

U. S. vs. THE ASSOCIATED PRESS, ET AL.  
IN THE DISTRICT COURT OF THE UNITED STATES FOR  
THE SOUTHERN DISTRICT OF NEW YORK.

Civil Action No. 19-163.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

THE ASSOCIATED PRESS, ET AL., DEFENDANTS.

JUDGMENT.

This cause having come on for hearing before the Court upon a motion by the plaintiff for summary judgment, counsel for the parties having been heard, and the Court having determined, upon consideration of the pleadings, depositions, and admissions on file, together with the affidavits filed by the plaintiff and the defendants, that there is no genuine issue between the parties as to any material fact, and the Court having filed its opinion herein on the 6th day of October, 1943, and its findings of fact and its conclusions of law on the 13th day of January, 1944.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

I.

A. That the defendants, by promulgating and agreeing to observe and by observing and applying By-laws of

The Associated Press, whereby members of The Associated Press publishing newspapers in the same territory and in the same "field" (morning, evening or Sunday) as an applicant, publishing a newspaper in the United States of America or its territories, for membership in The Associated Press may impose, or dispense with, any conditions upon the admission of such applicant, and whereby the defendants, in passing upon an application of such applicant for membership, may take into consideration the effect of admission upon the ability of such applicant to compete with members of The Associated Press in the same territory and "field", have violated an act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and

B. That Article III, Sections 1-3, inclusive, of the By-laws of The Associated Press, presently in force, are declared and adjudged to be illegal, and are hereby cancelled, and The Associated Press, its officers, directors, agents, representatives and employees, and each of its members, their officers, directors, agents, representatives, and employees, be, and each of them are, perpetually enjoined and restrained from agreeing to observe and observing said by-laws, and from promulgating, agreeing to observe and observing any new or amended by-laws having a like purpose or effect in respect of admission to The Associated Press of applicants publishing newspapers in the United States of America or its territories; provided, however, that nothing herein shall prevent the adoption by The Associated Press of new or amended by-laws which will restrict admission, provided that members in the same city and in the same "field" (morning, evening or Sunday), as an applicant publishing a newspaper in the United States of America or its territories, shall not have power to impose, or dispense with any conditions upon his admission and that the by-laws shall affirmatively declare that the effect of admission upon the ability of such applicant to compete with members in the same city and "field" shall not be taken into consideration in passing upon his application.

## II.

A. That the defendants, by promulgating and agreeing to observe and by observing and applying Article VII, Section 4, of the By-laws of The Associated Press withholding the news reports of The Associated Press from newspapers published in the United States of America or its territories, owned by persons other than members of The Associated Press, taken in connection with the by-laws and agreements described in Paragraph I hereof, have violated an act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and

B. That Article VII, Section 4, of the By-laws of The Associated Press, presently in force, taken in connection with the by-laws and agreements described in Paragraph I hereof, is declared and adjudged to be illegal, and is hereby cancelled, and The Associated Press, its officers, directors, agents, representatives and employees, and each of its members, their officers, directors, agents, representatives and employees, be, and each of them are, enjoined and restrained from agreeing to observe and observing said by-laws, and from promulgating, agreeing to observe and observing any new or amended by-laws having a like purpose or effect, in respect of newspapers published in the United States of America or its territories.

## III.

A. That the defendants, by promulgating and agreeing to observe and by observing and applying the provision of Article VIII, Section 6, of the By-laws of The Associated Press that, "No member shall furnish, or permit anyone to furnish to anyone not a member of this Corporation the news which he or it is required by the By-laws to supply to this Corporation," restricting the members of The Associated Press and persons in their employ from furnishing local news of spontaneous origin gathered by them to persons other than The Associated

Press and its members, taken in connection with the by-laws and agreements described in Paragraph I hereof, have violated an act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and

B. That the said provision in the first sentence of Section 6, Article VIII of the By-laws of The Associated Press, presently in force, taken in connection with the by-laws and agreements described in Paragraph I hereof, is declared and adjudged to be illegal, and is hereby cancelled, and The Associated Press, its officers, directors, agents, representatives and employees, and each of its members, their officers, directors, agents, representatives and employees, be, and each of them are, enjoined and restrained from agreeing to observe and observing said by-laws, and from promulgating, agreeing to observe and observing any new or amended by-laws or agreements between The Associated Press and any members thereof having a like purpose or effect.

#### IV.

A. That the defendant, The Associated Press, by entering into an agreement with The Canadian Press dated November 1, 1935, whereby The Associated Press obtains the exclusive right to receive the news reports of The Canadian Press and its members, and the defendants, by observing and performing said exclusive provisions of said agreement, taken in connection with the by-laws and agreements described in Paragraph I hereof, have violated an act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and

B. That the said exclusive provisions of said agreement between The Associated Press and The Canadian Press dated November 1, 1935, taken in connection with the by-laws and agreements described in Paragraph I hereof, are declared and adjudged to be illegal, and are hereby cancelled, and The Associated Press, its officers, directors, agents, representatives, and employees, be, and they hereby are, enjoined and restrained from per-

forming and observing the said exclusive provisions of said agreement, and from entering into any other agreement with The Canadian Press having a like exclusive provision.

V.

That leave is hereby granted the defendants to apply to this Court for modification or termination of Paragraphs IIB, IIIB and IVB hereof, upon furnishing satisfactory proof that they have amended the By-laws of The Associated Press in conformity with Paragraph I hereof.

VI.

That jurisdiction of this cause is retained for the purpose of enabling the plaintiff or the defendants to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification or termination of any of the provisions thereof, for the enforcement and compliance therewith, and for the punishment of violations thereof.

VII.

That that portion of the complaint challenging as illegal the acquisition by The Associated Press of the capital stock of Wide World Photos, Inc., and praying that The Associated Press be required to divest itself of said stock and of all interest in Wide World Photos, Inc., be and it is hereby dismissed.

VIII.

That the operation of Paragraphs II, III and IV of this judgment be stayed for a period of one hundred and twenty days after the date upon which this judgment is entered, and that the entire judgment be stayed for a period of sixty days after the date upon which this judgment is entered, and subsequently for the pendency of any appeal to the Supreme Court of the United States,

if an appeal is taken within said period of sixty days  
from the date upon which this judgment is entered.

Dated New York, N. Y., this 13th day of January, 1944.

LEARNED HAND

AUGUSTUS N. HAND

THOMAS W. SWAN

*Circuit Judges*

*sitting as the District Court.*