
KONRAD BERCOVICI

Plaintiff

-against-

CHARLES S. CHAPLIN

Defendant

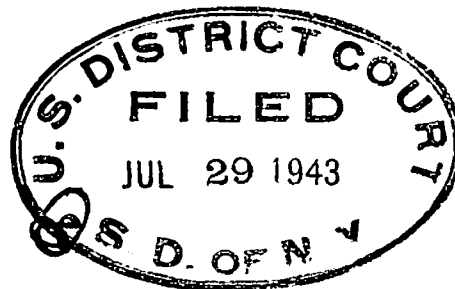
EXAMINATION BEFORE TRIAL

OF

KONRAD BERCOVICI

Held March 5th, 1942

and April 15, 1942.



EXAMINATION BEFORE TRIAL

EXAMINATION BEFORE TRIAL of the Plaintiff, KONRAD BERCOVICI, held at the office of Schwartz & Frohlich, Esqs., 1450 Broadway, New York City, on the 5th day of March, 1942, at 10:30 A.M. in the forenoon of that day, pursuant to Stipulation and Notice.

Plaintiff appeared personally.

Plaintiff was represented by LOUIS B. DAVIDSON, Esq., of Davidson & Davidson, his attorneys.

Defendant was represented by LOUIS D. FROHLICH and EVERETT A. FROHLICH, Esqs., of the firm of Schwartz & Frohlich, attorneys for the defendant.

IT IS STIPULATED that all objections are reserved for the trial, except with respect to the form of the questions.

IT IS STIPULATED that the original deposition need not be filed.

KONRAD BERCOVICI, having been first duly sworn
by Rose D. Cohen, Notary Public, testified as follows:

EXAMINATION BY LOUIS D. FROHLICH, Esq.:

Q. Mr. Bercovici, what is your profession?

A. I am an Author.

Q. How long have you been an Author?

A. Thirty-five years.

Q. You specialize in certain kind of writing?

A. No, I have written novels and books on
history; I have written books on travel
and I have written stories.

Q. You have written a great many stories, haven't you?

A. Yes, some 400.

Q. Didn't you in your stories, specialize in writing on
gypsy life?

A. Not exactly, probably not more than one-
quarter of my work is about gypsy life.

Q. Your early writings were gypsy stories, weren't they?

A. Well, my first book was a book on
Sociology.

Q. And after your first book you began to write
stories for the magazines and newspapers?

A. Yes, but still not gypsy life; I wrote
two books that were not gypsy stories.

Q. But you did write a great many gypsy stories?

A. Yes.

Q. How much of the 400 stories you have written, were
gypsy stories?

A. About one-half of them.

Q. And these stories were published in various magazines, newspapers and other publications in the United States, at various times.

A. Yes, and in books.

Q. Did you ever sell any of them, any of the gypsy stories, for motion pictures?

A. Yes.

Q. About how many of them did you sell?

A. Four.

Q. And did you sell any other works that you wrote for motion pictures?

A. Yes.

Q. About how many?

A. Two - three, as a matter of fact.

Q. Did you ever write any original stories for motion pictures?

A. Yes, three,

Q. What are the names?

A. One is the life of Sir Richard Burton, another is on Hans Christian Andersen, another one for Universal which was not produced and the Volga Boatman - this makes four.

Q. The Volga Boatman was produced by the Paramount Company - Cecil B. DeMille - wasn't it?

A. It was not Paramount; it was for Cecil B. DeMille - whatever the Company was called at the time.

Q. But Cecil B. DeMille made the picture? He produced it?

A. Yes.

Q. What did they pay for the story - the Volga Boatman?

A. \$13,500 or \$15,000 - I do not remember exactly.

Q. What did they pay for the other original stories that you wrote?

A. Over \$15,000 or \$18,000.

Q. For which?

A. For the story which they did not produce at Universal.

Q. What did they pay for the Hans Christian Andersen story?

A. Somewhere in the neighborhood of \$14,000 - \$13,000, \$15,500 or \$14,000.

Q. Did they ever produce the Hans Christian Andersen story?

A. No. It was sold to Goldwyn and Goldwyn sold it to Disney.

Q. What did they pay you for the picture rights of the four stories that you sold them, other than the works you have just mentioned?

A. Wait and I will tell you: \$5,000 or \$6,000 for the rights of a large story called "The Law of the Lawless" and another story about a similar amount -

Q. \$5,000 or \$6,000?

A. Yes.

Q. And how about the two others?

A. \$8,000 or \$10,000 for each.

Q. Approximately when did you sell the picture rights in those four stories?

A. Fifteen years ago.

Q. And when did you write the Volga Boatman story - about when?

A. About that time. It was the silent picture - one of the last silent pictures - in 1926 or 1927, I think.

Q. That was a silent picture?

A. Yes.

Q. And when did you sell the story to Universal?

A. 1928 or 1929.

Q. The Hans Christian Andersen story was sold more recently, wasn't it?

A. 1938.

Q. And what other story did you write?

A. The Sir Burton story.

Q. When was that sold?

A. About the same time.

Q. In 1938?

A. In 1938.

Q. You resided in California at various times?

A. Yes, at short intervals.

Q. At short periods of time?

A. Yes.

Q. Do you know the defendant, Charles S. Chaplin?

A. Very well.

Q. For how long, would you say, you know him?

A. Twenty years.

Q. When did you first meet him?

A. 1921 or 1922.

Q. In what City?

A. In California - Hollywood, California.

Q. You had become well acquainted with him?

A. Yes.

Q. And you knew him continuously since that period?

A. Yes I knew him in a sense that every time I think of Hollywood, I think of him and I met him here whenever he came here.

Q. You met him frequently?

A. Yes.

Q. You visited his home?

A. Yes, and he visited my home.

Q. And he visited your home.

A. Yes.

Q. You knew the members of his family?

A. Yes, I knew the various members of his family or families.

Q. And he knew the members of your family?

A. Yes.

Q. And you and he had mutual friends?

A. A few.

Q. And you and he often discussed the various pictures that he was making?

A. No.

Q. Well, you took an interest in his picture career?

A. Well, he often asked me to go into the projection room to see what he had done.

Q. And you knew from him what pictures he was making or producing and what he was interested in?

A. Yes.

Q. You and he frankly discussed the various pictures he was producing from time to time?

A. Well, that would be stretching it a little because we would talk about it, but not discussions.

Q. Charlie was a great fellow and he would talk over his stories with you; he would talk very freely to you about his stories and he respected your opinion as a writer, didn't he?

A. That I do not know.

Q. Did he discuss with you, the developments of the stories that he was making from time to time?

A. No.

Q. Didn't he invite you to the studio in Hollywood?

A. Yes.

Q. And you were a frequent visitor there when in California?

A. Yes, at his request.

Q. Didn't you see him actually in production of some of his pictures from time to time?

A. Yes.

Q. Did he ever consult you about the characterization of the story - of the picture he was making?

A. Occasionally he was talking about them, not consulting me. I was not engaged as a consultant. He has never changed a picture because I told him it was no good.

Q. Did you ever criticize any of his pictures, or say something about what was in them that you didn't like?

A. Yes.

Q. You did that as a close friend?

A. He asked for my opinion and I gave it to him.

Q. And you were always frank and honest with him in your criticisms?

A. Yes, very frank.

Q. You knew, of course, that Chaplin produced his own pictures?

A. Yes, that is what he told me.

Q. He told you that himself?

A. Yes.

Q. And it was so publicized and advertised everywhere, wasn't it?

A. Yes, but I relied more on what he told me than what I learned.

Q. He also told you that he wrote his own stories?

A. Yes, he told me but I -

Q. And you knew that he also played in his stories as the central character?

A. Yes.

Q. And you also knew that he directed his own stories?

A. Yes.

MR. DAVIDSON: I think if you will let the Witness answer the questions in his own way, and finish the answer -

MR. FROHLICH: I'm sorry.

Q. Coming back to the question that I asked you about his telling you that he wrote his own stories. Do you want to give a different answer?

A. Yes, he told me but I never believed it.

Q. You didn't believe he wrote his own stories?

A. No, it didn't concern me much.

Q. What was your basis for not believing that he wrote his own stories?

A. Because I knew him and I knew he had some writer always around him.

Q. And that was what made you believe that he didn't write his own stories?

A. Yes.

Q. Did you prior to 1937 ever suggest to Chaplin that you write some stories for him?

A. No, he suggested it to me.

Q. Did he make the suggestion prior to 1937?

A. No.

Q. Well, let's come down to when you were in California. At that time, did he make the suggestion?

A. I had just arrived and -

Q. You and your family had just arrived in California?

A. Yes.

Q. And were you living in Los Angeles or Hollywood?

A. In Hollywood.

Q. At what address in Hollywood?

A. I don't remember. I changed residences so often.

Q. Did Charlie come to see you at that address at any time?

A. When I was first located there, he came to see me.

Q. And he visited with you at your home?

A. Yes, he visited me at my home and took the family out to dinner.

Q. About what time in 1937 was that?

A. The first few days of 1937 or it may have been the last few days of 1936, because I arrived in Hollywood on Christmas Eve. He telephoned me a day or two days afterward - after I had taken an apartment there.

Q. When he came to see you the first few days in 1937 or the last few days in 1936, did you and he ever discuss any business.

A. No, he told me all about Bali and about his trip to Japan.

Q. Did he discuss with you any picture that he had in mind?

A. No, not that day.

Q. Then the visit on that occasion, was purely a social visit?

A. Yes, it was a social visit.

Q. Did he visit you again early in 1937?

A. He came to call for me one afternoon, immediately after the first visit - probably two or three days later.

Q. Was anything said on that visit about his business affairs?

A. He spoke of it again.

Q. He spoke of what again? You said he had not talked to you about his business affairs and now you testify that "He spoke of it again."

A. In speaking of it again, I mean -

Q. Just what did he say?

A. He asked me what I intended to do while in Hollywood and I told him that I intended to get myself something to do there; that I would probably get a job soon and that I wanted to stay there for a little while.

Q. And what did he say to that?

A. He said: "That is not exactly what you should do. What were you getting as salary before getting here?" I said: "\$15,000 for six or seven weeks work at Universal, that is about \$2500 a week." He said: "That is good money, but you get it in dribbles and is probably work you do not like. I am doing things I do not like at present, for instance, I bought a book called Regency and I am trying to make a story out of that book, but I do not get anywhere with it. I had Major - Major So and So (the man he mentioned is an Englishman whose name I do not remember) work on it and we cannot get anywhere with it. The two of us should collaborate and do some story together; there are some stories that the two of us could do better than any other two men I know. There is the Haymarket story, for instance, which I have had in my mind for a long time which I always wanted to do. I cannot do it alone, but the two of us can collaborate on it and there are other stories which we can make something of. Let's do one and then let's do another one, and let's go on doing stories that amount to something." I am giving you approximately the conversation in Charlie's words.

Q. What did you say to that?

A. I still let him talk. He said: "Let's collaborate on these stories. Let's find some stories done by the same men from beginning to end, not done by fifteen men as some people do." Then he said: "How do you handle

your books - do you sell them, do you get royalties, how is that managed?" I said: "No, I get royalties." He said: "How much?" and I said "Fifteen per cent". Whereupon he said: "Why can't you do it that way? Why can't we collaborate and work together on a story, finish it and then when I approve it, do it and you stick with it to the very end. If it makes money, you make money; if it doesn't make money, you have invested your time and work and I have invested my money producing it and putting it up. If this one doesn't work out, we will do another story. Let's do it that way. You know I have always wanted to write. I do not want to do any more pictures with the little man, I am sick and tired of him." Then he said: "Just a minute" and he went into the next room or upstairs - I do not remember exactly where it was, the next room or upstairs - and he came back with the book by Captain Schaak, or something like it and said: "Here is a book I had for a long time and I have read it backwards and forwards. Do you know it?" I told him I had heard about the book but had not read it, but that I knew the story of the Haymarket Riot. Charlie then began talking about Lings, Parsons and Engels and other characters of the book, telling me about them, what magnificent characters they were and how misunderstood they have been, and that it was a book that showed America in the time of that period better than any other book. When we got through talking, he said: "There was your own story, Tinka; that is a story for Paulette (Paulette Goddard) - she has nothing to do - I am paying her wages; she is under contract. That a magnificent story for her. I read it to her only the other day, I did not know you had come here and yet I read her the story. Well, what do you think?" To the best of my recollection, I said: "Today you say so but tomorrow you will change; I know you, in a few days from now you change your mind." and Charlie said: "Oh, no, I won't. No one can dissuade me from it if you want to do it with me." I am now using his language "I

swear to God, I am going to do it. I am not dependent on anybody; I have my own money, nobody is my boss - now, what do you say?" I said: "I will do it" and he said: "It is all right, you take the risk that you do it on your own time, you invest your work and I take a hell of a long time to make a picture. I am not going to act in it, I am going to direct it. I am going to produce it. You will stick with me and this is going to be something. We are going to make pictures together." By that time it was two or three o'clock in the morning - Charlie continued to talk and I agreed.

Q. Please tell us what he said?

A. I have told you what he said.

Q. Have you given us the full conversation between you and Chaplin?

A. In an abbreviated form, the gist of it.

Q. And that conversation was held in your apartment?

A. No, his apartment.

Q. Didn't I understand you to say that he came to see you on the second occasion at Hollywood and that it was then that you and he had this conversation?

A. No, I said that he called for me.

Q. He called for you and he took you to his home?

A. Yes, we went out to dinner together and then we went to his home.

Q. Who was present when that conversation took place?

A. Just the two of us.

Q. Have you given us the substance of the entire conversation?

A. Yes, in substance, except he added one more thing. He said: "We do not have to make any hullabaloo about this thing." and I

said: "If you don't, I will not. I have never made any hullabaloo about anything." and he smiled at that because he knew what I had in mind at that time. He said: "Of course, you will get screen credit - both of us will get screen credit. Remember this is a collaboration. We will really do things together" - he was insistent on that. He said: "This is something we do together."

Q. What did he say to you with reference to your compensation?

A. That it was to be fifteen per cent of the gross.

Q. Fifteen per cent of the gross?

A. Yes.

Q. The gross of what?

A. Gross of the income from the picture.

Q. The gross of what Chaplin would receive or the gross the distributor would receive?

A. The gross of what Chaplin would receive.

Q. Were any amounts mentioned? Were any figures mentioned?

A. No, no figures or amounts were mentioned.

Q. Did Charlie tell you what he usually received as gross compensation?

A. No, not at that time. He very frankly told me that he had gotten so many millions for that picture and so many millions for another picture - the amounts are not exactly fixed in my mind - which amounts made it very enticing to me.

Q. Well, now, you considered this an important arrangement, didn't you?

A. Yes.

Q. And you didn't insist on any written contract at all?

A. No, I didn't.

Q. You were willing to take his word for it?

A. Yes, to my sorrow now.

Q. Did you ever in all the sales that you have made of your stories - of your works - for motion pictures, make any arrangement with any producer other than by a written contract?

A. No.

Q. You knew that a production of Chaplin's would go on for a considerable period of time, didn't you?

A. Yes, I knew it.

Q. That was his habit, wasn't it?

A. Yes, that was his habit.

Q. And you were perfectly willing to take his word that he would give you fifteen per cent of the gross receipts?

A. Perfectly willing.

Q. Now, at that time, did you have any agent in Hollywood?

A. No, I had just arrived and I had no agent.

Q. Can you fix the date of that conversation which you have just related?

A. It was either the last few days of 1936 or the first few days of 1937.

Q. At that conversation, you stated, you discussed the Haymarket Riot and you also discussed The Cry of the Wolf. You also stated that Charlie brought a book from a room in his home written by Frank Harris, did he

A. No, it was written by Captain Schaak, or something like that.

Q. Did he give you that book?

A. Yes, he gave me the book to read and study.

Q. And you took it with you?

A. Yes.

Q. When did you see Charlie after that conversation?

A. About a week later.

Q. Where?

A. At his home.

Q. And what did you say to him and what did he say to you?

A. During that week I had gone to the library and ~~read~~^{resided} the book by Captain Schaak ~~and~~ read ^{the} Bomb by Frank Harris and refreshed my mind on the whole thing so that when I saw Charlie again, I would talk with him about it from my angle and also as to what I saw in the Haymarket story.

Q. Did you and he discuss the story that you had in mind or he had in mind based upon the Haymarket Riot?

A. Yes, we did at this second meeting.

Q. Can you tell us what he said and what you said?

A. I told him that the story would have to be a very frank one, or not at all, and Charlie agreed to that. I told him that we weren't to pull our punches and were to show the industrial situation at the time as portrayed in the book by Captain Shaak. He said he wanted the story in Chicago and not taken out of that City. It appeared that someone had told him that the story could be told in another City. "No", I said, "It should be told in Chicago" and I told him not to fictionize it or not to fictionize it too much.

Q. Did you and he agree that he was to appear in it as an actor?

A. No, he was not in any way to appear in the story as an actor, but was going to produce it and direct it with me.

Q. That was at the second conference?

A. Yes, at the second conference.

Q. What happened after that?

A. Then I made a rough outline of a few pages containing the plot of the story.

Q. You made that outline elsewhere or in his home?

A. No, in my home.

Q. And what did you do with that outline?

A. I brought it to Charlie and read it to him. I remember the occasion distinctly - finding him in bed in the morning and discussing some other matters - some other stories with Major - - - the Englishman whose name I do not recall. I remember an amusing scene I had with him at the time, because when Major - - - left, he read some lines which he had just written for Regency which he was playing around with. I am quoting him "playing around with."

Q. Did Charlie read your outline?

A. No, I read the outline to Charlie, as my handwriting is not always legible.

Q. And what did Charlie say about it then?

A. He said: "Fine". We discussed some minor points in the plot, Charlie wanted the story to end with a dramatic funeral in which the people who had been heroized by now (this is the end of the story) were being taken through the streets of Chicago. I suggested that the story end before that with a suicide of Lingg, which I thought was a much more dramatic point. He said: "Well, when we come to it we will talk it over again."

Q. And then what happened at that conversation or meeting?

A. We had lunch together probably and I went back to my apartment, continuing on the story at this time to make a larger treatment of it.

Q. On the occasion of this last visit you have just mentioned, you had not yet reduced your story to a typewritten manuscript?

A. No, I reduced it only as to plot.

Q. And after that conversation you worked on that plot and wrote a story?

A. Yes, I wrote a story out.

Q. And was that story typed?

A. That story was typed.

Q. Who typed it?

A. My Secretary.

Q. What was your Secretary's name?

A. Gertrude Uhr.

Q. Was Miss Uhr a resident of California? A resident of California at that time?

A. At that time she was a resident of California.

Q. And she was regularly employed by you?

A. Yes, she had just become employed because I had just arrived in California.

Q. And you paid her a salary?

A. Yes.

Q. How much did you pay her?

A. \$35.00 a week.

Q. And you dictated the story to her and she transcribed it, is that right?

A. I partly dictated it and partly from my manuscript because she cannot read my handwriting. I write most of my stories longhand.

Q. After she wrote this manuscript for you, what did you do with it?

A. I took it to Charlie.

Q. How long afterwards?

A. Oh, probably two or three weeks later, but Charlie was calling up in the meantime to ask how I was getting along and asked why I did not come to see him again.

Q. Did you have any title on that story - on that manuscript?

A. Yes, "Old Chicago". It was his title, his contribution to the collaboration at that time.

Q. Did you have the name of the author on it?

A. Both names were on it - Charlie Chaplin in collaboration with Konrad Bercovici appeared on the title page.

Q. How large a manuscript was it? Approximately how large was it?

A. It was between twenty-five to thirty pages, maybe.

Q. What did you do with that manuscript?

A. I took it to Charlie.

Q. Was this still in January or early in February, 1937?

A. Early in February.

Q. 1937?

A. 1937.

Q. You took it to Chaplin at his home in Beverly Hills?

A. Yes, at his home in Beverly Hills.

Q. Can you tell us the conversation had then with Charlie?

A. I read him the story, while reading the story to him he made several observations which we discussed. Some of them I accepted and some of them I rejected and we had amiable fights about them. He told me that he knew more about the drama than I did; that he knew what was dramatic; that he knew what were dramatic points; what interested people and wanted me to accept his versions. I accepted some of them and rejected other parts of them. I cannot remember what points were accepted nor what points were rejected. In collaboration, such discussions are very frequent and there is always a give and take.

Q. Did you make any notes or notations on paper as to what his suggestions were?

A. No, I made some notes on the manuscript itself.

Q. Then what did you do with the manuscript?

A. Then I went back home again with it.

Q. You took the manuscript back home with you?

A. This one I took back with me.

Q. That was the first typewritten manuscript of the story?

A. Yes.

Q. And when did you see Chaplin again after that?

A. Two or three weeks later, or maybe it was four weeks later. I saw him in the interim only I told him that I was working on the story and that I would read it to him when I was ready.

MR. DAVIDSON: Can you fix the time?

WITNESS: Sometime four weeks later.

MR. DAVIDSON: About what month would that be?

MR. FROHLICH: That would be either February or March, 1937.

WITNESS: That is about right, I guess.

Q. Did you dictate the manuscript to your Secretary?

A. I elaborated on it, re-wrote part of it by hand and dictated other parts of it. I made other versions of it before I was satisfied with one.

Q. Did a time come when you had a manuscript that you were satisfied with?

A. No, not yet and by that time I had a manuscript which reached about forty pages.

Q. And what did you do with that manuscript?

A. I took it to Charlie, read it to him and he asked me to leave it with him as he wanted to read it himself.

Q. What was the title of that manuscript?

A. "Old Chicago."

Q. And was the name of the author on that manuscript?

A. Yes, Charlie Chaplin in collaboration with Konrad Bercovici.

Q. And what did you do with that manuscript?

A. I left it with him as he wanted to read it. He said when I read it to him he could not get as much out of it as if he read it himself.

Q. That was the first manuscript you left with Chaplin?

A. Yes.

Q. Did he ever return it?

A. No. I have a carbon of that manuscript.

Q. Have you that carbon with you?

A. Hanging.

Q. I show you this manuscript which you have produced, Mr. Bercovici, on yellow sheets and ask you whether that is the first manuscript - first treatment that you had made of the story when you went to see Chaplin about it and after he had given you the book?

A. No, the first one was a rough outline of the plot.

Q. And did you read it to Chaplin from the manuscript which you are now holding in your hands?

A. Yes, from the manuscript which I am holding in my hands.

Q. You read that manuscript to him?

A. Yes.

MR. FROHLICH: I offer this to be marked Defendant's Exhibit I for Identification.

(Document marked Defendant 's Exhibit I for Identification)

Q. This manuscript marked Defendant's Exhibit I for Identification, Mr. Bercovici, was the manuscript that you brought with you to Charlie's home and read to him?

A. Yes.

Q. I call your attention to the upper lefthand corner where there appears "Charlie Chaplin and Konrad Bercovici". Do they indicate his name and your name?

A. Yes.

Q. And that was written on the manuscript before you brought it to Charlie's home?

A. I do not remember.

Q. Can you tell us when those two names were written in by you in lead pencil?

A. Possibly right there when I was with him.

Q. In his presence?

A. Possibly.

Q. But you are not sure of that?

A. I cannot be sure of such things.

Q. Well, it might have been written in later?

A. No, it was written in either before or during my conversation with Chaplin. All the pencil markings that you see there were not made at one time.

Q. Were all the pencil markings made by you after your conversation with Charlie?

A. Some during and some afterwards.

Q. Some during and some afterwards?

A. Yes.

Q. Then this expression "Charlie Chaplin and Konrad Bercovici" may have been made after or during your conversation with Chaplin, is that correct?

A. Correct.

Q. Anyway, this document marked Defendant's Exhibit I for Identification, is the physical manuscript you brought with you and read to Chaplin sometime in February of 1957, is that correct?

A. It was early in March.

Q. You have produced another manuscript entitled "Old Chicago", second manuscript and marked Charlie Chaplin in collaboration with Konrad Bercovici -

A. There was probably one between the first one and that one.

MR. DAVIDSON: You are now referring to Defendant's Exhibit I for Identification? The manuscript, Mr. Frohlich, which you are now holding in your hands?

MR. FROHLICH: Yes.

Q. And this manuscript marked Defendant's Exhibit II for Identification bears some pencil notes made by you, is that right?

A. Yes, that is correct.

Q. And there are no pencil notations made by Chaplin on that manuscript?

A. No. He would have considerable difficulty in making out these words.

Q. Did you show the second treatment to Mr. Chaplin?

A. I read it to him.

Q. You read the entire treatment to him?

A. Yes, the entire treatment was read.

Q. You read it to him at his home?

A. Yes, and I left a copy of it with him.

Q. And that was sometime in March?

A. Sometime in March or the beginning of April.

Q. And you left a copy of that with him?

A. Yes, I left it with him.

Q. Was that a carbon copy that you left with him?

A. It may have been another copy - carbon copy or an original copy.

Q. You did not type two originals, identical in form, did you?

A. I may have. I may have thought I wanted a carbon or thought that I did not want a copy.

Q. Do you know/whether it was your practice to make carbon copies of any manuscripts?

A. No, I didn't. Sometimes I just had the original.

Q. So, there was a typewritten manuscript in between this manuscript which is marked Defendant's Exhibit I for Identification and the one I am holding in my hands, which is now marked Defendant's Exhibit II for Identification?

A. I said probably.

(Document marked Defendant's Exhibit II
for Identification)

WITNESS, continuing: The pencil markings on this manuscript are Charlie's. ^{suggestions} On page 5, there is a suggestion by Charlie. Charlie said this should be done so as to give the story a definite time, without talking about years, etc. which I thought was a very good suggestion. Here is another thing on page 4: Charlie suggested that we show surprise at the apartment of a wealthy lady and the home of the working man. The reason he wanted me to do that in the next treatment was to show the contrast in the manner of living of the lady in question and the working man in whom she was seemingly interested. She was a very wealthy woman and lived very luxuriantly and Charlie thought this would be a very great contrast.

Q. You have testified, Mr. Bercovici, that in between Defendant's Exhibit I for Identification and Defendant's Exhibit II for Identification, there was a typewritten manuscript prepared by you entitled "Old Chicago" which was called the first treatment.

A. Yes.

Q. And that is the manuscript you left with Chaplin.

A. It is one of the manuscripts I left with Chaplin.

Q. And that manuscript was never returned to you?

A. Yes, it was never returned to me.

Q. And that it also had the expression "Charlie Chaplin in collaboration with Konrad Bercovici"?

A. Yes, it also had that expression on it.

Q. You do, however, make copies of some manuscripts, don't you?

A. Occasionally.

Q. And occasionally you made an original without making a carbon copy?

A. Yes.

Q. Do you make as much as two or three copies of the manuscript at times?

A. No.

Q. Is it your distinct recollection with respect to Defendants' Exhibit II for Identification, that you had or didn't have a carbon copy of it made?

A. I cannot remember exactly.

Q. You cannot remember.

A. No.

Q. And is it your testimony that you left a copy of this manuscript with Mr. Chaplin?

A. Yes.

Q. And that copy, if it was not a carbon, would have to be an original, wouldn't it?

A. Yes.

Q. And it would have to be identical in form, wouldn't it?

A. Almost identical. Maybe a word here and there changed.

Q. Now, after you made this second treatment, what else did you do with respect to the story?

A. I went back home after talking and discussing the story with Chaplin and continued to elaborate on it and this time it probably took five or six weeks introducing new scenes in it and elaborating on the point Chaplin suggested about in-

roducing the scene of the apartment of Mrs. Vanzandt, the lady in question.

Q. And did you then reduce that new version to manuscript form?

A. Yes, I did.

Q. Have you a copy of that manuscript with you?

A. No, I left it with Mr. Chaplin.

Q. Is it your testimony that you brought that new version to Mr. Chaplin?

A. I brought it to him, left it with him because he wanted to read it himself.

Q. And that new version was entitled "Old Chicago"?

A. Yes, "Old Chicago".

Q. That the third treatment was entitled "Old Chicago."

A. The third treatment, correct.

Q. And it was also marked "Charlie Chaplin in collaboration with Konrad Bercovici"?

A. Yes, it was.

Q. And you left that with him?

A. Yes, I left it with him.

Q. About when, would you say, did that take place?

A. About May.

Q. of 1937?

A. 1937.

Q. Was anybody present when you gave it to him - the third treatment?

A. No.

Q. Was anybody present when you gave him the second treatment?

A. No.

Q. Was anybody present when you gave him the first treatment?

A. No.

Q. And after the third treatment that you wrote, what else did you do with respect to this story?

A. I wrote a fourth treatment.

Q. Did you see Mr. Chaplin with reference to the third treatment?

A. I saw Mr. Chaplin on the fourth treatment.

Q. You have testified that you gave him the third treatment.

A. Yes.

Q. When you gave him the third treatment, did you read it to him?

A. The third treatment? I talked to him about it.

Q. And you read it to him?

A. Yes.

Q. And he asked you to leave it with him?

A. Yes.

Q. Did he make any suggestions on it at that time?

A. Yes, he made some suggestions.

Q. Do you recall those suggestions?

A. Yes, they were some very ridiculous ones which I laughed at and fought with him about them.

Q. What were those suggestions?

A. The one suggestion that we fought for hours over was that Chaplin wanted me to ~~ask~~ ^{develop} the love the woman had for a man who was working

during the night in a factory, by warming his bed for him by going to sleep in it so that when he came home it would be warm and not a cold bed, which I thought was a cheap gag. But you cannot fight with Charlie about a gag, he has his way so I expressed it as mildly as possible, but I stuck it in there.

Q. You stuck it in at a later time?

A. Yes, *I developed it.*

Q. You just discussed that with him when you brought the third treatment to him?

A. Yes, but he wanted it ^{*developed*} ~~in~~ as he wanted more of his own stuff in.

Q. And that was the only suggestion made in the third treatment?

A. No. Another one which I thought was ridiculous, but which he thought was dramatic, was the man was a prisoner and this woman brought an explosive to this prisoner and it showed he committed suicide with this explosive as it was transmitted to him by her kissing him. She kept it in her mouth.

Q. That was his suggestion?

A. Yes, his suggestion.

Q. Do you have a carbon copy of the third treatment?

A. I may have one. I am looking for it. We had an automobile accident, rather a trailer accident, on our way back from Hollywood in which our car and the trailer were smashed to bits and a good many things were lost. Some have been found and some have not been found and I may still find it. I am talking about the fourth treatment.

Q. I am talking about the third treatment. Perhaps, we do not understand each other. Now, when you gave Mr. Chaplin the third treatment in manuscript form, did you save for yourself a copy of that treatment?

A. Yes, it is possible.

Q. Do you mean to tell us that you gave Chaplin the only copy you had?

A. Why not?

Q. Did you or didn't you?

A. I cannot remember exactly whether or not I gave him the only copy I had.

Q. And when you made the third treatment, did you incorporate the suggestions about the woman warming up the bed and the woman and the prisoner?

A. Yes, I did.

Q. And did you tell him that you would write another treatment?

A. It was understood that I would write another treatment.

Q. But did he ask you to write another treatment?

A. It was understood.

Q. You say it was understood?

A. Yes.

Q. So you went back to your apartment or home and wrote another treatment, is that correct?

A. Yes.

Q. You don't have a copy of the third treatment with you?

A. No.

Q. If you were to make a fourth treatment, you would need the third treatment, isn't that so?

A. No, not necessarily. I had pencil notes which I had written for myself. I did not dictate this straight out of my head, I had notes on it and I did the thing while writing in pencil for myself.

Q. Did you reach the point with Chaplin where the third treatment was satisfactory except for the two suggestions which he wanted added in?

A. Satisfactory in a sense, but not complete. It was agreed it was not complete.

Q. Did he say at any time of the third treatment, that he was satisfied with it?

A. No, he was not satisfied with it, he wanted more elaboration.

Q. In addition to the two gags?

A. In addition to the two gags.

Q. Well, what did you have to work on in order to give him that elaboration? What manuscript did you have to work with?

A. My own pencil manuscript.

Q. And you didn't have the third treatment because it was with Chaplin?

A. Correct.

Q. You just relied on your pencil notes?

A. I generally write it out in longhand and then have my stenographer or my secretary type it out.

Q. Did you prepare a fourth treatment?

A. Yes.

Q. Did you dictate that likewise to your secretary?

A. I didn't dictate it, I wrote it and she typed it out.

Q. And in that fourth treatment, did you incorporate the two gags that Charlie had mentioned?

A. Yes, I did.

Q. And did you make any other changes in the story?

A. I made considerable changes in the story.

Q. And did you reduce that to typewritten manuscript?

A. Yes.

Q. Can you produce it?

A. No, Mr. Chaplin has it.

Q. So you reduced that manuscript to typewritten form. Did you make a copy of it for yourself?

A. No, not to my recollection. I knew it was not the end yet.

Q. Did that manuscript contain the title "Old Chicago", "Charlie Chaplin in collaboration with Konrad Bercovici" and did it say "fourth treatment"?

A. Yes.

Q. And you brought that to Chaplin?

A. I brought that to Chaplin.

Q. About when?

A. June, sometime.

Q. June, 1937?

A. Correct.

Q. And you brought that to him at his home in Beverly Hills?

A. Brought it to his home at Beverly Hills.

Q. Was anybody there when you saw him?

A. His servants saw me come in. Miss Paulette Goddard saw me come in.

Q. But she was not present in any conversations that you had with Charlie?

A. She was present at the conversation where we were talking about "The Cry of the Wolf".

Q. I am confining myself only to this particular manuscript.

A. No, we did not talk about this in her presence.

Q. And the manuscript entitled the fourth treatment, you say, was left with Chaplin?

A. Yes.

Q. Did you read it to him at the time you brought it to him?

A. I don't remember.

Q. Did you discuss it with him?

A. I discussed it with him.

Q. Did you tell him what was in it?

A. Yes, I told him I had incorporated his two gags and that I added more and I told him what was added. He said to leave it with him as he was going to read it himself.

Q. Is that all that was said about the story?

A. All that was said at that time.

Q. And you left it with him?

A. Yes.

Q. What happened after you left that manuscript with him, with respect to this story?

A. I took sometime writing what I believed to be the final script or final treatment of the story. Then I tried to get Chaplin on the telephone because there were certain points I wanted to discuss with him. I finally got him on the telephone and he said he was busy with matters of the United Artists and other people. He said he was very busy and I could not see him then, but made an appointment which he did not keep.

Q. Did you see him after you left that fourth treatment with him?

A. By that time it turned out to be the end of September or the beginning of October when

I prepared the final treatment by myself having no chance to see much of him.

Q. Was that the end of September or the beginning of October of 1937?

A. 1937.

Q. Did you complete that final treatment yourself?

A. I completed it.

Q. Did you reduce it to typewritten form?

A. Yes, reduced it to typewritten form.

Q. And what did you do with it?

A. I brought it to Mr. Chaplin.

Q. Can you fix the time when you brought it to Charlie?

A. Either the end of September or the beginning of October.

Q. Was that at his home in Beverly Hills?

A. In his home at Beverly Hills.

Q. Was anybody present then?

A. We had dinner together and then we sat down and read it.

Q. Who was present?

A. Paulette Goddard and some other people, I do not know their names.

Q. But you did not discuss the manuscript during dinner, did you?

A. No, he had already told me that he did not want any hullebaloo (that is his expression) about this affair.

Q. Then after dinner you went to another room in the house and -

A. We went to the living room.

Q. And you and he discussed the manuscript?

A. I read the script to him.

Q. Was anybody present when you read it to him?

A. There was no one present, just the two of us.

Q. And that was also entitled "Old Chicago", Charlie Chaplin in collaboration with Konrad Bercovici?

A. Correct.

Q. And did you leave that manuscript with Chaplin?

A. I left it with him because he said:
"We finally have it. We have licked it."
I am using his expression. "We are going to do it, but not now because I am still upset about my affairs with United Artists. This time I feel we have it. This final treatment is fine; it is exactly what I want" and he went on to say how wonderful it was, etc., etc.

Q. Did you retain for yourself, a copy of that fifth treatment?

A. I may have one, but again I say that we had this accident and a lot of things have been destroyed and I am looking for it and I may have it.

Q. Did you make any other treatment of that story?

A. No.

Q. The fifth treatment, was the last treatment?

A. The last treatment and the one he approved and to which he had nothing further to suggest.

Q. And he told you he would make the picture?

A. He told me he would make the picture.

Q. And this was in September or October, 1937?

A. The end of September or the beginning of October.

Q. On the occasion of this last visit to Charlie's home, the end of September or the beginning of October, 1937, did you discuss any other story with Mr. Chaplin?

A. Yes, he told me to go ahead and work on "The Cry of the Wolf" and he asked whether I had given any thought to it in the interim and I told him I had. He said: "As things may turn out, we may do the Cry of the Wolf before the Haymarket story because Paulette is eager to do something."

Q. During that time, were you writing for any one else?

A. I was writing for myself.

Q. Were you writing stories?

A. Yes. One is always writing.

Q. Did you have an Agent at that time?

A. I think I did.

Q. Was Zeppo Marx your Agent?

A. No, he was not.

Q. Who was your Agent at that time?

A. I don't remember.

Q. Did you submit any of those stories to your Agent?

A. No, those stories were not submitted, but stories written before that, the Sir Richard Burton story which was written in 1933 or 1934 for the Cosmopolitan Book Corporation and to which I had the motion picture rights.

Q. Did you have a written contract with your agent?

A. I cannot recollect. I cannot recollect his name right off the bat. He was not an important agent, he was someone who asked me whether I had anything for motion pictures or something.

Q. You had done no work on "The Cry of the Wolf" up to October, 1937?

A. Yes, I had.

Q. What work did you do?

A. Thinking about it and fiddling around it.

Q. But you wrote no manuscript on it did you?

A. No.

Q. That conversation with Charlie was early in October in the presence of Miss Goddard and was with reference to the story "The Cry of the Wolf"?

A. With reference to the story Tinka which I called in manuscript form "The Cry of the Wolf".

Q. Did you have any such manuscript on Tinka or "The Cry of the Wolf" at the time you saw Chaplin in October, 1937?

A. No.

Q. But you testified that Chaplin told you to go ahead and write the story for Paulette?

A. Yes.

Q. And you wrote the story in manuscript form.

A. Yes.

Q. Was it reduced to a typewritten form?

A. The first treatment was a pencil treatment which I read to him.

Q. When did you read that to him?

A. Several weeks later.

Q. Where did you read it to him?

A. At his home.

Q. At his home in Beverly Hills?

A. Yes.

Q. And was anybody present when you read that to him?

A. No, but later Paulette Goddard came into the room and we discussed it with her.

Q. After that discussion, did you prepare a manuscript?

A. I prepared a manuscript.

Q. And that was a manuscript in typewritten form?

A. Yes, a manuscript in typewritten form.

Q. And it was also typed by your secretary?

A. Also typed by my secretary.

Q. Did you ever show that manuscript to Chaplin?

A. Yes.

Q. Can you fix the time when you showed it to him?

A. Three or four weeks later.

Q. That would bring it down to about November, 1937?

A. About that.

Q. Where did you show it to him?

A. At his home.

Q. At his home in Beverly Hills?

A. At his home in Beverly Hills.

Q. Was anybody present then?

A. No.

Q. Did you read it to him?

A. Yes.

Q. Did you read the entire manuscript to him?

A. The entire manuscript, it was a very short one.

Q. What was the title of it?

A. "The Cry of the Wolf."

Q. Did you also have the author's name on it?

A. Both of our names: "Charlie Chaplin in collaboration with Konrad Bercovici" or "Konrad Bercovici in collaboration with Charlie Chaplin."

Q. Up to that point, did Chaplin show any intention to collaborate with you on that manuscript?

A. Yes, he talked to me about it and said that he wanted it done specifically for Paulette.

Q. Can you tell us just what he said or what he wanted done?

A. Paulette was to be a gypsy girl in love with the son of the owner of the castle. The castle business was Charlie's suggestion because in my story, I did not have any castles. The two used to meet in the forest because the gypsy girl's parents objected to her having anything to do with the son of the castle.

MR. DAVIDSON: You mean the son of the owner of the castle, don't you? You said the son of the castle.

WITNESS: Yes, (Castles do not have sons), and the parents of the boy objected, of course, to his having anything to do with a gypsy girl, so they used to meet secretly in the forest. The signal between ^{them} was the young man would imitate the cry of the wolf when he wanted her to come. In the meantime, the young man had become engaged to a more aristocratic lady, a friend of the family, and he was being prevented from seeing the gypsy girl. The gypsy girl simply refused to believe that her lover was engaged to marry someone of his own class and refused to believe that he would abandon her and would still keep her ears tuned day and night to hear that cry of the wolf that would bring her to him. She did not give up hope even when the wedding took place and her own Father and Brothers who were musicians were called to

play at the wedding. Suddenly she hears the cry of the wolf and thinking that it was her lover calling her, that he had probably run away from the marriage ceremony and still wanted her and loved her, she went into the forest. But, this time, it was the real wolf that had called and she was destroyed by the wolves. This, in brief, was the story and Chaplin elaborated on it saying that we should show more of the castle (he always wanted to show castles) and to show more about the people in the castle, the lives they led and he wanted to wind up the story differently than I wanted to. In my original story, I wound it up with the young man hearing the cry of the wolf during the wedding ceremony and realizing suddenly what might happen in the forest because he knew he was not calling and it may be the real wolf calling, he broke up the ceremony, ran into the forest and found the gypsy girl chewed up by the wolves.

Q. That was in substance the story which -

MR. DAVIDSON: Have you finished your outline?

WITNESS: Well, I have more or less.

Q. I am sorry. That was in substance the story that you read to Mr. Chaplin from the manuscript of "The Cry of the Wolf"?

A. Yes.

Q. Did you leave the manuscript with him?

A. Yes.

Q. Did you have or retain a copy of it for yourself?

A. I did not need one because I had the book which guided me and since he discussed the matter again, that was enough for me. I had the book called Murdo.

Q. Who is the author?

A. Konrad Bercovici, which, by the way is dedicated to Charlie Chaplin - strange irony

Q. Did Chaplin tell you at that time that he wanted another manuscript? Another version of it?

A. Yes.

Q. And you proceeded to make another version of it?

A. Yes, I proceeded to make another version.

Q. How long did that take you?

A. A couple of weeks.

Q. And what did you do with it?

A. I brought it to him.

Q. Was anybody present when you brought it to him?

A. No.

Q. You brought it to him at his home at Beverly Hills?

A. Yes, at his home in Beverly Hills.

Q. How was that story entitled?

A. "The Boy of the Wolf".

Q. And what was the author's name on that?

A. Charlie Chaplin in collaboration with Konrad Bercovici.

Q. Did you discuss the manuscript with Chaplin at that time?

A. Yes, he wanted more of the castle business put in it and more about the lives of the people in the castle, and he wanted to know if I didn't have the necessary gypsy music for it.

Q. Did you leave that manuscript with Chaplin?

A. Yes.

Q. So that two manuscripts of the story were left with him?

A. Yes, two manuscripts.

Q. And then what happened?

A. Chaplin, Paulette, myself and some other people, went to see some ballet together - I was invited by Chaplin to that - and we saw a great gypsy singer who is now here singing in one of the Russian places, I think the Kretchmaa, and Charlie said: "We ought to have him in the picture as he is a magnificent singer." Charlie called the man over and asked him to come to his home sometime during the next week, I don't remember exactly what date he fixed, and Charlie told him: "I am going to make a gypsy story and I want you in it and you are going to sing in it." The man's name is Peter Kuschnevitz, or it may be Kuschnetzsky. He is quite a famous gypsy singer. Paulette and I then talked about the story. It seems that Charlie had told her all about the story from the manuscript I left with him and Paulette was very enthused and very happy, as she so much wanted to play gypsy. She, at that time, had been doing nothing; in fact, had been doing nothing after "Modern Times." On our way back in Charlie's car, Paulette, he and I (they were taking me to my home) I sang to them a number of gypsy tunes or melodies - Charlie trying to learn to sing them after me, thinking he did very well.

Q. That was after you had submitted the first manuscript to him?

A. After I submitted the second manuscript to him.

Q. Did you prepare a third manuscript?

A. I prepared a third manuscript, but I again had some difficulty in seeing him because he wasn't always there and when we made an appointment, he did not keep it - it was the second time he did not keep an appointment with me.

Q. But you finally came to see him?

A. I finally saw him.

Q. At his home?

A. At his home.

Q. In 1937?

A. In 1937.

Q. Can you fix the month in 1937?

A. The end of December, 1937. I cannot be exact about it though.

Q. Did you have dinner with him then?

A. Dinners are not very rare things with me, so I do not remember exactly.

Q. Was anybody present when you spoke to Chaplin then?

A. No. I think Paulette was away somewhere, but I do not remember.

Q. Did you show him the third manuscript?

A. I showed it and we read it together, and Charlie went to the piano and played the gypsy tunes I taught him and some of his own or some he claimed to be his own, which to me was not strange being a musician.

Q. What was the third manuscript entitled?

A. "The Cry of the Wolf."

Q. And entitled "third treatment"?

A. Yes, entitled third treatment.

Q. And the names of the authors appeared on it - Charlie Chaplin in collaboration with Konrad Bercovici?

A. Yes, Charlie Chaplin in collaboration with Konrad Bercovici.

Q. And did you leave that manuscript with him?

A. I read it to him.

Q. Did you leave it with him?

A. He approved of it and said: "This is the one we are going to do" and I left it with him.

Q. Did you retain a copy of that manuscript for yourself?

A. I may or may not.

Q. And that was the last manuscript prepared on that story?

A. The last manuscript.

Q. Did Charlie know when he would commence production on it?

A. No, he said he would do it soon and probably before we would do the Haymarket story. He did not fix the time when he would begin to do, but said very soon, just as soon as he got over all the trouble he had.

Q. During this period, early January, 1937 down to November or December, did you earn any money from any other source?

A. Yes.

Q. How much?

A. Many royalties on books.

Q. I mean aside from royalties on books.

A. From the sale of stories; the sale of the Sir Richard Burton story.

Q. And when was that sale consummated?

A. Sometime in 1937.

Q. And how much did you get for the sale of that story?

A. From \$8000 to - I don't remember, \$8000 or more, *but the Burton story was written some years before 1937.*

Q. Did you write any other stories during this year, 1937, for different companies?

A. No. Wait a minute - except I think about the end of 1937, either the day before Christmas or the day after Christmas, Pasternack called me to help him on a story for Deanna Durbin and I think I worked a couple of weeks with him for a few hours and I got \$5000.

Q. That was the Universal Company?

A. Universal.

MR. DAVIDSON: Was that in 1937 or 1938?

MR. FREELINK: He said Christmas, 1937 - either the day before Christmas or the day after Christmas, 1937.

WITNESS: Wait a minute. No, it was 1938 that I did work for Universal.

Q. So, at the end of 1937, besides selling the Sir Richard Burton story, you were working on other stories from time to time in addition to "Old Chicago?"

A. When I said working, I don't mean working with pencil and paper, making notes or writing or studying, I was working for any company, and I don't know of any stories during that time that were ready to do. I mean, an author's mind is a peculiar thing, it always works - sometimes in vain and sometimes it actually grinds something out. Just as you would say that the Haymarket story was written exactly at that time.

Q. On that occasion in November or December, 1937, when you visited Charlie and gave him the third manuscript of "The Cry of the Wolf", that was the last time you saw Chaplin 1937?

A. Yes, the last time I saw Charlie.

Q. Then when did you see him again?

A. I tried to see him again shortly afterwards, but I couldn't get him on the telephone. He had, as a matter of fact, changed his telephone number and I couldn't get his new telephone number from Reeves as I usually got it. When he changed telephone numbers, I just could not get hold of him.

Q. Did you, during the entire year 1937, ever see Al Reeves?

A. No.

Q. You knew Al Reeves was Manager of the Company, didn't you?

A. Yes.

Q. And you knew Al Reeves was in charge of Charlie's business, didn't you?

A. Yes.

Q. And you, of course, knew that Reeves had always looked after Chaplin's business affairs, didn't you?

A. I knew Reeves was there. Not having had any business with him, I didn't know what Reeves' functions were. In fact, Charlie told me many stories about Reeves, as to his connection and relationship with Reeves.

Q. You knew, didn't you, that Reeves had an office at the studio?

A. I think I did.

Q. You knew that, didn't you? You had been to the studio often before, hadn't you?

A. Yes, but not in Reeves' office.

Q. Well, when you entered the studio, you entered through the office, didn't you?

A. Yes, through the entrance to the studio.

Q. Through the entrance to the studio; that is the only way to get in, through the office, isn't it?

A. Yes.

Q. And Reeves had his office right there, didn't he?

A. He might have.

Q. You have been in that office on occasions, haven't you?

A. No, I don't think so. I had no business with Reeves, except to say "hello" to him when I saw him.

Q. You wrote a story entitled "Fantastic Symphony?"

A. Yes.

Q. When did you write that story?

A. I wrote that story in collaboration with another man, I think it was William Thiele in 1938, beginning of 1938 in January - something like it.

Q. And that story was based upon the life of Hector Berloiz, the musician?

A. Correct.

Q. You say you wrote that story early in 1938?

A. That is my recollection. Maybe the last of December or something like it.

Q. So that by March 15th, you had completed that story?

A. Yes, very much so.

Q. And you had a manuscript of it?

A. I completed the story. As a matter of fact, it was the end of January or something like it. It was something I had in mind for years and had planned it as a novel.

Q. When did you see Chaplin for the first time in 1938?

A. About the 15th of March - wait, around the 15th of April.

Q. And before you saw Chaplin about the 15th of April, 1938, you had already written and completed in manuscript form, the story of the "Fantastic Symphony"?

A. Yes.

Q. And you had also written prior to that, a manuscript based upon Hitler?

A. Yes.

Q. Have you that manuscript with you?

A. Yes.

Q. May I see it, Mr. Davidson?

MR. DAVIDSON handing document to Mr. Frohlich.

WITNESS: I had also written a few pages which I sold to Goldwyn, it was the story of Hans Christian Andersen.

Q. That was written early in 1938.

A. Yes.

Q. How long did it take you to write the Hans Christian Andersen story?

A. The physical writing or the actual writing?

Q. The actual writing.

A. A few days.

MR. DAVIDSON: What are you referring to now, the Hans Christian Andersen story?

MR. FROHLICH: Yes.

Q. How long did it take you to write the "Fantastic Symphony"?

A. Not long.

Q. How long? A week, ten days or how long?

A. A week.

Q. You are able to write a story inside of a week?

A. It depends upon what story. If it is a story I have thought about for years, it would take me two days; if it is another story that I had not thought about for years, it would probably take me a year.

Q. Before 1938, you never talked to Charlie about the Hitler story?

A. No, not about the Hitler story, but in a very friendly way we discussed the situation in Germany and the Hitler personality, in a very desultory way, of course.

Q. Did you urge Charlie to make a picture based upon Hitler?

A. When?

Q. Before April 15th, 1938.

A. No.

Q. When did you write the manuscript of the Hitler story?

A. Sometime in March, beginning of March, the first or second week of March.

Q. What year?

A. 1938.

Q. And where was that written?

A. In my home.

Q. In your home in Hollywood?

A. In my home in Hollywood.

Q. How long did that take you to write?

A. Oh, I don't know. For instance, I would write for a little while at a time; I would write a small version of it at one sitting and then maybe later I took a little longer time to complete and write another version.

I would write all short, brief versions for myself, on which I would elaborate later on.

Q. Did you keep those versions?

A. Yes.

Q. Have you got them now?

A. Yes. (Handing)

Q. This manuscript that you have handed me - is this the version you wrote?

A. The version I wrote - the only one. There are three versions in these few pages.

Q. And these were written in March, 1938?

A. Written in March, 1938.

Q. How long did all these versions take you to write?

A. A couple of days.

Q. Two days?

A. About that.

Q. Three days?

A. About that.

Q. About two or three days, then?

A. That is all.

Q. And that was written by you alone and not in collaboration with anyone else?

A. Not in collaboration with anybody else.

Q. This manuscript that you handed me - does that represent the three versions of the Hitler situation?

A. Yes.

MR. FROHLICH: I ask that this be marked
Defendant's Exhibit III.
(Document marked)

Q. Did you ever reduce this manuscript marked Defendant's Exhibit III to typewritten form?

A. No.

Q. You never did?

A. No.

Q. So this manuscript marked Defendant's Exhibit III is the only manuscript of the Hitler story? The only manuscript of the Hitler story that you wrote in 1938?

A. Yes.

Q. When did you submit the "Fantastic Symphony" manuscript to Chaplin?

A. The manuscript of the "Fantastic Symphony" was sent to him from Hollywood by my Agent sometime on the 18th or 19th of April.

Q. Who was your Agent at that time?

A. Zeppo Marx.

Q. Is it your testimony then that Zeppo Marx submitted the manuscript to Chaplin?

A. Marx sent the manuscript to Chaplin by mail.

Q. Tell us, please, under what circumstances and when you saw Chaplin in April, 1938?

A. I realized that this Hitler story -

Q. No, I don't want to know what you realized -

MR. DAVIDSON: Just tell him when you saw him.

WITNESS: the 15th or 16th of April.

Q. At his home in Beverly Hills?

A. No, he was living in Pebble Beach. I met him at the house of Mrs. Ronel's.

Q. Where?

A. At Carmel-by-the-Sea.

Q. How far from Pebble Beach is that?

A. A short distance.

Q. A few miles - five or six miles?

A. About that.

Q. You had gone to this party at Mrs. Ronel's at Carmel-by-the-Sea?

A. Yes.

Q. Who accompanied you?

A. Melvyn Douglas, Remsen Bird, Dean of Remsen College and Mrs. Bird.

Q. Were you and Melvyn Douglas on your way to San Francisco?

A. Yes.

Q. Did you get to Mrs. Ronel's house in the evening?

A. In the afternoon.

Q. Was Chaplin there?

A. No, the reason I went there was that I knew Chaplin was to be there.

Q. You knew before then that he was to be there?

A. Yes.

Q. From whom did you get that information?

A. From Mr. Bird. I told him that I wanted to see Chaplin at Pebble Beach and he said "No use doing that this afternoon, because he is going to have tea at Mrs. Ronel's and you can see him there."

Q. Were you and Douglas then on your way to San Francisco from Hollywood?

A. Yes, from Hollywood.

Q. Did you arrive at Mrs. Ronel's in the afternoon about

April 15th or 16th?

A. Yes, the 15th or 16th of April.

Q. It was about the middle of April?

A. Yes.

Q. Chaplin came in there right after you arrived?

A. Yes.

Q. Was he accompanied by anybody?

A. I don't think so.

Q. Did you see Mr. Tim Durant there?

A. I met him afterwards.

Q. Was he at that party also?

A. I don't know; he was such an insignificant individual that I cannot place him.

Q. Is he a short individual?

A. Just one of those individuals.

Q. What do you mean by an "insignificant individual"?
Are you referring to his physical appearance?

A. I mean he is a mute person; he doesn't talk - just stays there like a piece of furniture.

Q. When Chaplin came in, did you speak to him?

A. Yes, as a matter of fact, he exclaimed with great joy as though he had just discovered a long lost brother or something.

Q. And you and he commenced to talk?

A. Yes.

Q. Did you discuss the Hitler situation with him at that meeting?

A. Charlie came in the midst of a discussion during which I was pondering over the Nazis and Hitler and he came in the midst of it and his words right off the bat, as you would say, were: "Well, there must be something to the man. Look at what he has done for Germany."

Q. And you took issue with that, of course?

A. Yes, I did as I had been in Germany and I knew what was going on there. He talked about dictators and the Nazis in general and I told Charlie that he was a dictator because he was not afraid to be hung, and so on.

Q. Did Melvyn Douglas participate in the talk?

A. He participated in the talk more or less - I should say it was more on my side and less on his. He was not as violent as I was, because I knew all about it - I was in Germany; I knew all about Hitler.

Q. Then, you were very violent in discussing dictatorship, Charlie was not so violent and Melvyn Douglas was neutral?

A. No, not neutral.

Q. Did Charlie say anything about making a picture based on Hitler on that occasion?

A. Charlie said: "You can't make fun of Hitler, make fun of a man who has done as much as he has, such as Mussolini who made something out of Italy."

Q. That was the general conversation in the room and several people participated in it?

A. Yes. I was particularly taken back by Charlie's attitude, but I knew him to be somewhat of a liberal and took it for granted that he detested the Nazis. Before he had seemed to agree with me, but this time he disappointed me, as I intended to for the first time, show him the Hitler story which I brought along with me.

Q. You had this manuscript with you?

A. Yes.

Q. Did you have it in your pocket?

A. No, in my brief case.

Q. Do you mean to say that you took your brief case with you to Mrs. Ronel's party?

A. No, the brief case was either at the hotel or at the Bird home. One doesn't carry a brief case to tea parties.

Q. Did you get the distinct impression that day that Charlie was in favor of dictatorship?

A. Yes, I did. I remember it distinctly; I said: "You sympathize with dictators because you have become soft and bloated." Others present objected because they had considerably more respect for Charlie's opinions than I had.

Q. You had very little respect for his opinions?

A. Very little.

Q. Did Charlie invite you to his home that evening?

A. Yes, he invited us.

Q. You mean yourself and Melvyn Douglas?

A. Yes.

Q. Didn't you say you were on your way to San Francisco?

A. Yes.

Q. And what did you say to him?

A. He seemed suddenly very anxious to talk about the dictator situation in Europe; there were things that he did not know about, what was really happening in Germany, particularly what Hitler was doing and I knew because I was in Germany and had seen the situation there.

He grew mild and sympathetic to it, which pleased me to no amount.

Q. You say he invited you to his home?

A. Yes.

Q. His home in Pebble Beach?

A. Yes.

Q. And you accepted his invitation?

A. Yes.

Q. Then that evening you and Douglas went with Mr. Chaplin to his home at Pebble Beach?

A. Yes.

Q. Was anyone else there?

A. No. I do not remember whether Tim was there.

Q. Did you see Tim at the Pebble Beach home?

A. I saw him flitting in and out. I have a faint recollection that he had to go out and meet his Mother or meet someone. I asked Charlie at that time whether he was his servant or what, I could not make out the relationship between them. He said he was just hanging around him to learn things about pictures and that he was an awfully nice fellow.

Q. So, when you got to the Pebble Beach home, Tim Durant was there?

A. Yes.

Q. That was late at night, wasn't it?

A. Sometime at night, we had gone to eat at a restaurant in Monterey which Charlie liked very much, a fish restaurant. In fact, he told a story about the Father of this man who owned the restaurant, etc. and then from there we went to Pebble Beach.

Q. When you got to Pebble Beach, did you and Charlie have

any discussion about the Hitler story?

A. Yes, he continued to talk about the Hitler story and I began telling Charlie what could be done with it and how Hitler and all the other dictators could be killed with ridicule; that there was no better weapon than ridicule and told him he was the man to do it.

Q. Did Charlie ever tell you that he had discussed that situation with another Agent?

A. No. He was mildly opposed to it, but a little more amiable than before; he could see there was something in it.

Q. Did you outline to him any plot for the Hitler story?

A. Not a plot, I just told him what a theme it would be.

Q. You gave him just a general idea?

A. Yes.

Q. Did Charlie at that time tell you that he had been thinking about the Hitler situation himself?

A. Evidently not, because he was quite in favor of it.

Q. Didn't Charlie tell you that he had outlined some sort of a plot or story in his mind about Hitler?

A. No.

Q. Did Melvyn Douglas participate in this discussion?

A. He participated, but -

Q. Did you make any suggestions to Charlie about how to make the story?

A. Yes.

Q. Did Melvyn Douglas make any suggestions?

A. Not how to make the story, he has no story mind, but just what this story should be to there.

Q. Did Douglas say anything about Charlie marching into Austria as head of the German army?

A. No, nothing like that.

Q. Did he make any suggestions which he thought should be incorporated in the Hitler story?

A. No, he just talked about it in a general way.

Q. You were all talking about the Hitler theme or idea, weren't you?

A. The theme was my suggestion; they had no idea what the theme would be.

Q. Did Durant participate in the discussion?

A. No.

Q. How long did the discussion take?

A. Several hours on and off because in the midst of it, we would be talking about something else. Charlie would say something I don't know what, and that would break up the conversation.

Q. On that occasion, did you discuss with Chaplin the "Fantastic Symphony"?

A. No.

Q. Did you mention it to him at all?

A. No.

Q. Did you discuss with him "The Cry of the Wolf"?

A. No.

Q. Or the ^{Waymarked} Hitler story?

A. Not at all.

Q. All you discussed was the Hitler situation?

A. That is all.

Q. You had no story in your mind at that time?

A. About Hitler?

Q. Yes.

A. Yes.

Q. And the story you had in mind is the story which is outlined in Defendant's Exhibit III?

A. Yes.

Q. Did you tell Chaplin that you had reduced the Hitler story to writing?

A. Later on I did.

Q. I am speaking on that occasion?

A. No.

Q. And you had it in your brief case, which you had with you?

A. I had it in my brief case with me.

Q. And that brief case was in Charlie's home?

A. It was somewhere around.

Q. And this manuscript, Defendant's Exhibit III, was in your brief case at that time?

A. Correct.

Q. And it was in your brief case during the time that you were discussing the Hitler situation with Charlie for over two hours?

A. Correct.

Q. And all the time that you discussed it, you didn't take the manuscript out of the brief case and show it to him?

A. No.

Q. What time did you retire?

A. Douglas retired first at about eleven o'clock or maybe twelve o'clock, and Charlie and I sat up.

Q. Charlie and you sat up?

A. Yes.

Q. Did Tim Durant retire?

A. He had gone away early in the evening.

Q. You and Charlie were alone talking?

A. Yes.

Q. After Melvyn Douglas retired, you still discussed the Hitler situation with Charlie?

A. Yes.

Q. Did you urge him to do it?

A. Yes I urged him and told him about the story. Up to then I had battered down his respect for the dictators.

Q. How long did you discuss the Hitler situation with Charlie after Douglas had retired?

A. Several hours.

Q. That would make it then, until one or two in the morning?

A. Yes, during which time I read him the story.

Q. You read from this manuscript?

A. Yes.

Q. Did you read every word of it to him?

A. I read the manuscript to him and explained things as I read to him because there were some criticisms in the manuscript for myself and not for anyone else.

Q. Did you read the entire manuscript, which consists of five pages and six sides?

A. Something like it.

Q. And you read each and every part of it to him?

A. Yes, each and every part of it.

Q. Did he make any comments on it?

A. He made comments as I read it; he laughed at some things and said "what could you do with this and what could I do with that" and demanded to know what happened in Germany, who Hitler was, his background and wanted to know about Italy.

Q. You mean to say that Chaplin asked you what Hitler was doing?

A. Yes, we spent three hours on this. I told him about the relationship between Hitler and Goering and Hess; what they were up to; I told him what he did not know about the Anschluss, the jealousy between Goering and Goebbels, the vanity of Goering, his changing of uniforms, his love for medals and adulations.

Q. You knew that all of that, that you told him, had been written up frankly and publicized almost daily in the public press, didn't you?

A. No, a lot of people talked about it, but had no information as I had from my visits to Germany and I made it part of a general story.

Q. Apart from the information that you had acquired on your visits to Germany, didn't you know as a writer and reader of magazines, newspapers and other publications, that the public press had been publicizing Hitler all the time?

A. Yes, but not all about Goering having medals pinned and unpinned on him by Hitler whenever he disagreed with him.

Q. You say the press never printed anything about that?

A. Never printed anything about the relationship between Hitler, Goering and Goebbels, nor printed anything of their private lives which was part of it.

Q. And you were the first one to acquaint Chaplin with the relationship between Hitler, Goering and Goebbels?

A. Yes.

Q. And that relationship, as you outlined it to him, consisted of the vanity of Goering?

A. Part of it was the vanity of Goering, his love for uniforms and his love for medals.

Q. How about Goebbels? Did you tell him about him?

A. I told about the petty jealousy between Goebbels and Goering and his attempt to supersede Goering in Hitler's favor.

Q. In other words, there was jealousy between Goebbels and Goering?

A. Yes, and also at that time what they were cooking up to get Austria under the heels of the Nazis.

Q. As a matter of fact, you already knew that Austria was under the heels of the Nazis in 1938, didn't you?

A. But the story went back a few months before that, so as to be able to tell a real story.

Q. That would be before the Anschluss. Is there anything in this manuscript that we have marked Defendant's Exhibit III which shows that the story goes back before the Anschluss?

A. Yes.

Q. Can you point that out to us, Mr. Bercovici?

A. It is in the story some place.

Q. Would you be good enough to look at it and indicate where it goes back prior to the Anschluss?

A. On page 4 beginning with the second line: "They find out, Goebbels finds out that an imposter is leading the army to the border. A good occasion for a chase."

Hitler, Goering and Goebbels and the gang in a powerful automobile behind Chaplin, but they came too late, Charlie is already across the border and is telling them Hitler wants to cross the border, but Goering whispers something in his ears and Hitler pins back the medals on him. Lots of fun out of pinning and unpinning the medals on Goering's chest, and some other remarks. Maybe Goering recognizes in Charlie his tailor and is sorry to have lost him (too thick)" This is a remark for myself). "The end should be Charlie delivering his speech, beginning with thumbing his nose, but grows more and more serious as he sees the people at the side of the border who have run away from Hitler and Germany, or perhaps the hours of the march with the army behind him, have awakened him to the enormity of the situation." Then a remark for myself: Balaam's Ass - what the heck - Charlie should play both roles.

MR. DAVIDSON: Was the question: Is there anything that precedes the Anschluss?

WITNESS: Yes.

MR. DAVIDSON: I think you will find something on the first page about that.

WITNESS: On the first page, beginning with the first line:

"Heil Hitler - Dictator. Charlie, barber or paper-hanger, or maybe a peddler has a fight with some s.s. men and is thrown in a c.c." (This means concentration camp). "He escapes from there wearing a military coat; he is taken for Hitler whom he resembles. He runs away and they run after him and heil him. They recognize the Fuehrer, but he is incognito. They follow him at a distance, but their numbers grow. He realizes that if he is found out, he will be torn limb from limb. He leads them, now grown to an army, towards the Austrian border. Meanwhile, the real Hitler, in Munich, has shaken his guards and gone out incognito to commune with his soul. The guards of the concentration camp looking for their prisoner come upon him and give him a good clubbing and arrest him despite his protests that he is the real Hitler. They know better, the real Hitler is on his way to Austria with the army. Charlie could play both parts. Some

romance is necessary. In Ghetto. In concentration camp. Charlie leads the s.s. troops to the border. They think he will just take over there, but once across the border Charlie ~~shows his men~~ ^{shows his men} at them and tells them who he really is. Goering, Goebbels and Hess and the whole crew could be made to play an important part in it. Goering's mania for medals and uniforms could be used. Show him going to sleep with the medals on his pajamas, but hint at the real reason for changing uniforms, his dilapidated stomach. A meeting between Benito and Charlie in which they carve up the globe between them, just a huge toy, gross satire done in Rabelaisian style, no subtlety. Show some s.s. men have pity on a mangy dog, after they have tortured Jews in c.c. No in-betweens. Black and White. Show the ponderousness of the Goebbels system of interior decoration; Hitler as an artist - cheap postal card appeal, caricatures. Crazy dumb, show Hitler speechifying grrrrrr-ohrrrrr-brrrrrrr. Another sweaty son of a bitch is bowing to him. Above all show the farce of it all. The stupidity of those who take the gang as statesmen and think there is something to it. Laugh it to death and don't become serious even for a moment, except maybe at the end. Got to make it clear that Charlie is secure once he has crossed the border. A few house calls. Munich. Good -

MR. DAVIDSON: Do you want him to read the whole thing?

MR. FROHLICH: No, I think he has answered the question.

Q. Isn't it quite clear from what you have read, Mr. Bercovici, that this manuscript is, or the story that you claim is in it, based upon the actual Anschluss in Austria, and upon the German troops walking into Austria?

A. No, they did not walk into Austria.

Q. Didn't the German troops walk into Austria in 1938?

A. No, in my story they do not walk in.

Q. In your story, they get into Austria.

A. No.

Q. Then who does?

A. Charlie.

Q. Then just where do the German troops march into Austria?

A. Later on.

Q. Well, at any rate, the time element in your manuscript is shortly prior to the Anschluss in Austria?

A. Shortly prior.

Q. Then "shortly prior" is the correct answer?

A. Yes - a year before.

Q. As much as a year before?

A. At any time. The time element is of no importance.

Q. Would it be correct to say that the story as it appears in your manuscript marked Defendant's Exhibit III, relates to the immediate events of Charlie and others just prior to marching into Austria?

A. Prior, not just prior.

Q. Well, then prior.

A. That is right.

Q. But you won't say how long prior?

A. No.

Q. You said that the manuscript is divided into three parts.

A. I said there are three different versions.

Q. There are three different versions of the Hitler story?

A. Yes.

Q. The first version is contained on the first and second page of the first sheet of paper of defendant's Exhibit III?

A. Yes.

Q. And then follows another version which commences with the statement: "The thing to do is to introduce Chaplin first as a Nebisch, as a little tramp. who doesn't know what has happened in this world", that is correct?

A. Yes.

Q. Then follows another version which is introduced by the statement: "Tramp doesn't know what's happened.", that is correct?

A. Yes.

Q. All these three versions were made by you within two or three days sometime in March, 1938?

A. Yes.

Q. And would you say that the second and third versions are merely elaborations of the first version?

A. Changes and elaborations.

Q. And are the stories as you have it in the first version?

A. No, not all of it. The second one elaborates a little more than that.

Q. Let's take the first version, will you be good enough to point out for me, looking at that first version, just what part of that first version you state is original for story purposes? What was original with it? What parts?

A. The whole thing. It cannot be taken apart.

Q. Well, I am going to split this up and I want you to tell me what part of the whole thing was original with you. Do you mean to tell us that Charlie making a Hitler story was an original idea with you?

A. The idea of Charlie being a barber, or paper-hanger or maybe a peddler, and resembling Hitler and is taken for Hitler is original.

Q. That was an original thought?

A. Yes.

Q. Original with you?

A. Yes, original with me.

Q. As far as you know, it has never been the subject nor has it been written up by anyone else, that is correct?

A. Yes.

Q. After that, what other part is original with you?

A. The part that Charlie was a tramp who did not know what had happened in this world.

A. DAVIDSON: By Charlie, you mean the paper-hanger?

WITNESS: Yes, I mean the barber, paperhanger or a peddler. I used the name Charlie because that is in my manuscript.

Q. Was the idea of Charlie impersonating a barber, original with you?

A. Yes, I was a barber, paperhanger or maybe a peddler.

Q. Was the idea of Charlie impersonating a paperhanger, original with you?

A. Yes.

Q. And was the idea of Charlie impersonating a peddler, original with you?

A. Yes.

Q. As far as you know, Charlie has never impersonated a barber, a paperhanger or a peddler on the screen?

A. I would not say that.

Q. But the idea of having Charlie impersonating Hitler is original with you?

A. Charlie impersonating Hitler is original with me.

Q. Couldn't Charlie take any other part in order to bring out the resemblance between him and Hitler? Couldn't he take any part?

A. Any part of what?

Q. Couldn't he be a factory worker, a mill hand or take any other part?

A. That didn't concern me, I was writing the story. I show it this way and not any other way.

Q. And the only way that Charlie could impersonate Hitler was to play either a barber, a paperhanger or a peddler?

A. Yes.

Q. Do you say that Charlie's impersonation of Hitler was an original idea with you?

A. Yes.

Q. In addition to that original idea, what other original thought or idea did you indicate in this first version?

A. Not knowing what had happened in this world and being able to oppose the S.S. (which means storm troops) when they came back.

Q. Where in that first version is there anything to indicate that Charlie didn't know what had happened?

A. Where I say: "The thing to do is to introduce Chaplin first as a Kebab, as a little tramp, who doesn't know what has happened in this world."

Q. No, I am speaking of the first version, the first sheet with the two sides. Where on that sheet is there anything to indicate that Charlie did not know what had happened?

A. There is nothing of that in the first two pages.

Q. That is correct. What else, would you say, looking again at that first page, is an original thought or theme or contribution that you made?

A. Charlie having a fight with some of the S.S. men, is thrown in the concentration camp and escapes from there wearing a military coat.

Q. You say that that is original with you?

A. Yes.

Q. Now, concentration camps were pretty well known at time, weren't they?

A. So was New York City pretty well known.

Q. You must have assumed that Charlie knew something about concentration camps.

A. I cannot assume anything from what he said.

Q. Do you think that Charlie was so stupid that he didn't know there were concentration camps in Germany?

A. I suppose he did.

Q. You knew that he knew.

A. I suppose he did.

Q. You knew that everybody, outside of morons, knew about concentration camps.

A. Yes, I suppose so.

Q. Yet, you say that was an original thought with you?

A. No, Charlie running away from a concentration camp, is original with me.

Q. That was an original idea of yours?

A. Yes, he escapes from a concentration camp wearing a military coat. The next line is: Charlie is taken for Hitler whom he resembles and having an army running after him thinking he is Hitler.

Q. Charlie being taken for Hitler and his resemblance to Hitler are all part of the impersonations you have in here, is that so?

A. Yes, and running away from the concentration camp and people running after him and heiling him as Hitler, was original with me.

Q. You have already claimed that the impersonations of Charlie for Hitler, or Hitler for Charlie, was an original thought of your own.

A. Yes, and the action that follows too.

Q. And the action that follows: that of Charlie running away?

A. No, not that action. If I intended that, he would have been discovered and everything would end there. The action that follows: The storm troops going after him thinking that he is Hitler, is original with me.

Q. That is an original thought with you?

A. Yes.

Q. So your intention was to have Charlie run out of a concentration camp and have the troops run after him -

A. Yes.

Q. And they take him for Hitler because he had a military coat on?

A. Yes.

Q. That was an original contribution of yours?

A. Yes.

Q. Then "they follow him at a distance, but their numbers grow" -

A. Yes.

Q. That is an original thought with you too?

A. Yes.

Q. Did you ever see "Modern Times"?

A. Yes.

Q. Do you remember the scene where Charlie marches ahead of some paraders and as they go along and follow him, the number grows and grows? You had that scene in mind, didn't you, when you made this contribution?

A. No, I didn't.

Q. But it was suggested by that scene of Charlie's in "Modern Times" wasn't it?

A. No, not by Charlie in any picture.

Q. In "Modern Times" Charlie unknowingly and unwittingly led an army of paraders.

A. Yes and it also happened in fifty other pictures and stories.

Q. But forget about the fifty other pictures and stories and let's confine ourselves to the picture "Modern Times." Wasn't it a fact that you indicated something Charlie had used in "Modern Times"? Isn't that true?

A. Yes, but -

Q. That is the same thing he had in "Modern Times", wasn't it?

A. Except that in "Modern Times" he was not taken as the Fuehrer.

Q. But in this picture he is taken as the Fuehrer?

A. Yes.

Q. What else in this manuscript was original with you?

A. And then suddenly realizing that he had all this crowd following him which would be ready to tear him up if they found out who he was.

Q. Didn't Charlie in "Modern Times" realize that he was head of a parade and that trouble would come to him if they found out who he was? Do you remember that scene?

A. No.

Q. What is your recollection of that scene in "Modern Times"?

A. I don't recollect that scene.

Q. Didn't you testify a little while ago that you had seen "Modern Times"?

A. Yes.

Q. And that you had a recollection of that scene?

A. I had a recollection of Charlie being up front and being followed.

Q. And Charlie didn't know he was leading a long procession.

A. It may be so.

Q. You saw the picture, didn't you?

A. I saw it.

Q. You have a pretty good memory, haven't you?

A. Yes.

Q. You have been writing stories a good many years and it wouldn't be unusual that an incident would be fixed upon your memory permanently, would it?

A. Not necessarily. I couldn't live if everything were fixed on my mind permanently.

(Adjourned Until 2:00 P.M.)

Q. I believe, Mr. Berceovici, when we adjourned for lunch, I had made some inquiries as to the matters you claim to be original with you in the manuscript marked Defendant's Exhibit III.

A. Yes.

Q. Now, what other part of that manuscript do you claim to be original with you? Do you want to see the manuscript to help you to testify from it? I am confining myself only to the first version.

A. There is no such thing as part of it. The whole thing is one. The second elaborates - the second elaboration of the first contains a lot that the first contains and the third the same thing. It is one and the same thing. You cannot very well divide these things and take them word for word and say is this word original or that word original, or this sentence or that sentence original. In this case there is nothing original on this earth.

Q. Let me read to you from your own sworn complaint in this action: Paragraph Ninth in which it is stated follows: "Ninth. That on or about March 15th, 1938, plaintiff originated for motion picture production, a satire on Hitler and on dictators and on or about April 15th, 1938 plaintiff in accordance with the arrangement previously agreed, proposed that the defendant Charles S. Chaplin produce a motion picture based on such original satire, the subject of which was as follows * * *" and then you go on to give us a brief summary of your Hitler satire - you recall that statement don't you?

A. Yes.

Q. Do you mean by that statement to indicate that what you proposed and read to Chaplin was an original work?

A. As a whole, yes.

Q. I am now interrogating you with respect to parts of this work for the purpose of ascertaining from you just what parts of this work you claim to be original. You have testified with respect to the six or seven lines of this first version. I would now ask you to be good enough to read on from there and tell me what other portions of this manuscript of the first version only you claim to be original with you?

A. The thing is that you claim something to be a first version that is not a version.

Q. Didn't you testify that the first version of that manuscript which is written on both sides, was complete in itself. Didn't you so testify?

A. Yes.

Q. You testified that it was the Hitler story as you originally conceived it.

A. I didn't testify to that, but that the three versions that I made were original.

Q. That the second was an elaboration of the first and that the third was an elaboration of the first and second?

A. Yes.

Q. But that the first is complete in itself.

A. I claim originality on the three versions.

Q. I understand that. I am interrogating you now with respect to the first version, I will come to the others little later. I am trying to ascertain from your own lips what part of the first version you claim to be original.

A. I said the whole thing.

Q. The whole thing?

A. Yes.

Q. Everything in it is original?

A. Yes.

Q. And has never been written up by any other writer before?

A. No, not in this way.

Q. "He leads them, now grown to an army, towards the Austrian border" was that an original thought of yours?

A. You can't do that. It doesn't work that way. You must take what my mind transcribed on paper not what you read on paper.

Q. You giving a satire on Chaplin, based on Hitler and dictatorship, was that something to transcribe for public entertainment?

A. Yes.

Q. Can you now tell us for purposes of fiction, what parts of the first version are original?

A. It -

MR. DAVIDSON: I think he has testified that the whole thing is original - the whole combination is original. I think this is purely an argument upon the meaning of originality and the witness' answer is that the whole combination is original. I object to further questioning along that line, as I think the witness has answered the question.

MR. FROHLICH: The witness has not answered the question, Mr. Davidson, and I am going to keep on with this inquiry with respect to the component parts of this first version. I have a right to ascertain that.

MR. DAVIDSON: He has answered it.

MR. FROHLICH: He has not, he said the whole thing.

WITNESS: That is right.

MR. FROHLICH: I am taking it apart to ascertain which was original with him and which was in public domain and a matter of public knowledge.

MR. DAVIDSON: Isn't that all argumentative?

MR. FROHLICH: Here is a man who claims his story was taken. He is going to tell me what part was original and if he doesn't tell me, the Court will make him tell me.

(Discussion off record)

Q. In your own words, please tell us what part of this first version you believe to be an original contribution by you?

A. The ^{contribution} ~~consideration~~ of a little man being taken for Hitler.

Q. That is original with you?

A. Not word for word - please let me finish:
~~The~~ ^{contribution} ~~consideration~~ of a little man being taken for Hitler and able to escape from jail - from a concentration camp - because he looks like Hitler and being followed by a whole army who think that he is Hitler, an army that he leads across the border not for the purpose of conquering Austria, but for the purpose of escaping from people who would tear him limb from limb if they found out who he was.

Q. So far, that is original with you?

A. Yes, and the ^{contribution} ~~consideration~~ of having the real Hitler being taken for the imposter and taken to the concentration camp from where the first one has escaped and not believed that he is Hitler though he protests about this and to have him stay there long.

enough for the original little man to escape across the border, is original.

Q. That is also an original ^{Contribution} consideration of yours?

A. Yes.

Q. How about the words "Some romance is necessary". Does that introduce an original thought?

A. Yes, it tells me that in the second version I will develop that a little more. It is an outline written by me for me to refresh my mind as to what I want to do.

Q. How about the words "In ghetto" and "In concentration camp"?

A. I indicate that I was not yet sure whether I wanted the romance to take place in the ghetto or in the concentration camp.

Q. Didn't you -

MR. DAVIDSON: Have you finished telling what is original or have you not yet finished?

MR. FROHLICH: Please go ahead.

WITNESS: Well, I go ahead with the diatribe that he is going to launch against the men who followed him to the border, telling them, now that he is secure, who he is, he tells them what he thinks of the people, what he thinks of the Fuehrer and what he thinks of what they have been doing in general, which is original; and I then indicate that Goering, Goebbels, Hess and the whole crew could be made to play an important part in it and that I wanted to use Goering's mania for medals and uniforms to show him up to ridicule, he goes to sleep with the medals on his pajamas. The next sentence is "but hint at the real reason of

his changing uniforms"; in the next version I say what the real reason for the changing of his uniforms is: his dilapidated stomach.

Q. Didn't you say that in this version: the reason for his changing uniforms is his dilapidated stomach?

A. I say the real reason for his changing uniforms was because he had no control over evacuation.

Q. And that is original with you?

A. Yes. As a matter of fact, it was not known and probably not yet known by the majority of people.

Q. Now, we come to the meeting between Benito and Charlie. That was an original ~~consideration~~ ^{collaboration} of yours?

A. Yes, an original consideration of mine, during which the two while meeting try to carve up the globe between themselves. As far as this is concerned, the earth is just a huge toy with which they play, which in itself lends itself to further ~~collaboration~~ ^{elaboration} because it is only symbolism. The next thing I say that I want to show is the s.s. men having pity on a mangy dog after torturing the jews in a concentration camp. The whole ridiculous situation, the ponderousness of the Goebbels system for decorations and what part the crazy dumb played in this Nazi development was to be shown in the story as indicated in this first page. Then Hitler, or in this case - Charlie, speaking and addressing the multitude with his brrrrrrrrrs, chrrrrrs grrrrrrrs and such disagreeable sounds while the people looked up with adoring eyes at him, and the whole farcical affair about him and the stupidity of the people to think they are statesmen when they are nothing but a gang of cut-throats, was to be part of the story. The general idea was to laugh and ridicule the whole thing to death and not to be serious at all until the end. I also, in the second page, wanted to show that this supposedly great

man who wanted to out do Napoleon, Alexander and Caesar was taking all his advice from a horoscope reader. The next thing was to show that Hitler was not really imitating Napoleon but Ludwig of Bavaria who had originated the high signal and heil cry and that Hitler was imitating him even in his love for Valdemar and even in the fact that he had built a castle in Berchtesgaden, which was the home of Ludwig of Bavaria, and this group of cut-throats, Hitler's own men, were jealous of each other, were undermining each other and that each one wanted to be the next Fuehrer. I tell myself in the second page that I must not follow into the Rasputin atmosphere, that I must keep it continually in this burlesque, crude atmosphere, with them each playing Metternichs or Machaivellis. Among other things, I am showing that if it were not for the uniform he was wearing, Hitler would be just another tramp, would be taken for a lunatic and that he is a believer in horoscopes. Then I said, elaborating on the romance which I had indicated a few lines above, it may be a woman who falls in love with Charlie because she thinks he is Hitler or because she pities him or because she admires him when he escapes from the concentration camp; that she should be young and foolish, not necessarily Jewish though she lives in the ghetto. Elaborating still on the concentration camp, I say show the guards with long whips prowling around and that Charlie could dance with the globe a-la-Pavlowa. One of the reasons I had a-la-Pavlowa in mind was because I knew that Charlie loved to dance a-la-Pavlowa. The whole thing was to keep to ridicule even more than to satire and to ridicule Benito whose one great thing was that he made the trains go on time and that he rose to power because of the castor oil he used on people.

Q. Let me point out something to you. You are holding the manuscript marked Defendant's Exhibit III in your hand, at the end of the second side of the first sheet do you notice a line in lead pencil?

A. Yes.

Q. Why was it put there?

A. Just a line because I put the pencil down.

Q. Every time you put down the pencil, do you put a line?

A. Not every time.

Q. Please look at the last page of that manuscript and let me know if a line is there?

A. Yes.

Q. Was it put there because you put the pencil down?

A. I don't know why.

Q. Does that line mean the end?

A. No, because there was a second page where I continue.

Q. Did you continue the second page after drawing the line?

A. Perhaps a few days later, after thinking about it.

Q. You were thinking about it in the meantime?

A. Yes

Q. You had new thoughts and then elaborated on the first version, or whatever you call it?

A. Yes.

Q. So that after you made the second version, you wrote the third version? How long after the second version, did you write the third?

A. The following day, or the third day.

Q. So that the whole manuscript took you two or three days to set down in paper form, as you have it there?

A. That is right.

Q. You state you knew that Charlie loved to dance. You have seen him dance, haven't you?

A. Yes.

Q. You know that Charlie used to get a great deal of pleasure out of dancing, and that he was an accomplished dancer, didn't you?

A. Yes.

Q. And that he was very active and agile?

A. Yes, very.

Q. You know that in some of his prior pictures, he also danced?

A. Yes, I think I do remember that he did, but he didn't dance with a globe which is a great difference.

Q. The idea of a concentration camp was not particularly original, was it?

A. Nor is the idea of New York or Hollywood original. It doesn't work that way.

MR. DAVIDSON: I think you have asked that question three times, Mr. Frohlich.

Q. Isn't it a fact that Hitler's love of uniforms and medals was played up -

A. Not Hitler's, but Goering's love of uniforms and medals.

Q. Goering's then, wasn't it played up in the newspapers so that the public had some familiarity with it?

A. Yes.

Q. As also was the fact that Hitler had met Mussolini before the Anschluss and had a conference with him?

A. Yes, but not in Italy.

Q. This is a meeting in Germany?

A. Yes.

Q. But he met Mussolini and had a conference?

A. Yes.

Q. And that is a fact that is well known to the world, isn't it?

A. Nobody, no person knows what happened between them and I am imagining something that happened between them.

Q. You know that Hitler has made many speeches prior to April, 1938?

A. Correct.

Q. And that his manner of speaking violently and making speeches in a guttural voice was also well known to the public at that time. You have heard him speak, you've heard his voice, haven't you?

A. Yes, but the effect of the speech on the multitude is not known to the public. I wanted to show it graphically and in the picture.

Q. And the rambling and spell-binding conversations and great influence he had over the German people was also well known?

A. It was not known. It was my intention to show this in a picture.

Q. You mean it was never shown in a motion picture?

A. No, it was not.

Q. Do you know anything of news reels?

A. Yes.

Q. Don't you know about the news reels made prior to April, 1938, where they show Hitler making speeches?

A. I have never seen any.

Q. You have never seen any news reels showing Hitler speaking?

A. No. I have heard him in Berlin making a speech.

Q. You know he has been heard over the radio in the United States, don't you?

A. Yes.

Q. Do you listen to the radio?

A. Yes, but not to Hitler.

Q. You do go to motion pictures occasionally?

A. Occasionally.

Q. Was this first version of yours a satire?

A. Yes.

Q. Would you call it a story?

A. I have called it the outline of a story.

Q. Did it have a plot?

A. Yes.

Q. Did it have continuity?

A. Not yet.

Q. Did a time come when you gave continuity to this version?

A. A little more than that.

Q. Did you give continuity to the first version when you wrote the second version?

A. When I elaborated on it, yes.

Q. Did a time come when you saw Chaplin's picture "The Great Dictator"?

A. Yes.

Q. When did you first see that picture?

A. The second night when it was shown here.

Q. In New York City?

A. Right here in New York City.

Q. Can you fix the month?

A. No, not off-hand.

Q. Would you say about October, 1943?

A. That is possible.

Q. Have you a fair recollection of what you saw on that screen?

A. Yes.

Q. You saw the whole picture, of course?

A. Yes.

Q. The whole picture from beginning to end?

A. Yes.

Q. Did you see in that picture, any scene in a concentration camp?

A. Yes.

Q. Did you see in that picture, Charlie escaping from a concentration camp in a military coat?

A. Yes.

Q. You did?

A. Yes.

Q. Did you see the guards coming - no, did you see Hitler in a concentration camp?

A. No.

Q. Did you see the guards of the concentration camp beating up either Charlie or Hitler?

A. About ready to beat him up, if I am not mistaken.

Q. Did they actually beat him?

A. No.

Q. Did you see Goering in the picture, or the character supposed to represent Goering?

A. Yes.

Q. And you saw Hitler or Charlie pinning and unpinning medals on him?

A. Yes.

Q. You didn't see Goering in pajamas?

A. No.

Q. You didn't see anything to indicate that Charlie had a dilapidated stomach?

A. No.

Q. You saw the meeting between Mussolini and Hitler?

A. Yes.

Q. Was there any globe there at that meeting?

A. Not at that meeting, but the first meeting is outside of the train.

Q. You saw Mussolini coming off the train and then you saw him later in a scene in a palace meeting Hitler?

A. Yes.

Q. And you saw other adventures and incidents that took place in the palace?

A. Yes.

Q. Did either Hitler or Mussolini have anything to do with that globe?

A. I don't recollect.

Q. The scene in the palace where Hitler or Charlie danced with the globe, do you recall that?

A. Yes, very well.

Q. Do you recall the dance and the various postures that Charlie took with reference to that globe?

A. I recall the dance.

Q. That dance was a symbolic dance, wasn't it?

A. Yes.

Q. What did that symbol signify to you?

A. That he toyed with the world - the world was something to toy with.

Q. He plays with it?

A. Yes, he kicks it, he plays with it.

Q. And finally the world explodes in his face.

A. Yes.

Q. Was there anything in this first version that indicated that Charlie was going to toy with the globe, that the globe was to represent the world and that the end of the dance would be significant of Hitler's downfall and would explode in his face?

A. The last thought is not represented in my first version.

Q. Was there anything in the picture which you saw which showed these s.s. men, I assume you mean storm troops, having pity on a mangy dog or anything else? In fact, did s.s. men appear in the picture?

A. No, except Schultz.

Q. And he is the man who befriended Chaplin?

A. Yes.

Q. All the other men were brutal?

A. Yes.

Q. They didn't show pity to anybody?

A. Right.

Q. And was there anything in the picture to show Hitler as being an artist?

A. Yes.

Q. What part of the picture showed that?

A. His appreciation for decorations, he seemed to have some objection as to the way things were put up.

Q. Couldn't anyone who is not an artist have the same objections?

A. I was not concerned with anybody else, I was concerned with him.

Q. Is it your testimony that that part of the picture which shows Hitler's objections to the decorations, indicates to the public that he, Hitler, is an artist?

A. No,, but that is a ridiculous question, Mr. Frohlich.

Q. You have answered that ridiculous question, Mr. Bercoovici.

Q. You say: "Laugh it to death and don't become serious even for a moment". I take it that that was the end of the picture insofar as satire was concerned?

A. Yes.

Q. You know that Charlie is essentially a comedian.

A. Yes.

Q. And he always has taken a comic part?

A. Yes.

Q. And that he is one of the greatest creators of comedy?

A. Yes.

MR. DAVIDSON: I object - opinion evidence.

MR. FROHLICH: I want his opinion as to

whether he is not a great comedian.

WITNESS: He is.

MR. FROELICH: He is one of the greatest in the world.

Q. Is there anything in the picture which indicates that somebody was reading Hitler's horoscope?

A. No.

Q. Was there anything in the picture to indicate that Henfstaengl was playing music to Hitler?

A. No.

Q. Or anything in the picture which would indicate any great rivalry existing between Goering and Goebbels?

A. Yes.

Q. Just what part of the picture do you have reference to?

A. The part of the picture where one advises Hitler something and then he goes away, then the other one advises him something else, and the glances and glares between them.

Q. Was there anything in the picture which shows the heroine, who is played by Miss Goddard, falling in love with Charlie because she thinks he is Hitler?

A. The second part of my sentence in which I say: she falls in love with him because she thinks he is a hero.

Q. Not because she pities him?

A. No, because he is a hero. I had three choices: 1, because she thinks he is Hitler; 2, because she pities him and 3, because she admires him.

Q. Please look at the first version and read to me that part which indicates she falls in love with him because she admires him.

A. I say a woman falling love with Tichie because she thinks he is Hitler, or because she pities him or because she admires him because he escapes from a concentration camp.

Q. Maybe you are right about "admires", but I transcribe the word as "advises".

(short discussion here)

Q. In the picture Paulette is shown as being Jewish and she lives in the ghetto.

A. It is indicated that she is Jewish.

Q. And that she lives in the ghetto, doesn't it?

A. Yes.

Q. And all the people with whom she lives are Jewish?

A. Yes, but I do not say she is Jewish. I give myself a choice: I say not necessarily Jewish.

Q. Is there anything in the picture which shows the different types of prisoners in the concentration camp?

A. Yes.

Q. How many types are there?

A. I do not remember. I did not count them. There is a short scene and it passed very quickly. To my recollection, I could not figure it out.

Q. You say you read this manuscript to Mr. Chaplin on the night you went to Pebble Beach?

A. Yes.

Q. And that you read it to him alone?

A. Yes.

Q. No one else was present?

A. No.

Q. Did you read the entire five pages to him?

A. Yes, the entire five pages.

Q. Previous to your having shown the manuscript to Mr. Chaplin, did anyone else -

MR. DAVIDSON: I object to that as irrelevant, immaterial and incompetent.

MR. FROMLICH: I think it is a proper question in form and a proper inquiry.

(Discussion off record)

Q. You say you wrote this manuscript marked Defendant's Exhibit III and that it took two or three days to write. After you finished it, did you show it to anybody else?

MR. DAVIDSON: I object.

MR. FROMLICH: I have a right to go into the genesis and history of the matter.

MR. DAVIDSON: You have gone into the genesis. I think if he collaborated or spoke to anybody else that is - that has nothing to do with it. I think the question is clearly objectionable; it is incompetent, irrelevant and immaterial. It had nothing to do with Charlie's business and he could have shown it to a million different people.

(Discussion off record)

MR. DAVIDSON: I have no objection. You can tell him if you want to Mr. Bercevic.

WITNESS: If you have no objection, I haven't any.

Q. Did you show it to anybody else?

A. I showed it to my daughter.

Q. What is your daughter's name?

A. Myrel, and then I showed it to Mr. Fisher.

Q. Who is Mr. Fisher?

A. Mr. Robert Fisher, a friend of mine and a neighbor in Ridgefield, Connecticut. At that time he was and probably is now still in Hollywood.

Q. Was Mr. Fisher living in your home in Hollywood?

A. No. I saw Mr. Fisher frequently because he was a neighbor of mine in Ridgefield and because he and I had often and frankly discussed the Nazi situation, he being a German and anti-Nazi. He had often told me that something should be done about this - some play or satire or story should be written on the subject, and then when I had written the story some days after, maybe the 30th of March, in meeting Robert Fisher I told him that this time I have done it.

Q. Did you have the manuscript in your hand at that time?

A. Yes.

Q. And you showed it to him?

A. Yes.

Q. Did you hand it to him to read?

A. I read it to him, we were sitting close together.

Q. Did you read all five pages of it to him?

A. Yes, all.

Q. Did you show it to anyone else?

A. I am not certain whether his wife was with him at the time or whether she was not.

Q. Did you show it to anyone else besides Mr. Fisher and your daughter?

A. I do not think so.

Q. Did you show it to Melvyn Douglas?

A. No.

Q. Did you discuss it with him on your way to Carmel-by-the-Sea?

A. No.

Q. Did you discuss it at any time with Melvyn Douglas before getting to Charlie's home at Pebble Beach?

A. I did not discuss the manuscript. I discussed the possibility of it.

Q. You discussed the possibility of Charlie making a picture on the story?

A. Yes.

Q. But you never showed Douglas this manuscript?

A. No.

Q. Did you ever tell him you had a manuscript written in your possession?

A. I do not recollect.

Q. Did you show him the manuscript afterwards?

A. I do not recall whether or not I did.

Q. Did you show it to anybody else afterwards?

A. I do not recollect - I rather think not.

Q. Did you ever reduce the manuscript to typewritten form?

A. No.

Q. Did you leave the manuscript with Charlie on that occasion?

A. No.

Q. Did you ever show the manuscript again to Chaplin?

A. No, ^{because} not until he said he would not do it.

Q. He told you he would not do it?

A. Yes.

Q. How long did you remain at Pebble Beach?

A. Possibly two days.

Q. In the two days you were there, did you discuss the Hitler satire again with Chaplin?

A. The following morning.

Q. In the presence of anybody?

A. No, Chaplin came down to breakfast and said: "I would like to do it but all I can say is that there is only enough material for a two reeler and I am not going to make two reel pictures at this stage of the game." I said: "Probably not enough material for a full picture, according to the number of reels it would contain" and I generally elaborated verbally on what other things could be put in it.

Q. Did you discuss with Chaplin at that visit to Pebble Beach, the "Fantastic Symphony?"

A. Not at that time, yet.

Q. After your two day visit, you went to San Francisco with Mr. Douglas, is that right?

A. Yes. Not at that time yet - we had not discussed the "Fantastic Symphony".

Q. Now, after you were there for two days, you left Mr. Chaplin's home?

A. Yes.

Q. And you and Mr. Douglas proceeded to San Francisco?

A. Yes.

Q. How long were you in San Francisco?

A. Five or six days, I do not know.

Q. Did you come back by car from San Francisco towards Hollywood?

A. Yes.

Q. And you passed Pebble Beach?

A. Yes.

Q. Did you stop to see Chaplin?

A. Yes.

Q. Was Tim Durent there?

A. Possibly.

Q. Did you have any further discussion with Mr. Chaplin on the second visit with reference to the Hitler satire?

A. No.

Q. Was anything more said about it by you or him?

A. No, he said he could not do it, that there would be trouble with the State Department, that we were at peace now with Germany and Italy, that these two men - Hitler and Mussolini, were heads of Governments - we dare not satirize them or do anything with them and after we had talked the whole thing over, he said no he would not do it. I tried for a little while to persuade him to do it but you know Charlie, once he said no, it is no. So, I made up my mind not to

talk about it. There was nothing anybody could do about it except Charlie, and I closed the matter.

Q. How long did you remain at Chaplin's home on this second visit?

A. I think overnight.

Q. Was Mr. Douglas with you?

A. Yes.

Q. Did you discuss the "Fantastic Symphony" on that second visit?

A. It was Mr. Douglas who suddenly talked to Mr. Chaplin about the "Fantastic Symphony."

Q. And what did he say?

MR. DAVIDSON: I object on the ground that it is incompetent, irrelevant and immaterial.

MR. FROHLICH: I have a right to inquire into this matter and -

(Long discussion off record)

HEARING ADJOURNED WITH A VIEW TO ARRANGING FOR AN ADJUDICATION OF THE RELEVANCY AND MATERIALITY OF THE QUESTION LAST PROPOUNDED.

UPON SUCH DECISION, THE HEARING WILL BE RESUMED.

EXAMINATION OF MR. KONRAD BERCOVICI RESUMED
ON APRIL 15, 1942 AT 10:30 A.M., at the OFFICES
OF SCHWARTZ & FROHLICH, ESQS., 1450 Broadway,
New York, N.Y.

EXAMINATION OF MR. BERCOVICI:

MR. FROHLICH read last questions and answers of
Witness, appearing on previous
examination taken March 5, 1942.

MR. DAVIDSON: Objected to on the ground it is immaterial
incompetent and irrelevant and all rights
are reserved upon the trial of the action
pursuant to the stipulation originally
made herein.

Q. Now, Mr. Bercovici, when you left Los Angeles and went
to San Francisco and I am speaking of the occasion of your
first visit to Mr. Chaplin's house at Pebble Beach, did
you have with you at that time the manuscript of the
"Fantastic Symphony"?

A. No.

Q. Well, after your first visit to Mr. Chaplin's house,
you continued on your way to San Francisco?

A. Correct.

Q. And then you came back from San Francisco with Mr.
Douglas and again stopped at Mr. Chaplin's house at
Pebble Beach?

A. Correct.

Q. Did you at that time have with you the manuscript of
the "Fantastic Symphony"?

A. No.

Q. When did you give the manuscript of the "Fantastic
Symphony" to Mr. Chaplin?

A. I didn't give it to him. My Agent sent it to Mr. Chaplin.

Q. Was that Zeppo Marx?

A. Yes.

Q. He sent it pursuant to your request?

A. Yes.

Q. In your discussion with Mr. Chaplin on the occasion of your second visit, who brought up the subject of the "Fantastic Symphony"?

A. Mr. Melvyn Douglas.

Q. Can you tell us all that he said on that occasion?

A. He told him the story of the "Fantastic Symphony".

Q. He told Mr. Chaplin?

A. Melvyn Douglas told him that he read the story in Los Angeles and that he liked it very much; that he was the one who saw in the story a character in Berloiz for Chaplin.

Q. And did you participate in that conversation?

A. Yes.

Q. Tell us what you said.

A. I let Douglas tell the story because he told it very well.

Q. What did Chaplin say?

A. He became very enthused about it.

Q. Yes, but just what did he say?

A. He said: "That is exactly what I have been waiting for."

Q. Is that all he said?

A. No, he said: "I have for a long time wanted to play a serious role and here's Konrad writing the right story for me; I didn't even know about it."

Q. Is that all he said?

A. No.

Q. What else?

A. He said "I want it. This is my story."

Q. And then?

A. Whereupon I said the story was now being considered by M.G.M.; that I had written the story in collaboration with Mr. William Thiele, one of the Directors of M.G.M. Chaplin insisted that he was the one to do the story and wanted it and asked me to withdraw the story from M.G.M.

Q. Did you discuss anything in relation to the price of the story?

A. No.

Q. Did Chaplin say anything to you about compensation for the story?

A. Yes.

Q. What did he say?

A. He said: "I will buy this one."

Q. Did he say what he would pay you for it?

A. No.

Q. Did you name any figure?

A. No.

Q. Did you at any time discuss with Mr. Chaplin, a figure for the story?

A. No.

Q. Did you remind Mr. Chaplin that you and he had a contract under which you were to get fifteen per cent if the story was made?

A. I did not remind him of that because the story was written with Mr. Thiele, with whom I already had a contract.

Q. Nothing was said by you or Chaplin at that time or at any other time with reference to the "Fantastic Symphony" coming under the contract you and he previously made, is that right?

A. That is right; nothing was said.

Q. After that conversation, you returned to Hollywood?

A. No, I telephoned from Chaplin's home after that conversation to my home, asking my wife to telephone immediately to Zeppo Marx to withdraw the story from M.G.M. because Charlie had bought it, and Chaplin came to the telephone and talked to my wife and told her how much he liked the story and how glad he is to buy it. I then telegraphed from Chaplin's home to my Agent and to Mr. Thiele about the sale of the story.

Q. You talked to your wife about Chaplin having bought the story and Chaplin also talked to your wife about having bought the story, but no price was mentioned by anybody?

A. No, I left that up to my Agent.

Q. Zeppo Marx?

A. Zeppo Marx.

Q. Now, I show you this letter, dated April 22nd, 1938, and ask you if it is in your handwriting? (Document examined by witness)

A. Yes.

MR. FROHLICH: I offer this as Defendant's Exhibit IV for Identification.

(Document marked Defendant's Exhibit IV for Identification)

Q. Will you be good enough to look at that letter, Mr. Bercovici and I call your attention to the sentence in that letter: "I cannot stand the excitement" and ask you whether the "excitement" that you were under was caused by the fact that Chaplin was about to purchase this story?

A. Yes, I wanted to get it out of the way. I say so here.

Q. You had already given him two manuscripts previously, which you say he had accepted and approved.

A. Yes.

Q. Was there any special reason why there should be any excitement about this third manuscript?

A. Yes, naturally, and I had Thiele on my neck.

Q. Do you know what became of the story after April 22nd, 1938?

A. Yes, it was returned to Zeppo Marx.

Q. And did you see the letter under which it was returned?

A. I may have seen it, I do not remember. If I could see it, probably it would refresh my memory.

Q. I show you this copy of the letter and ask you whether this refreshes your memory as to having seen the original letter at any time? (Document examined by witness)

A. It sounds like it.

MR. FROHLICH: I offer this as Defendant's Exhibit V for Identification

(Document marked Defendant's Exhibit V for Identification)

MR. DAVIDSON: Some objections to this entire line of questioning.

Q. Did you send a telegram to Chaplin with reference to this story, "Fantastic Symphony"?

A. Yes.

Q. Will you be good enough to produce a copy of that wire?

(Handing)

Q. Is this copy of a telegram which you have produced, a true and accurate copy of the wire you sent to Mr. Chaplin on April 25, 1938?

A. Yes.

MR. FROHLICH: I offer this as Defendant's Exhibit VI for Identification.

(Document marked Defendant's Exhibit VI for Identification)

Q. You said in the telegram: "or is Reeves horse trading it or yourself and trying to get a Chaplin story for pennies Stop". Had Reeves made any proposition to you or your Agent with reference to the story?

A. Yes.

Q. What was the proposition?

A. I think - I am not exact in my figures - that he planned to pay \$3,000 or \$4,000 for it, but not the \$25,000 as Zeppo Marx asked.

Q. Did Zeppo Marx ask \$25,000?

A. Yes.

Q. Was that pursuant to your instructions?

A. Yes, that was the price to M.G.M.

Q. Zeppo Marx' figure of \$25,000 as the purchase price of the story was made pursuant to your instructions?

A. Yes, my instructions after a conversation with Mr. Thiele who was part owner of the story.

Q. You know that the story, "Fantastic Symphony" was offered by Zeppo Marx and also by your Agent, Stanley Bergerman, at various times in 1938 to various studios in Hollywood?

A. No, I didn't know that.

Q. Did you instruct Zeppo Marx to offer the story, "Fantastic Symphony" to various studios in Hollywood?

A. Marx was my Agent and he was interested to sell it, but I didn't tell him where to sell it.

Q. You let him submit it wherever he thought he might find a purchaser?

A. Correct.

Q. Did he report that he had offered it to various studios?

A. No.

Q. Did you give Bergerman a manuscript of it for the purpose of selling it to studios?

A. No.

Q. Did he report that he had submitted it to studios?

A. No, I do not remember it.

Q. You never saw a report on that?

A. No, I knew Thiele was there ^{and} that he was interested, and Thiele would more or less take care of it.

Q. When you sent that telegram, marked Defendant's Exhibit VI for Identification, to Mr. Chaplin on April 25, 1938, you were somewhat cross with him, weren't you?

A. No, even the telegram doesn't say or show that I was cross.

Q. You were annoyed?

A. I was peeved, chiefly because he made such a fool out of me before Thiele.

Q. Did you write Mr. Chaplin at that time or communicate with him with reference to the other two manuscripts that you say he had approved?

A. Not at that time.

Q. Did you ask Mr. Chaplin whether he was going into production on any one of these two manuscripts?

A. Not at that time.

Q. Do you recall when you engaged Stanley Bergerman to act as your Agent?

A. No, I do not remember exactly.

Q. Can you tell us the year?

A. No, probably 1940, I am not exact about it.

Q. Well, will it refresh your recollection if I show you a contract or a photostatic copy of a contract which has been marked in evidence in Mr. Bergerman's deposition as Defendant's Exhibit I, dated April 18th, 1940? (Document examined by witness)

A. I was almost correct.

MR. DAVIDSON: That is the time you came out to Hollywood?

WITNESS: That is right.

Q. Now, with whom in Stanley Bergerman's office were your dealings had?

A. With Stanley Bergerman and Jack Hofstaetter, and occasionally with Jack Leighter who was at that time working for Stanley Bergerman.

Q. How long did you remain a resident of Hollywood after April, 1938?

A. Let's see - a very short time - I could not tell because I left soon afterwards.

Q. And when you left Hollywood, did you go to any other part of the United States?

A. I went to Connecticut eventually after a long trip.

Q. Did you come back to reside in Hollywood after that?

A. In 1940.

Q. In 1940?

A. Not to reside - I came back there.

Q. How long would you say you were away between April 25th, 1938 and June 25th, 1940 from Hollywood?

A. Oh, about twenty months or so.

Q. During all these twenty months that you were away, did you make any effort to ascertain whether Chaplin was going into production on the "The Cry of the Wolf" and the "Haymarket" stories?

A. I did.

Q. From whom did you make that effort?

A. Directly.

Q. With whom do you mean?

A. With Mr. Chaplin.

Q. Did you receive any letters from Mr. Chaplin with reference to these two manuscripts?

A. No.

Q. You knew, as a matter of fact, that Mr. Chaplin - you knew during that entire period up to June 25, 1938, that he was not going into production on the "The Cry of the Wolf" story or the "Haymarket" story.

A. I did not know.

Q. You had no information on the subject?

A. He did not write me.

Q. And because he did not write you, you made no effort to find out elsewhere?

A. There was no elsewhere.

Q. Didn't you know that Mr. Chaplin in the years 1938 and 1939, was working on a Hitler story?

A. I found out in 1939 from reading the papers.

Q. And you knew that when Chaplin was working on one story, he would not be working on another?

A. Correct.

Q. During what time in 1939 did you find that out?

A. Either the Spring or the Summer of 1939.

Q. You knew at least in the Spring or the Summer of 1939, that up to that period Chaplin had done no work on either "The Cry of the Wolf" story or the "Haymarket" story?

A. Yes.

Q. Did you make an attempt to find out when Chaplin would complete the Hitler story?

A. I wrote him a letter when I heard that he was working on a Hitler story, asking whether he was doing my story - whether it was true.

Q. Did you receive any letter from Chaplin in reply?

A. No.

MR. DAVIDSON: Can you fix the time when you wrote the letter to Chaplin?

WITNESS: Sometime in the Summer.

MR. FROELICH: The Summer of what year?

WITNESS: 1939, as soon as I read it in the papers.

Q. You received no reply to your letter?

A. No reply.

Q. And then you came back to Hollywood?

A. Oh, no, I read a little more about it in the papers and I wrote another letter.

MR. DAVIDSON: When was that?

WITNESS: Probably in December.

MR. FROHLICH: Of 1939?

WITNESS: Yes.

Q. And then did a time come when you went back to Hollywood?

A. Because of that I went back to Hollywood because I wanted to see Chaplin and speak to him about it.

Q. Can you fix the month?

A. In April.

Q. April, 1940?

A. Yes.

Q. When you came back to Hollywood, did you see Cheplin?

A. No, not immediately.

Q. When in 1940 did you see Chaplin? When and where did you see him?

A. I saw him at a restaurant - it was at the Brown Derby.

Q. Was that by appointment?

A. No, I ran into him.

Q. Can you fix the month?

A. In June, sometime.

Q. How long were you in Hollywood at that time?

A. About two months.

Q. That would be June, 1940?

A. Yes.

Q. Did you go over to Chaplin's table and talk to him?

A. No, he came over to my table.

Q. Who was at your table?

A. Some young actress - Gloria Holden.

Q. Anyone else?

A. No.

Q. What did you say to Chaplin and what did Chaplin say to you?

A. He came to my table and said: "I want to talk to you". He seemed to think we had something to talk about and he proceeded to talk all about the story he had just finished. He said: "I did it, I did it." He gave me no time for fifteen minutes while he sat at the table, to say a word. Then he left the table suddenly, before I had time to tell him more.

Q. Did he on that occasion tell you about the story of the "Dictator" as he had made it?

A. No, all he said was: "I did it, I did it."

Q. Do you mean to tell me that it took him fifteen minutes to say: "I did it, I did it."?

A. You know Chaplin - he can say "I did it" in five hundred different ways.

Q. In telling you that he did it, did he at that time go into detail of the picture he made and the plot of it?

A. Nothing, except to tell me that it would be amonument; it was a wonderful thing and it was magnificent.

Q. And what did you say to that?

A. Nothing I could say, he gave me no time to interrupt him.

Q. You mean you said nothing and he did all the talking?

A. No, he was not anxious to hear me say anything in the presence of anyone else.

Q. Did you say anything to him about the basis of the original story?

A. I could not tell him anything; when he got through, he left the table.

Q. And that was the end of the interview?

A. That was the end of the interview.

Q. Did a time come in June, 1940 when you saw Mr. Stanley Bergerman?

A. I saw him before that, and as a matter of fact, Mr. Bergerman knew of my claim before that - before he had met me.

Q. Didn't you know that Stanley Bergerman didn't write Chaplin or make a claim on your behalf until June 25, 1940?

A. I didn't know.

Q. Would it refresh your recollection if I show you a photostatic copy of a letter sent by Stanley Bergerman to the Charles Chaplin Studios which is in evidence as Defendant's Exhibit K in Mr. Bergerman's examination? Would you say that your conversation with Chaplin was held before June 25, 1940?

A. Before - I imagine so.

Q. So that if your conversation was held before June 25, 1940, Chaplin would not know that you had made any claim.

A. I am not sure about these dates - whether it was before or after - I would not be sure, because it was done without me there.

Q. In your conversation with Chaplin at the Brown Derby in June, 1940, did you mention the fact to him that you had made a claim?

A. No.

Q. Did you tell him at that time that you were about to make a claim or had made a claim?

A. I could not tell him anything, he did all the talking.

Q. And you said nothing, but just listened?

A. Yes. I thought my time would come, but he left the table before that. He had guests, I don't know who, and he did not want to leave them too long.

Q. Did you instruct Mr. Bergerman or Mr. Hofstadter to make a claim on your behalf to Chaplin with reference to the "Dictator"?

A. Yes.

Q. Can you tell us when, for the first time, you instructed that firm - Stanley Bergerman & Co.- to make that claim?

A. Sometime in May.

Q. May, 1940?

A. Yes, May, 1940.

Q. Was that instruction given in writing?

A. Yes.

Q. Have you a copy of that writing?

A. Yes.

Q. May I see it, please?

(Document to be produced)

Q. Mr. Bercovici, did you instruct Bergerman to make a claim on your behalf against Chaplin with reference to the picture "Dictator"?

A. Yes.

Q. Can you tell us generally what claim you instructed Bergerman to make? You instructed Bergerman to make a claim for screen credit, didn't you?

A. No. My letter will show that this is not it. All I wanted at that time was to contact Chaplin and talk to him.

Q. Well, I am not talking now about contacting Chaplin - I am talking specifically with relation to what instructions you gave Bergerman to make a claim on.

A. Since the deal between Chaplin and me had been made without any Agent's interference, I wanted to talk to Chaplin about the "Dictator"; I didn't want at that time to do anything but to talk to him.

Q. As a matter of fact, you had seen Chaplin at Pebble Beach in May, 1940?

A. In June.

Q. It was after you had seen Chaplin in June that Bergerman wrote this first letter of June 25?

A. No. My letter to Bergerman or my letters to Bergerman long before that were in May.

Q. Well, in any of your letters to Bergerman, did you instruct Bergerman to claim anything but screen credit?

A. Yes.

Q. Did you instruct him to ask for damages?

A. No.

Q. Did you instruct him to claim that you had written the story?

A. Yes.

Q. You told Bergerman that you had written the story of the "Dictator"?

A. Yes.

Q. Did you at that time know the story of the "Dictator"?

A. Yes.

Q. Who told you?

A. Dick - Richard Halliday. At that time he was story editor of Paramount.

Q. When did you see Halliday?

A. Sometime in May.

Q. Of what year?

A. 1940.

Q. Was anyone present when you spoke to Halliday?

A. Jack Hofstadter.

Q. What was said?

A. Halliday sent for me; he seemed to have a matter which he wanted to discuss with me.

Q. Where was that meeting held?

A. In the office at Paramount.

Q. And the month?

A. May, 1940.

Q. And what did Halliday say to you?

A. He received me by saying that he had a wonderful time the other night looking at my story in Chaplin's house. He said: "He talked about nothing else but you and Charlie told me how wonderful you were and how you saved his life by just giving him a story just when he needed one mostly."

Q. Was that all that was said?

A. No. Then he said: "I hope you get a big chunk of money for it." To which I replied: "Did Charlie tell you what he had paid for it?" "Well," he said, "that is taken for granted." I said: "Was my name on the screen when you saw it?" and he said: "No, but I only saw the" uncut or unprepared - or whatever you call it - the private showing of it. He said: "It certainly will be there."

Q. Was Hofstadter present at that conversation?

A. Yes.

Q. What did Mr. Hofstadter say?

A. He turned to me and said: "You haven't told me anything yet about that?"

Q. And what did you say to that?

A. Well, I didn't, as a matter of fact.

Q. And then did you instruct Mr. Hofstadter to make a claim for screen credit?

A. I wrote to Mr. Chaplin of my conversation with Mr. Halliday, telling him that I was in Hollywood if he didn't know already; that I wanted to see him and wanted to discuss the matter with him and reminded him that I had written him several other letters. There was no reply. I tried to get him on the telephone and Mr. Reeves who usually always gave me the number of Charlie's - a number which Mr. Chaplin changes very frequently - this time he did not give me the number. He said he would send it to me.

Q. Did you talk to Mr. Reeves about getting Mr. Chaplin's number?

A. Yes.

Q. When did you talk to him?

A. A few days after my visit to Halliday.

Q. And what else did Mr. Hofstadter say on that occasion?

A. I do not remember what he said exactly.

Q. And after that conversation did you instruct Bergerman or Hofstadter to make a claim for you for screen credit?

A. Yes, and in the letter - as I remember it - I repeated the conversation that had taken place before Hofstadter so as to give Bergerman to understand what had happened.

Q. Now, in that conversation did Halliday tell you the plot of the story?

A. No, he didn't have to tell me because he told me that Chaplin said it was my story. I knew my story.

Q. You had not yet seen Chaplin's picture?

A. No. I add: I knew my story and since Chaplin said it was my story that he had done, I didn't have to ask about the plot.

Q. Did you at that time in May, 1940, actually have knowledge of what was contained in Chaplin's picture?

A. Not knowledge by having seen it.

Q. Not knowledge by having seen it?

A. No, or knowledge by having been told what it contained.

Q. And you didn't see that picture until October or November, 1940?

A. Yes, when it was shown here.

Q. When ^{it} was shown here in New York?

A. Yes.

MR. DAVIDSON: You are now talking about May, 1940? You didn't see the picture until October of what year?

WITNESS: 1940.

Q. And you took Halliday's statement at face value, didn't you?

A. Yes.

Q. And on the strength of Halliday's statement, you instructed Hofstadter or Bergerman to make a claim for screen credit, is that right?

A. Yes. I want to add that I took his statement in the light of what I already knew.

Q. You didn't know yet what was in Chaplin's picture, did you?

A. No, but knew that he had done a story of Hitler and he had told Halliday that it was my story - so this was a confirmation of things.

Q. On the strength of those statements, you felt your story had been used?

A. Yes.

Q. And on that basis, you notified Hofstadter or Bergerman to make a claim for you?

A. Yes.

Q. At that time in May, 1940, that was more than three years after you had your conversation with Chaplin with reference to the arrangement that you have testified to?

A. Yes.

Q. Did you notify Bergerman or Hofstadter in May, 1940 to make a claim on your behalf with reference to "The Cry of the Wolf" and the "Haymarket" stories?

A. No. They were not in on that transaction.

Q. They were not in on that transaction, nor was the Hitler story in on that transaction, isn't that so?

A. They were the moment I told him to go ahead and inquire into it.

Q. Bergerman did not participate to any extent in your talk with Chaplin in regard to the Hitler story?

A. No.

Q. And he did not participate in your talk in reference to "The Cry of the Wolf" and the "Haymarket" stories?

A. Of course not.

Q. But you limited yourself to your claim for screen credit on the "Dictator" story?

A. No, I did not.

Q. Did you instruct Bergerman to make any other claim?

A. Yes, I said I wanted the financial part of it cleared up. That is part of my letter.

Q. The financial part of what cleared up?

A. The financial part of the writing of the story "Dictator" between Chaplin and me.

Q. Is it your testimony then, that you instructed Bergerman and Hofstadter to ask for money due you by reason of his use of your story "Dictator"?

A. Yes.

Q. And did Bergerman or Hofstadter ever notify you that they had made such a demand upon Chaplin?

A. They might have tried.

Q. When did you consider that Chaplin had breached his contract with you to produce the "Haymarket" story or "The Cry of the Wolf" story?

A. I never had considered that he breached it since he had not made them he owed me nothing.

Q. Well, here you are suing for \$300,00 for breach of contract and -

A. Because after the deal he made on the "Dictator" he breached his contract on the other two as well as he breached it on this one.

Q. When you had your original conversation with Mr. Chaplin in 1937, to which you have testified in regard to the arrangement of fifteen per cent, did you have any time limitation as to when you were to furnish the scenarios and when he was to make productions?

A. No.

Q. You knew that Chaplin would take a long time to make a picture; you knew that from past experience, didn't you and you knew that was his habit?

A. Yes.

Q. And when you entered into that arrangement early in March or April, 1937, it was contemplated that you would give him scenarios at any time you pleased and he would make productions at any time he pleased?

A. He asked me to go to work immediately because he was anxious to do it immediately, as I testified before.

Q. As a matter of fact, he didn't approve of any one of those stories until later in the year 1937, is that right?

MR. DAVIDSON: I object on the ground that it has been gone into before. The witness has testified to all this before.

WITNESS: Probably.

Q. It has been your testimony that he accepted these stories in 1937?

A. That is right.

Q. When you entered into that arrangement early in March or April, 1937 with Chaplin, how long did you figure it would take to carry out that arrangement?

MR. DAVIDSON: I object to that also, as that has already been gone into. The witness has testified to the entire extent and nature of it.

MR. FROHLICH: Oh, no, he hasn't.

MR. DAVIDSON: I object to that as that has already been gone into fully; you are only repeating and repeating. I do not know whether you recall it, but to my mind it is clear.

MR. FROHLICH: No, he did not testify as to the length of time of the contract entered into.

MR. DAVIDSON: I think you might ask the Witness if there is anything in addition to what he has already testified to.

MR. FROHLICH: That's all right if he had already testified to it, but he hasn't.

MR. DAVIDSON: He has and there is no point in re-hashing it.

MR. FROHLICH: What I want to ask the Witness, and I think I have a right to do so, is this:

Q. When you entered into the arrangement with Chaplin in 1937, did you and Chaplin discuss the length of time necessary for you both to carry out that arrangement?

MR. DAVIDSON: I also object to that because already gone into. I think you

ought to ask the Witness whether he has not already testified to that.

MR. FROHLICH: I know that he didn't testify to that.

MR. DAVIDSON TO WITNESS: Is it your recollection that you didn't? If so, you can tell it again.

WITNESS: No time -

Q. What was said as to the length of time?

A. No time except urgency. He wanted me to do it immediately as there was nothing else he wanted to do.

Q. You knew Chaplin would take a long time to make a picture, didn't you?

MR. DAVIDSON: I object to that as it has already been gone into. It is repetitious. To witness: "Do not answer."

Q. When you made your arrangement with Chaplin in 1937, was anything said as to how many pictures were to be made by him or how many stories you were to give him?

A. No.

Q. The amount of stories was left open?

A. Yes.

Q. And the length of time was left open?

A. Yes.

Q. You were not limited nor was Chaplin limited?

A. No.

Q. But you knew he would take one and a half years to two years to make a picture?

A. Yes, except this time he wanted it immediately.

Q. He wanted your story immediately?

A. Yes, as he wanted to do it immediately.

Q. But you knew it would take a long time to make?

MR. DAVIDSON: I object to it.

Q. Didn't you know that?

A. I thought for once he would tell the truth.

Q. Didn't you know that he would take a long time even if you gave him a story the following day?

A. No, I didn't know that.

Q. You knew it would take considerable time?

A. Yes.

Q. So the arrangement was continued without any limitation as to the number of stories you were to give him and without any limitation as to the number of productions he was to make, is that right?

A. Yes.

Q. When was that arrangement to end? Was anything said between you and Chaplin when that arrangement would cease?

A. No.

Q. It was left open?

A. Yes.

Q. It would go on forever?

A. As to the stories he would do.

Q. Did you ever demand from Chaplin that he go into production on "The Cry of the Wolf" and the "Haymarket" stories?

MR. DAVIDSON: I object to that because the question was asked on the last hearing. You went into all that.

MR. FROHLICH: That he ever made a demand?
No.

MR. DAVIDSON: I think you went into it.

MR. FROHLICH: No, I didn't.

MR. DAVIDSON: My recollection is that this
has all been gone into.

MR. FROHLICH: Not that. I am speaking now
of the breach.

Q. Did you make such a demand?

A. Yes.

Q. When did you make the demand?

A. Some months afterwards. He had approved
of the story and Chaplin said he had
not come to it yet, but that he had
it in mind and it would be done.

Q. That would bring it down to 1938?

A. Not necessarily, would it? No, it
would bring it down to 1937.

Q. So you had made a demand on Chaplin to go into
production on "The Cry of the Wolf" and the "Haymarket"
stories at the end of 1937 and he did not?

A. Yes.

Q. So that in May, 1940, he had not gone into production
on either two stories?

A. Correct.

Q. Did you by that time, by word of mouth or by letter
or anything else, demand that he go into production
of one of those two stories?

A. Not in 1940, but in 1937.

Q. After 1937, did you ever renew that demand?

A. No.

Q. Did you feel that as he breached the contract in 1940, he would not accede to the demand?

A. No, I only felt he breached the contract in that he produced "Dictator" without informing me.

Q. You found that out in 1940, didn't you?

A. Yes.

Q. In May, 1940, did you demand that he produce "The Cry of the Wolf" or the "Haymarket" stories?

A. No, I wanted to settle the matter about the story "Dictator" - the story he had actually done.

Q. Did you in any communication with your Agent, Bergerman, in the year 1940 inform Bergerman or Hofstadter or anyone connected with Bergerman, that Chaplin had an arrangement with you with reference to "The Cry of the Wolf" or the "Haymarket" stories?

A. No.

Q. Did you tell that to anyone else?

A. To Mr. Joseph Anthony.

Q. Who is he?

A. A friend with whom I have collaborated on some stories. He is at present with the War Department.

Q. Where's his residence?

A. In Washington.

Q. When did you talk with Mr. Anthony?

A. I just spoke to him about the arrangement I had with Chaplin.

Q. Can you fix the date when you told him?

A. 1937?

Q. 1937?

A. While I was working on it.

Q. Was Mr. Anthony a resident of Hollywood then?

A. He was a resident of Hollywood.

Q. Did you know where he resided?

A. No, I know he was working at the time for Shulberg.

Q. Other than Mr. Anthony, did you ever tell a living soul that you had an arrangement with Chaplin as you have testified had been made early in March or April, 1937?

A. Yes, to my Secretary.

Q. What is her name?

A. Miss Gertrude Uhr.

Q. She was your Secretary in Hollywood in 1937, is that right?

A. Yes, she was the one who typed both "The Cry of the Wolf" and the "Haymarket" stories.

Q. Is she a permanent resident of Hollywood?

A. No, at least she was not at that time.

Q. When did she leave your employ?

A. By the end of 1937.

Q. Do you know whether she still resides in Hollywood?

A. No, she resides in Washington. She is working for the Government.

Q. Has she done any work for you after leaving your employ at the end of 1937?

A. Yes, in a temporary way - doing some manuscripts for me here and then.

Q. Besides your secretary, Gertrude Uhr and Mr. Anthony, who else had you told about your arrangement with Chaplin?

A. My daughter.

Q. Your daughter Myrel?

A. Yes.

Q. And who else?

A. My wife.

Q. Only to these four people did you mention the fact about an arrangement with Chaplin?

A. Yes.

Q. Did Chaplin ask you to keep that arrangement secret?

A. No.

Q. Did you suggest it to be kept secret?

A. No, I already had not kept it secret.
I told people about it.

Q. Do you recall when you instructed Bergerman and Hofstadter to make a claim for you in June, 1940? Do you recall whether you instructed them to make a claim that you furnished the basis of the story or had furnished the story?

A. I furnished the story.

Q. That you furnished the story?

A. Yes.

Q. That is the claim you instructed them to make?

A. Yes; I repeat again at that time
Chaplin had admitted to Richard Halliday
that the story was mine.

Q. Did you ever send Bergerman or Hofstadter a copy of your manuscript marked Defendant's Exhibit III?

A. No.

Q. During the year 1938, what employment did you have?

A. I worked for myself.

Q. Did you work for any picture company during that year?

A. No.

Q. Did you work for any picture company during 1939?

A. No.

Q. Or 1940?

A. No.

Q. Did you receive any salary from any firm or corporation during 1938, 1939 and 1940?

A. No.

Q. Did Hofstadter or Bergerman ever notify you that they had made a claim in writing to Chaplin on June 25, 1940 and July 18, 1940?

A. No.

Q. Did you ever know that they had made a claim?

A. They told me so.

Q. Then they did notify you.

A. You asked if they notified me in writing and I said "No".

Q. I meant either way. Who notified you - Bergerman or Hofstadter?

A. Both Hofstadter and Bergerman.

Q. You were in Hollywood in July, 1940?

A. No, in June.

Q. Did Bergerman show you a copy of the letter that he sent to Chaplin on June 25, 1940?

A. No.

Q. Did he tell you he had written Chaplin?

A. Yes, he told me.

Q. Weren't you interested enough to ask him to show you the letter?

A. No.

Q. You weren't?

A. I left that to him; I had written him so fully about it that I took it for granted that his letter was as full.

Q. Now, in addition to the "Haymarket" and "The Cry of the Wolf" stories, what other stories did you write in 1937?

A. I had stories that I completed *during before* that time. I think I have already testified to that - about the story of Hans Christian Andersen and the story based on the life of Sir Richard Burton.

Q. Did you write any stories for motion pictures in the year 1938?

A. Stories that were sold?

Q. Stories that were used for pictures.

A. Yes.

Q. Did you give manuscripts of those stories to your agents?

A. Yes, I think so.

Q. Did you write any stories in 1939?

A. No.

Q. So the only stories you wrote for picture purposes, or to sell for picture uses, were written in 1938?

A. No, 1937 and 1938, *the Haymarket and Cry of the Wolf in 1937 and the Dictatorship script and others in 1938.*

Q. Then you wrote those two stories in 1937 and a number of other stories in 1938?

A. I completed them in 1937 and -

Q. And you wrote more original stories in 1938?

A. Yes.

Q. Were you able to sell those stories?

A. No.

Q. May I see the manuscript, Defendants' Exhibit III, once more?

(Handing)

Q. Was Miss Uhr in your employ in March, 1938 when you say you wrote this manuscript marked Defendants' Exhibit III?

A. No, I do not think so.

Q. You always keep on hand a quantity of yellow sheets for the purpose of writing manuscripts?

A. Yellow, white - any color - all kinds of sheets, any kind of paper.

Q. And as a matter of fact, you purchased the yellow sheets on which you wrote this manuscript marked Defendant's Exhibit III, in Hollywood, didn't you?

A. Yes.

Q. You purchased it by the package?

A. Probably.

Q. Are you in the habit of writing on both sides of the paper?

A. Very often.

Q. Now, this manuscript marked Defendant's Exhibit III, was it ever mailed to anybody?

A. No.

Q. Was it constantly in your possession after you wrote it?

A. Yes.

Q. It was kept in your brief case?

A. Kept in my brief case.

Q. And when you showed it to Chaplin at his Pebble Beach home, you pulled it out of your brief case?

A. Yes.

Q. You never mailed it to anybody at all?

A. No.

Q. Did you ever add one word to this manuscript marked Defendant's Exhibit III, after you saw the picture of Chaplin's in 1940?

A. No, sir.

Q. Not one single word?

A. Nothing at all.

Q. Was there any reason why you didn't leave this manuscript with Chaplin at his Pebble Beach home after you read it to him?

A. Yes, a good reason.

Q. What was that?

A. He could not read it.

Q. He could not read it on account of your handwriting?

A. Yes.

Q. Did you make any attempt to have it put in typewritten form to give to him?

A. No, he said he would not do it.

Q. When did you suffer an attack in New York City by these Roumanian Iron Guardsmen?

A. 1933 or 1934.

Q. You were in ill health after that attack in 1933 or 1934?

A. Yes.

Q. Continuing for some length of time?

A. Continuing up to now.

Q. Continuing intermittently up to now?

A. Correct.

Q. How did you feel in 1938 and 1939?

A. All right then. There was a later period when I was in a Hospital in Hollywood.

Q. In other words, that attack resulted in intermittent ~~leisure~~ *illness* which would occasionally show up and give you great distress; such distress that you were hospitalized by reason of it?

A. Yes, for short periods.

Q. Can you remember back in April, 1938 - how you were feeling at that time?

A. Perfectly all right.

Q. You felt well at that time?

A. Yes.

Q. Did you have an attack later on in 1938?

A. Yes, the end of 1938.

Q. These attacks were intermittent - back and forth?

A. Yes.

Q. So that sometimes you felt all right and sometimes you felt weak and distressed?

A. Yes.

EXAMINATION CLOSED.

Sworn to before me this
10th day of December, 1942.

Konrad Bercovici
Konrad Bercovici

Seymour Rudlow
Notary Public.

SEYMOUR RUDLOW

Notary Public, Kings Co., No. 298, Reg. No. 4337
Recd. filed in N.Y. Co. No. 16, S. Reg. No. 4-K-55-4
Comm. Expires 12-31-44