, and then we do have somewhat of a regular arrangement with a man in Hollywood. He is not exactly a string man, he is paid on sort of a guaranteed or somewhat of a fixed basis. He is not a full-time Herald Tribune man. He gets a flat amount per week for sending in news from Hollywood. His name is Thornton Delehanty. I do not know whether he is employed by some one else. I do not know whether he is connected with the Los Angeles Times Mirror. Hollywood is limited entirely to the movies. So far as general news is concerned, Albany and Chicago would be the only places in the U. S. outside of New York and Washington where we maintain news gathering facilities on a regular basis. For gathering Boston news we have a sort of string man arrangement whereby if anything comes up, they query one of the Boston papers or some one in one of the Boston papers. I think we get queries from one of the Boston papers that produces some sort of a news service. I do not know the name of the paper. It may be The Boston Herald. I am not sure whether we query an individual or whether we query the news service of one of the Boston papers, but it is the only arrangement we have in Boston.

As far as I know, we have nobody regularly in Detroit. I do not know which particular paper our news department [fol. 2543] would query. I do not know whether it would be an AP member or not. I do not think any of my associates here would have the answer to these questions. With respect to collecting news in Kansas City, we would query somebody out there if anything came up and they wanted a special coverage on it. We would query if they had a string man out there and find out from some papers whom to query. The same arrangement is true in St. Louis, Los Angeles, San Francisco and Seattle. I could not tell you

whether the query is addressed to a newspaper or to an individual in those cities. The figure which I gave you of compensation paid for gathering news outside New York City and Washington includes payment to newspapers queried in that fashion. I could not tell you how much of it consists of payments to newspaper syndicates at these various points. My offhand guess would be that the larger proportion of it would go to individual string men rather than to news bureaus operated by newspapers. It depends on the situation who does the querying, the Tribune here or a string man located in the field. Generally the string men are to a large extent employees or reporters for newspapers in their various localities. If a query is addressed to a newspaper in Boston, it is very likely one of the large morning papers; and if it is addressed to an individual string man, quite likely it is addressed to an employee of one of those large morning Boston papers. That in general obtains throughout the country.

I would say that a substantial amount of the figure of \$74,513.46 consists of compensation paid newspapers or employees of other newspapers; I cannot tell you what proportion, but combined. I think Mr. Staton would be a better person to describe the types of services furnished by the syndicate news service of the New York Tribune [fol. 2544] Company, and to answer questions regarding revenue derived from that service. I think the syndicate news service of the Tribune is furnished to other persons than U. S. daily newspapers, but Mr. Staton could answer that more accurately than I could.

In the figures which I gave of compensation paid in the various fields, the cost of collecting news, I do not include the cost of collecting features. Those figures do not include any item for photographs. The figures which I gave, in general, cover all spot current news. There are some of the men on the staff who write special stories on current news, but if they are staff men that is all in this expense item here, but that is all incidental to their regular duty of news gathering. That figure does not cover compensation paid for any special feature writers or anything of that sort. A reporter working regularly gathering news—he may be assigned to a particular subject, running two or three articles on it—is on the staff and his salary is included in here. If he works a day or two or three days his

salary is included in here; we include his total salary in the gathering of news.

Our newspaper company subscribes to Acme Newspapers, Inc. We do not subscribe to ANEA. The figure which I gave for total revenue which the syndicate news service received in 1942 included revenues from features. Of the figure of \$388,424.37 for the syndicate features and news service, \$330,688.79 represents the syndicate features and \$57,736.58 applies to the news service. By features I mean the Sunday comics, the week day comics, the commentators' columns, and the daily and weekly feature digest, all the services except the news service. The figures [fol. 2545] for a total breakdown of the source of the revenue which was collected and the total cost to the syndicate during 1942 would come from my department.

I am not agreeing to furnish the cost during 1942 of the various comics, commentators' articles, and cartoons unless I find that we have to. In a great majority of cases the features are sold separately from the sale of the news service, and not in a package. I do not have a list of subscribers to the syndicate service with me, but Mr. Staton possibly has.

I would not say that most of the foreign news which our paper gathers comes from London. We have three men in Africa and three men in England. We do not have anybody on the Continent of Europe at the present time, but we do get European news from the Continent. I think any news from Stockholm generally comes from AP or UP. This is because we do not have any direct coverage, we do not have any of our staff men assigned there. I do not know it to be a fact that such news as we gather from the Continent is relayed through London. It is likely to be picked up by some of the broadcasting monitor stations. I could not name particular sources to you but I would not say it comes necessarily exclusively through London. I could not answer specifically whether our correspondents encounter any difficulty in obtaining transmission service at the present time in sending news from these foreign points, but I have no doubt their dispatches are subjected to military priority the same as other people's dispatches in a similar situation. It has not come under my personal attention whether they have any particular difficulty in obtaining transmission facilities in comparison to the trans-

mission facilities which the large press associations can [fol. 2546] obtain. That would also be true of North Africa and the other war theatres. We take the full AP news service. We do not take the Wirephoto service or the Wide-World news, nor do we take AP features including comics; but we do take the full AP news service, domestic and foreign.

The total figure of \$86,530.78 which was our payment for AP assessments for 1942, can be broken down as follows:

What we call General.....	\$48,486.63
City (which would be local stuff).....	15,436.99
Financial	8,484.53
Sports	3,820.22
Pictures	9,000.01
Cable charge—that must have been some particular item or other.....	220.85
Society pictures	4.00
Pictures	57.00
Sunday news pictures.....	5.00
City fire alarm.....	3.35
Obituaries	38.00
Washington teletype maintenance.....	961.20
Telegraph and cable pictures.....	7.00
Sports pictures	2.00
Promotion pictures	2.00
News pictures	2.00

That should make up..... \$86,530.78

The figure of \$27,474 which I gave on direct examination for local New York City news includes the financial and sports as well as the amount of \$15,436.99 for local City [fol. 2547] news as shown in the breakdown. There is no discrepancy between the two figures. I do not recall that the amount of assessments paid AP treat foreign news as a separate item, nor can I give the total amount of AP assessments in 1942 attributable to the Washington news of AP; I cannot give it for the domestic news of the U. S. outside of New York and Washington. I do not know in what particular the assessment is detailed.

I do not have a breakdown to show how much of the 20 columns of news we published during that week which was obtained from UP was foreign news. I will make such a

breakdown and will show what portion of it is domestic news of the United States emanating from New York City and what proportion of it is domestic local news of the United States outside of New York City. I will make the same breakdown for AP columns. In the breakdown I will show separately the amount of domestic news which emanated from Washington, and will show the Sunday item which was one column of news obtained from UP.

As far as I know we have never subscribed to any of the services furnished by NEA Service. We have never subscribed to the news service of INS.

Redirect examination.

By Mr. Pfeiffer:

I will have to make a compilation to determine the total figure showing the cost in 1942 to the Herald Tribune for collecting news, including transmission charges. We get news from time to time from the broadcasting and monitor stations that are now operating around the world. It does not amount to much. Invariably that would be an item of news from a country occupied by the enemy. It is broad-[fol. 2548] casting of enemy countries which is picked up by some broadcasting station and the item is then made available to the Herald Tribune. Such items as are picked up by broadcasting and monitor stations are available to anybody.

The breakdown of AP assessments which I have just given to Mr. Lewin is the Herald Tribune's breakdown and is not the AP breakdown. That is the way we allocate the charges.

In the operation of the query system, when a domestic event occurs concerning which the Herald Tribune wants a story, it would get in touch with one of its own men or with a string man and through that means it would get the story of the local news. The query system operates through the telephone and through telegrams. My general understanding is that it is mostly by telegraphic query.

Cross-examination.

By Mr. Kirkland:

The 131 string men which I mentioned are the more active string men that the Herald Tribune uses. We have

other string men whom we might query perhaps once in six months. We have a string man in nearly every state capital and nearly every important city in the country. Before the war, string men were easy to get. I have never heard how many string men there were in the U. S. working for all the papers. I never had any data on that. I have no idea how many string men the Herald Tribune has on its list that it might query once or twice a year. There must be a great many. In the larger centers of education it was generally true that there were students who were string men. In nearly every metropolitan town you will find newspaper men, rewrite men possibly, or reporters who will query or act as string men for other city papers. That is the common practice. There is no difficulty in getting local news that way.

[fol. 2549] Recross-examination.

By Mr. Lewin:

The only leased wire that I can recall that the Herald Tribune maintains in the U. S. is between our Washington bureau and our office in New York. That is used for incoming news from our Washington bureau.

[fol. 2549a] N. Y. Trib. Staton

[fol. 2550] US v AP

ABSTRACT

DEPOSITION OF HARRY STATON

New York Tribune, Inc.

New York, April 15, 1943

Direct examination.

By Mr. Pfeiffer:

The New York Tribune, Inc. publishes the Herald Tribune in New York City. I am manager of the syndicate. The syndicate in our organization is the department that sells to outside newspapers anything that the New York Herald Tribune has that seems to the syndicate department

to be something to sell. I have been manager of the syndicate for 19 years. I am appearing pursuant to subpoena.

The syndicate sells about 40 features. They are made up of writers, comic artists, who are hired by the syndicate sometimes; sometimes they are hired by departments of the newspaper. About 40 different features are sold here and there. When I speak of departments I mean various departments of the Herald Tribune. In addition to features the syndicate sells news stories that our reporters gather, to newspapers, and special features such as advance cables and articles mailed in from abroad that may come in during the week. We also sell spot news to this extent, if one of our reporters is covering a story that is spot news we offer it to newspapers that should be interested if there is a local angle to it; if Akron, Ohio, appears we are likely to query them on a story written by the Herald Tribune man. We have no one collecting news for the syndicate service. The news which we sell is news collected by the Herald Tribune staff.

[fol. 2551] We have what is called a query service. Stories that come in during the afternoon or telegrams at night and local stories written by our own reporters are looked over by a query man. He gets proofs, he gets flimsies, and if he finds anything in any one of the stories that indicates that an out of town newspaper might want some of it he queries that newspaper, or the ten newspapers or fifty newspapers or any number of newspapers that are indicated in the story. The purpose of this inquiry is to find out whether or not the newspapers of which he is inquiring would be interested in purchasing that particular news item. That is a daily operation of the syndicate. The querying of newspapers by our syndicate man covers spot news written by our own reporters. It is a seven days a week operation.

We do not have a special coverage of New York City news for out of town newspapers. Occasionally a newspaper will ask us to send a reporter to cover a special story in New York; it might be a trial, a dog show in which there are more dogs from Minneapolis than there are from New York. We have no staff for that. That is the reverse of the inquiry system. What I am speaking of is where out-of-town newspapers will query or will ask the Herald Tribune to cover a story for them specifically. That is an

operation that is carried on as requests come for it. The writing of the story, the obtaining of the story is done by a member of the staff of the Herald Tribune. We have no staff for that kind of work. The news service makes that available to out-of-town newspapers. It does it as a favor.

In the syndicate we also sell Washington news. The Herald Tribune maintains a staff in Washington permanently.

[fol. 2552] The Herald Tribune covers foreign news and the syndicate sells the foreign news reports of the Herald Tribune to American newspapers and to foreign newspapers.

As to who are the newspaper subscribers to the syndicate service of the New York Tribune, Inc., there are 300 on one list and about 200 on the other. I have produced three sheets of paper dated April 15, 1943, headed "Newspapers to which the syndicate sells its features." These three sheets contain the complete list of the newspapers to which the New York Tribune, Inc. syndicate service is presently selling its feature service.

(Schedule headed "Newspapers to which the syndicate sells its features," dated April 15, 1943, marked Defendants' Exhibit No. 1 for identification, April 15, 1943.)

(List set forth verbatim of newspapers to which the syndicate sells its features. List contains 275 U. S., 2 foreign and 28 Canadian newspapers.)

I have also handed you four sheets of paper, the first of which is headed "List of subscribers to news service." That is a list of newspapers to whom we sold spot news in 1942 and a list of newspapers to whom we are selling a whole service or a part service.

(Schedule headed "List of subscribers to news service, spot service," was marked Defendants' Exhibit No. 2 for identification, April 15, 1943.)

(Defendants' Exhibit 2 for identification is reproduced verbatim. It is entitled "List of subscribers to news service," and is divided into the following categories: spot service; Canadian; weekly service; W. Fleischer; Maurice Hindus; flat service; Lucian Burman; Edward Tomlinson.)

[fol. 2553] By Mr. Kirkland:

I did not count the number on the list to which we sold spot news. There are about 200.

Cross-examination.

By Mr. Rugg:

My duties as manager of the Herald Tribune syndicate are primarily to sell feature material. I am primarily interested in the merchandising of that commodity that the syndicate puts on the market. I have an assistant in the syndicate, a couple of secretaries, and a shipping department. We have just one salesman. I personally sell by presentation rather than by visit now. I used to go out a great deal but I do not travel very much now. By presentation I mean I write statements of what I have got to sell. Sometimes I have them printed in attractive form and sometimes I just put them in letters. Sometimes I call up the editors around the country and tell them what I have got and offer them material for sale. We have promotion material. I do not have any of it with me. There is very little. We make a statement of the feature we have for sale and then after that there is an accumulation of material that indicates the value and interest in one or more of our features. This literature does not cover the news service because it is taken for granted that editors know what we have to sell, and they buy it or they do not buy it. We do not even go out to sell it. I will amend that to this extent, that when we are offering a complete service to a newspaper we include our news department and say that it is a part of our service, and that is attractive to sell news, but we do not have any printed material on the news portion of the syndicate service.

[fol. 2554] Before I became manager of the syndicate I was a salesman for the syndicate. Thirty-five years ago I was a reporter and in a rather vague way I am familiar with the method of operation of the Herald Tribune and its gathering of news. The syndicate has no separate corporate existence that I know of. You will have to ask Mr. Brown about that. I do not know what the corporate set-up is.

Everything that the Tribune has is not available to me. There are things that the Herald Tribune buys without

syndicate rights. There are news service materials that they have no right to touch and cannot sell. We must sell only the things originated by ourselves in the way of features. We cannot sell features that we buy from outside the office, naturally, when we do buy them. In the matter of news we sell what our reporters send in or bring in or write in the office. Everything that the Tribune has that is not restricted in its use by the seller from whom the Tribune buys it is available to our syndicate service. So far as the Tribune is able, we endeavor to recognize all the restrictions that any seller of news or service imposes on the Tribune.

Walter Lippmann is one of our prominent feature writers. That service is available to the syndicate. I never saw the contract between Lippmann and the Tribune. So far as I know, there is no restriction on the Lippmann stories so far as republication by the syndicate is concerned, excepting in territory that is reserved for our own newspaper. That is a restriction that the owner of the paper imposes, voluntarily rather than by Lippmann; and the same applies to Mark Sullivan and George Fielding Eliot, and in general the foreign service of our own correspondents—that is the signed stories or articles that we get from Europe or wherever they may be stationed.

[fol. 2555] I am not familiar with the Washington News Service and know nothing about it. No service bought from a news distributing organization would be available to the syndicate, as I understand it. They sell to us and they sell to other papers on their own account, I guess, any of the papers, Associated Press or this Washington News Service.

No picture services are used in our feature service. I do not know anything about news received from foreign sources by broadcasting or monitor stations or listening in on foreign short wave broadcasts. The syndicate has a man who finds stuff that is available in the office and makes his inquiries on it. As to the scope of his inquiries or restrictions on his duties, that is handled by the editors of the paper. They know what he is supposed to have and he cannot get anything else. There is not a separate pile of stuff that he can look at and another pile of stuff that he is excluded from looking at, but stuff that comes in that belongs to us he knows that he can query. No one in particular instructs him. A man who runs the news service

gives general instructions; if we get a new man, he hangs around to see that only the proper avenues of news are tapped. We do not inquire as to the source of the news. I would not know whether the stuff came by telephone or by cable; maybe my man does, my query man. This one man does this work; it is not presented to anybody. There are two of them, one comes on early and the other stays late, and sometimes they are there together; and outside of [fol. 2556] a general handling by a manager who would be called to assist me in the news department nobody does anything about it but just those two men who are query men. They sit on the fifth floor and they have a series of desks on the editorial room floor, the City room floor of the Herald Tribune. All of the news that comes in the Herald Tribune comes in through the City desk. If it is news it comes through the City room. If it is editorial matter it is sent down direct by the head of the editorial page. There are other categories than news and editorial matter; there is feature matter and advertising. There are four general categories: news, editorial, features and advertising. And all the news that appears in the paper goes through the fifth floor. And it is all of that news that the syndicate men have access to and to which I would refer when I said that we took all there was, regardless of the source.

Mr. Pfeiffer: He did not say that they queried all of that news, Mr. Rugg.

The Witness: We only query on news that we think of interest to Akron or Boston or somewhere. Our man is expert on queries and he may take only six items out of the night's news. And that would be spread somewhere between Akron and Seattle on queries, according to his estimate of the local interest in those particular communities.

I do not know anything about payments of money to AP for city news. If I were running a newspaper I would know that what I paid AP for was AP news. I do not know whether it is of recent origin that the Herald Tribune has acquired New York local city news from Associated Press. I have heard of the City News Association. When I was a young reporter I remember it very well as the place where they gathered news generally, all that they could, and sent a general coverage of police stations, standard happenings, [fol. 2557] and sent them in somewhat skeleton form to

the news service. Sometimes it was a tip and sometimes it was enough for what they wanted. The general kind of localities which the City News Association covered would be the police headquarters, fire headquarters, some courts. I am not an expert on this. I do not know just what they did cover. I never worked for the City News Association nor was I ever in a position to get this stuff over a newspaper desk. I remember reading that the City News Association went out of existence about a year ago. I could not locate the date in my mind but I know that it happened within the last year or two. I do not know anything about whether very shortly prior to the death of the City News Association the Herald Tribune resigned from the City News Association. I did not know that it resigned prior to the dissolution of the City News Association. I did not know anything about the Associated Press taking over the City News Association at the time of the dissolution of the City News Association. In a general way I know now that the Herald Tribune acquires AP news that previously it acquired through the City News Association. I cannot tell you when I learned that. When I heard it discussed yesterday I realized that I had known it. I had not anything to do with that. That type of news is not scrutinized by the syndicate news man on the fifth floor in the search of items to put in the query service. It is entirely omitted.

I recall that Mr. Miller said there were 131 string correspondents of the Herald Tribune. I know nothing about string correspondents. I have no knowledge whatever about it. I know nothing about the facilities of the Herald Tribune for getting news in the City of Boston. As for the syndicate getting news from the City of Boston, the syndicate gets no news. In the reverse of the query system, where we are queried for news, we do not get inquiries [fol. 2558] for news from a place like Boston. I would say never.

I am familiar with the phrase "news facilities of the Herald Tribune syndicate." Perhaps I have used it. Perhaps I put it on a statement of our features. I may have put it in contracts for the syndicate service. I do not write the contracts, incidentally. When I used that phrase in connection with the syndicate I meant that we had for sale anything that the Herald Tribune editors indicated we could sell. I think on one occasion we agreed to query

our foreign correspondents if the subscribing newspaper asked us to. I think it was in our contract with the Chicago Sun. I think it was limited to foreign service. It was a new phrase and a letter covered it saying that we would just about do what we could do and not make an assignment service of it. I do not have a copy of our contract with the Chicago Sun. Examining the photostatic copy of a contract between the New York Tribune, Inc. and Marshall Field, dated October 15, 1941, bearing the signature of Howard Davis, Vice President of the New York Tribune Company, I know Mr. Davis; he was the vice president then. I do not know what his title is now.

Mr. Brown: Executive Vice President.

The Witness: In October, 1941, among Mr. Davis' duties as vice president there was included supervision of the syndicate service.

Mr. Pfeiffer: Mr. Rugg, if you are going to read from the document or going into its contents, may we have it marked for identification.

Mr. Rugg: Yes.

The Witness: I am familiar with Mr. Davis' signature. As to whether I recognize Mr. Davis' signature on the document which you show me which you have marked A in red pencil, dated October 15, 1941, it looks like Mr. Davis' signature. As to whether I recognize Mr. Davis' [fol. 2559] signature on the document you show me which you have marked B in red pencil,—it looks like it.

(Photostat of agreement between New York Tribune, Inc., by Howard Davis, Vice President, and Silliman Evans, Agent for Marshall Field, dated October 15, 1941, was marked Plaintiff's Exhibit No. 1 for identification, April 15, 1943.)

(Photostatic copy of agreement between New York Tribune, Inc., by Howard Davis, Executive Vice President, and The Chicago Sun, by Silliman Evans, dated March 25, 1943, was marked Plaintiff's Exhibit No. 2 for identification, April 15, 1943.)

I read the Herald Tribune syndicate's contract with The Chicago Sun when it was made and negotiated it. I negotiated a modification of it in March, 1943, by talking over the telephone with my salesman in Chicago who was there

getting a renewal. The contract which was negotiated by my salesman was brought in and I took it down to Howard Davis and I must confess I did not read it. Examining Plaintiff's Exhibits 1 and 2 which you show me, this looks very much like the original contract, that is a photostat of the original contract. I saw it only once and there may have been a dozen modifications of it by letter. I cannot tell just whether it is a complete thing. Plaintiff's Exhibit 1 for identification looks like the contract I negotiated on behalf of the Herald Tribune syndicate with The Chicago Sun, barring any modifications that may have been made by letter. Those would be subsequent modifications. It looks like the contract that I negotiated at the time.

On examining Plaintiff's Exhibit 2 for identification, it seems to be the contract that was negotiated as a result of the telephone conversation with my salesman in Chicago in March, 1943, between the Herald Tribune and Marshall Field.

[fol. 2560] (Plaintiff's Exhibit No. 1 for identification is set out in full.)

(Plaintiff's Exhibit No. 2 for identification is set out in full.)

Referring to paragraph 7 in Plaintiff's Exhibit 1 and paragraph 7 in Plaintiff's Exhibit 2, which say that Marshall Field shall have a right to query and receive information from the syndicate on news stories of special interest to Chicago "from whatever points the New York Tribune Inc., maintains news facilities." this was written into the contract by the editor of The Chicago Sun, and as originally written it was perhaps a little too vague for our acceptance, and finally it got to that other negotiation, and I meant when I accepted it as a part of what they wanted to buy from us that we would help them whenever we had anyone around to give that aid that they might need, and it was especially stated as a correction, as a change from the original request because it was rather a vague thing anyway.

Paragraph 7 in Plaintiff's Exhibit 2 for identification, dated March 25, 1943, was negotiated 15 months after the first contract and it was a duplicate, practically, of the first contract. As to whether after 15 months' experience section 7 was deemed mutually sufficiently precise and accurate

to warrant its incorporation verbatim in the second contract, it was deemed of sufficient importance by The Chicago Sun and acceptable to us, in an unchanged form. When I said the news facilities of the Herald Tribune I meant anything that was established by the Herald Tribune that I could use for them I would give to them. I don't know exactly where the Herald Tribune maintains news facilities. I know we have a London office and we have the Chicago man. I guess we have Mr. Steele in Chicago. I don't know about an Albany man. I take what they give me. I meant as to where we have facilities when I signed the contract or when I negotiated the contract, that we [fol. 2561] would give him anything that the Herald Tribune had available for sale, any help the Herald Tribune could give them. I did not promise to get news, I promised to be helpful. The contract said that we would try to do something for them, I think, and we did not agree to do anything. As to the provision that "The Chicago Sun shall have the right to query and receive information from whatever points the New York Tribune Incorporated maintains news facilities," it is fair to say that I meant by that from points where the Herald Tribune maintained news bureaus, and nothing else. So far as domestic coverage is concerned, that would mean in this country New York City, Albany, Chicago and Washington, and nowhere else that I know of. It would mean Boston if we had a bureau there; if we had a representative there it would. I don't think we have a bureau there; I don't know about that; I don't know just what the organization of the Herald Tribune is. As to whether my associate said that we did not have a bureau, I did not pay attention to that. I should know a lot more about their bureaus than I do, but I know that we get just what we are entitled to, and I am not very much surprised about it, nor do I go into details about it with the editors.

Section 8 in the contract is a clause in all of our continuing service contracts. I am not familiar with the rules in force of the Associated Press as to this particular. There was no discussion as to what curtailment section 8 meant. It was something that we put in, that our Legal Department put into the contract. Neither Mr. Field nor his representative mentioned it. They did not ask for any explanation and we did not give them any. Our Legal Department

undoubtedly intended to protect us from any demand for service in violation of the Associated Press rules. As to what I intended with respect to relieving ourselves from [fol. 2562] any contractual obligation to Marshall Field to violate the Associated Press rules,—the Legal Department takes care of such details. As to negotiating the contract, I presented it as a form from the Legal Department. I negotiated it with the editor of The Chicago Sun on behalf of the Tribune Company Inc. with the representatives of the other contracting party. Mr. Silliman Evans was around, but I was doing my business with Smith, the editor of the paper. Rex Smith, the editor, signed the first contract. As to clause 8, I knew that our legal department had put that in our contract and that I could not have a contract without that in. I did not explain that to Mr. Smith. He did not ask about it; he understood it I guess. There was no conversation about it. So far as I know, that clause 8, and particularly the reference to The Associated Press rules, has not been violated in connection with news furnished The Chicago Sun.

I am not familiar with The Associated Press rules. I do not know that under the Associated Press rules in force in 1942, under Article VIII, Section 5, it is provided that no member of The Associated Press shall furnish or permit anyone in his employ or connected with the newspaper to furnish to any person not a member of Associated Press the news of Associated Press in advance of publication or to any other member any news from Associated Press which Associated Press is debarred from furnishing to such member. I do not know whether the people who work on the fifth floor ever received instructions as to the provisions of that rule of Associated Press.

I do not know that Section 6 of Article VIII of the by-laws of the Associated Press provide that no member of Associated Press shall furnish to anyone not a member [fol. 2563] the news which he is required by the by-laws to supply Associated Press. I do not know whether the employees on the fifth floor were ever instructed as to those rules of Associated Press. I never instructed them not to violate the AP rules. Things like that become standard and the men are supposed to know what they can do and what they cannot do. They are supposed to learn that just having been there, some longer than I have been there.

One of these two men on the fifth floor has been in the news service longer than I have been. I know that the Chicago Sun is not a member of Associated Press.

Referring to Defendants' Exhibit 2 for identification and particularly the list of subscribers to news service, spot,—spot service is a query service about prize-winning dogs in the dog show whose owners are in Akron, a query about a marriage license issued to someone giving an address from Seattle. I am giving those only as types. We furnish spot news to the spot service subscribers, if it is spot news. Spot news in my mind is what happens tonight, spontaneous news. We have no contracts with the newspapers covering this spot service. Without knowing much about it, I hope we carry out the spirit of section 8 of The Sun contract with reference to The Associated Press. So far as I know, we do. In general, the syndicate is paid for this spot service on a word basis, per words furnished. In reference to Defendants' Exhibit 2, category entitled "Canadian," the service there may be spot service or they may be mailed advance cable material or theatrical material. In Montreal any of the stuff that we are permitted to sell is mailed there. Some of this may be spot service. These [fol. 2564] are the papers that buy from 50 cents up to any amount more within the amount of the contract here; we do a bit of business each year. This is a list of newspapers with which we did any amount of business. Some of those newspapers might have got 50 cents worth of news from us. I am referring to the first list called spot service, and none of those newspapers are in contractual relation with us or we with them. It is a hit and miss group. As to whether the same hit and miss group characterization applies to the seven Canadian papers, I would have to see from our records on that. We have a Canadian representative and I am not sure what he sells to them. In the case of the news service we do sell these Canadian papers direct and in the case of the Montreal Star we sell them a sort of a general service, a limited service; and the rest of them are queried for one thing and another.

As to the weekly service, the next category on Defendants' Exhibit 2, during the year 1942 on and off, and sometimes as a regular thing, we mailed to these people our advance cables, our theatrical material, second section special articles, anything that we could pick up and send in sufficiently in advance for mailing. That could be generally

characterized as feature news rather than spot or spontaneous news. There would be no spot or spontaneous news in that weekly service.

As to the five other categories on page 4 of Defendants' Exhibit 2 entitled W. Fleischer, Maurice Hindus, flat service, Lucien Burman and Edward Tomlinson, these are all feature news stories except this thing described as flat service, which I do not know anything about. I do not know how it got there. I do not know what flat service is. These figures were made up by the accounting department. I imagine it was something that was sold direct, like a mat, a mat of illustration; they call up and someone sells [fol. 2565] it to them for a dollar a column or something like that. The syndicate would sell it. It would go through the syndicate, but I never heard of it as a flat service. I guess that is what it is called. I am absolutely sure that it does not cover any spontaneous news or spot news.

(Mr. Rugg read into the record letter to an Attorney General dated March 2, 1943, as follows:

"Dear Sir:

Answering your letter of February 17, 1943, we furnish the following information, using the same letters as contained in your letter:

- (a) New York Tribune Inc.
- (b) Incorporated, New York State
- (c) (1) News Service (complete or limited)
- (2) Query Service (offering local interest news to out-of-town newspapers)
- (3) Special coverage of New York City news for out-of-town newspapers
- (d) (1) Regular full news service to Buffalo News, Cincinnati Enquirer, Washington Post, Chicago Sun, Boston Globe and Montreal Star.
- (2) Special Saturday only news service to Dayton News and Miami News.
- (3) Sunday advance news to Denver Post, Seattle Times, St. Paul Pioneer Press, Oakland Tribune, Toledo Times and St. Louis Times-Star.
- (4) Business Index to Topeka Capital.
- (e) The Total receipts from the above services was in 1942 \$57,736.58.

Yours very truly, New York Herald Tribune,
(Signed) Howard Davis, Business Manager."

[fol. 2566] As to the regular full news service, I think there were oral contracts with the Buffalo News and Cincinnati Enquirer; there is a contract with the Washington Post, Chicago Sun and Boston Globe, and I believe there is a contract with the Montreal Star. In the case of the Buffalo News and Cincinnati Enquirer there may be an old contract, I have not heard of them in years, they were there before I was there; in the case of the Boston Globe I doubt if there was a contract, but there may be. As for the basis of payment, we call it a flat rate for news service, except in the case of the Washington Post and the Chicago Sun; those two newspapers and those two only buy everything we have to sell. That is the complete list of feature service. Those are all included in the exhibit in the Sun contract. The Sun buys all of the 40 items that we carry in our syndicate feature service. As to the papers other than the Washington Post and the Chicago Sun, they may buy features, or two or three features, but they do not buy a full feature service. The papers other than the Post and the Sun pay for the news service as a flat payment. We agree to let them have everything that we are permitted to sell for so much a week, and so far as the news is concerned they get the same service that The Chicago Sun gets; that is, anything that we can get a hold of in the office.

I am not familiar with the rules of Associated Press, Article VIII, Section 3, of the by-laws, or Section 5, which you read to me. I do not know of any news which is served in violation of the Associated Press rules to the six papers which take the regular full news service. I do not know that of the six papers receiving the regular full news service of the Herald Tribune syndicate, The Chicago Sun is the only one not a member of The Associated Press. I have stated that I knew the Chicago Sun was not a member [fol. 2567] of The Associated Press. I do not know whether The Washington Post is. I do not know whether the other papers are members of Associated Press. I do not know whether any of the six papers on our list of regular news service have the United Press service. I do not know whether any of the six subscribers to our regular news service are subscribers to the INS service. As to whether those six papers which we have been discussing which receive full news service are the only papers that receive the full news service, we sell the same privilege to the

London Herald in London, England. Those six papers are the only papers in the North American continent that receive the regular full news service. During 1942 there were no changes on the list that I can remember, except the Boston Post dropped the service and we sold it to the Boston Globe. That was in 1942, or it could have been in 1941.

With reference to the statement in Mr. Davis' letter that special Saturday only news service is furnished to the Dayton News and the Miami News, I don't know exactly what that service is. It is furnished by the syndicate. They have their own leased wire; that is, the Miami News and Dayton News together; they are Cox papers, and we give them what we have for sale on Saturday night. We give them a schedule and they select what they want. We furnish them the same coverage on Saturday night, so far as the news is concerned, as is furnished to The Chicago Sun. It would be the same thing if they asked for it; it is what they ask for. Special service to the Cox papers is not selected by a man located in our office in New York. We send them a schedule of what we have that is salable to them, and they order what they want over their own wire. I do not know the exact hours that the leased wire is available [fol. 2568] on Saturday, but they are very definite, and I think that it starts about six o'clock Saturday night and I do not know how long it runs; not to midnight. I do not know whether the Dayton News or the Miami News are members of Associated Press or whether they are members of the United Press. With reference to Exhibit 2, these papers are included in the list of full news service papers and in the weekly list. For the purpose of this list they are in the spot news list and the weekly list. It is not quite accurate to say that the spot news list includes papers who pay only on a special basis. The Chicago Sun pays on a flat basis and all of the six papers who receive our full news service, namely, the Buffalo News, the Cincinnati Enquirer, Washington Post, Boston Globe, Montreal Star and The Chicago Sun pay on a flat basis rather than on a special basis. The two Cox newspapers pay on a flat basis for the service they get. The Sunday advance news which was furnished to six papers, Denver Post, Seattle Times, St. Paul Pioneer Press, Oakland Tribune, Toledo Times and St. Louis Times-Star, would be included in this list. The two lists are not identical. During the

year that list may fluctuate in many ways. We may start sampling a newspaper, we *we* may say we will send it for a few weeks and see how you like it; and after we send it they may say they do not want it; it changes from week to week sometimes. The Philadelphia Inquirer, on the weekly list of Exhibit 2, gets a series of queries every night over its own wires stating what we have for sale that may interest them; that is every night in the week. That is why the Philadelphia Inquirer is included in the spot service list. As to what the Philadelphia Inquirer gets to warrant its being put in the weekly service, I do not believe it is in the weekly service now. I do not believe we send our mailed stuff to them. In some part of 1942 they may have been.

[fol. 2569] That is the list for 1942, our business for 1942. It does not include the service that we are now rendering. There is no character of weekly service other than the Sunday advance news which we furnish customers, except as indicated for the Dayton and Miami papers, which is not an advance news service. The list furnished Mr. Pfeiffer entitled weekly service, which includes 25 names, may have dwindled so far as the United States is concerned, at the present time to six, and it may not be so for the year. There may be the same fluctuation during this year that there was last year. The Sunday advance news that is furnished is in general feature news rather than spontaneous news. As to the business index furnished the Topeka Capitol, a business index is a regular box that we have in our Sunday paper that indicates fluctuation of business through the week, and they buy it, and that is all they buy.

I do not have a breakdown of the income received by the Herald Tribune during 1942 for the spot service as indicated on Mr. Pfeiffer's Exhibit 2. As to the letter which you show me of Mr. Davis, dated March 12, 1943, in which he says:

“Of the total figure of \$57,736.58 the only breakdown we can make is to divide that figure as follows: the sum of \$9,032.58 represents the total income from the query service and the balance of \$48,704. represents income from other news services.”

I have no memory as to the amount of income to our syndicate from the query service. We do not have any books in our department. They are put through the corporation's

books. I have nothing but a list for the shipping department, and the men downstairs have a list of the newspapers to whom they have to send stuff. I am not indifferent as to the success or failure of the syndicate department. I [fol. 2570] would like it to be successful and if it gets to be unsuccessful I learn about it promptly. The query service is, generally speaking, synonymous to what is called in Exhibit 2 spot service. Some of that spot service might be stuff asked for. That would be query in reverse. Spot service in some cases includes queries both ways. In the list of spot service subscribers there is included everyone who is queried either way, anyone to whom we sold any material. The list is taken from the books. It is the list of subscribers who paid us money last year, regardless of who stimulated the inquiry.

I do not know whether there is a clause similar to clause 8 in The Sun contract in the written contracts between the six particular news service customers and ourselves. Some of those contracts are sold that I have never seen. That clause was included in The Sun contract at the suggestion or insistence of our counsel. It is fair to say that in all contracts that we have negotiated for the full regular news service there has been included that clause or something similar to it. It is printed on the back of our ordinary contract form. We have a printed form of contract. I believe that is incorporated in all contracts in which the printed form is used; although maybe that is a feature contract and therefore does not apply to news; therefore a contract for news might have to be specifically written.

I am familiar with the Herald Tribune. On the editorial page in the column in the upper left hand corner there is what is known as the masthead. The following clause has been printed for a long time in the Herald Tribune; I am familiar with it only in a general way; I have seen it there:

[fol. 2571] "The Associated Press is exclusively entitled to the use for republication of all news despatches credited to it or not otherwise credited in this paper and also the local news of spontaneous origin published herein. All rights of republication of all other matter herein also are reserved."

We assume that our editors don't permit our men to do anything to violate that. We do not consciously violate it. I

would not, if I were to speak about it, permit any of my employees to violate it. I do not think that I have spoken about it. I merchandise whatever the syndicate sells. I personally do, among others. I am in charge of sales and that includes not only features, comics and news but also permissible news and the spot news. I do not think I ever made any statement in any of my sales talks to actual or prospective customers that the New York Herald Tribune syndicate news service was of sufficient magnitude in its domestic coverage of spot news to supplement The Associated Press service.

Redirect examination.

By Mr. Pfeiffer:

All of the spot news and news of any character, all of the features and other articles and comics that are available for sale by the syndicate are available to all newspapers in the United States. The established practice is that where we sell all or part of our service to a newspaper in a given city that that part of our service which we sell to that particular newspaper is not thereafter during the life of our arrangement available to other newspapers in the same city. I do not mean that it is the established practice in the newspaper business that where a syndicate sells to one paper in a field that it does not sell to other papers in the same field. I mean if we sold a single feature to a newspaper that would not be sold. It is the established practice [fol. 2572] in the newspaper business in the United States that if you sell a feature to newspaper A of the city X you do not sell the same feature to newspaper B in city X. And the reason why we do not do that and why that is the practice is that we could not have any business otherwise. By that I mean that the value of it consists in the fact that only one newspaper in a given field has that particular feature.

With reference to Plaintiff's Exhibit 1 for identification, the Marshall Field contract, the pencil notations have been added. With reference to Plaintiff's Exhibit 2, the Marshall Field contract dated March 25, 1943, I am quite sure that the pencil notations on the first page have also been added since the execution of the contract. As to paragraph 6 of the contract dated October 15, 1941, and as to the first