

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 1, 1941

The Revisory Board met at 2:30 P.M. and adjourned at 3:35 P.M.
Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 65 min.
Unanimous decisions 9
Divided opinions 1

1. Vladimir Yoffe, No. 75144. Class G-1. "Love Seat." The deposits consist of two ceramics depicting a couple in embrace. One is intended for a wall plaque and the other is a free standing piece. There is an impressed trade-mark on the back of the wall plaque, containing in addition to the mark the symbol "C" in a circle and the claimant's surname. Had this appeared upon some visible portion of the copy and not upon the back it would have been acceptable; however in its present position the notice is defective. Reject. The other work, the free standing piece, has no notice of copyright except a pasted sticker with the notice written in pen and ink. It is not believed that such a notice would be present on copies sold or offered to the public, and the Examiner is sustained in her finding that this too is an inadequate notice of copyright.
2. Appalachian Coals, Inc. No. 75719. Class B-1. "Appalachian Coals, Inc., Forecast, Fourth Quarter, 1941." Held: That where the three elements of the notice of copyright are in close juxtaposition, although not in a single continuous line, that the notice is acceptable for purposes of registration.
3. Kennebec Journal Print Shop. No. 76668. Class A. "The Man From East Corinth." This work is a limited edition for distribution to members and friends and future members of a particular family. Held: That the work is a limited edition and that publication should not be questioned. Enter as applied for.
4. James S. Luhm. No Fee. Class J. "Ruth and Joyce Luhm with their dog, Czar." Applicant submits a positive print of a photograph without notice of copyright, and also a clipping from a newspaper in which the photograph has been reproduced. The print in the newspaper likewise bears no notice of copyright. Applicant asks information with respect to securing copyright. Do not suggest J-2 registration for the photograph in view of the fact that the work has apparently been published in a newspaper without notice of copyright. Explain consequences.
5. Runkle Thompson Kovats, Inc. No. 75498. Class A & KK. "Abbotterapia No. 34," (and others). The only question here is one of classification

for a publication entitled "Veterinary Snapshots." This work has the appearance of a periodical both as to format and the inclusion of an issue date. Suggest registration under the classification of "periodical." There is also a variance in the claim which needs to be explained. It was intended to question classification (as books) of two other publications. Since, however, search revealed their continued registration over a period of years as books, the Board deemed it inadvisable to suggest a change.

6. Louis A. Leppke, No. 76022. Class G-2. "All America at the Alert" and "Freedom's Four Defenders." Applicant has applied for registration of what he terms a "related set of drawings," under the title "All America at the Alert." There would seem, however, to be at least two separate drawings, one entitled "All America at the Alert," and the other "Freedom's Four Defenders." A supplementary series of sheets reproducing insignia that occur in the second drawing entitled "Freedom's Four Defenders" may be held to be related to the second picture. The Board, therefore, sustains the Examiner in that two registrations, one for each drawing, may be sufficient.
7. New York (City) Civil Service Commission, No. 76722. Class A-1. "City Planning Director Associate City Planner," and 56 others. The applications in question give the name of the copyright owner as the "Municipal Civil Service Commission." It is determined from correspondence that the "Municipal Civil Service Commission" is a department of the City of New York (Government), which name appears alone in the notice of copyright in a substantial number of the copies. Return applications to have line (1) amended to read: "New York City - Municipal Civil Service Commission." With respect to specific deposits in which there appear to have been a number of publications involved, the Examiner is sustained in requesting additional fees and separate applications.
8. Hugh Willard Dougall, No. 73456. Class E. "My Prayer." The deposit bears a notice of copyright in the names of the author of the words and the composer. It is determined through correspondence that the claim in this case is being limited to the music, and that the presence of the name of the author of the lyrics in the notice is due to the fact that the author has separately copyrighted his poem as part of another publication. Accept application for this music in the name of the composer alone; i.e., Hugh Willard Dougall.
9. American Registry of Pathology, No. 75767. Class A. "The History of Treatment of Fractured Jaws." Vols. 1 and 2. The deposits (two volumes) are photostat copies with mimeographed forewords. The Examiner is sustained in questioning whether the notice of copyright appeared on all copies, inasmuch as the second copy of Volume 2 lacks the stamped notice of copyright present on the other volumes. Do not question publication, however, since the work in the form deposited admits of publication and a sworn affidavit to that effect has been presented.

10. Abraham B. Cox. No. 76781. Class E pub. "Where Went the Star?" This work, consisting of two pages of music, opens out into a single sheet. At the top of the music are the names Seelye W. Little and Abraham B. Cox, as authors of the words and music respectively. The notice of copyright, reading "Copyrighted 1941" appears at the bottom right-hand corner of the sheet. The claimant in the application is Abraham B. Cox, composer of the music. The Board divides on the acceptability of the copyright notice. Mr. MacCarteney and Mr. Lasica would accept the application, inasmuch as the name of the claimant appears on the copy, which is a single sheet. Mrs. Brady, on the other hand, dissents, supporting the Examiner in that the notice is defective. Appeal.

(Notice of copyright, December 1, 194.)

MINORITY MEMORANDUM

December 1, 1941

Remitter: Cox, Abraham B. (76781)

Title: "Where Went the Star?"

Question: Adequacy of notice.

The undersigned is in agreement with the finding of the Examiner there there is (1) no name in the notice of copyright, and (2) that the defective notice is not in the position prescribed in Section 19 of the copyright law. Therefore, in the deposit under consideration, the requirements of Section 18 and Section 19 of the Act are not met.

The deposit, a song with piano accompaniment, entitled: "Where Went the Star," is inscribed on the left hand side under the title, "Words by Seelye W. Little"; and on the right hand side with the (obvious) signature of Abraham B. Cox. It might be deduced because of the place in which this signature is found, that Abraham B. Cox is the name of the composer - as such name is customarily found in this position. No statement "Music by", however, is on this deposit, but the application gives in line (3) as composer, Abraham B. Cox. Neither of these names, Abraham B. Cox or Seelye W. Little, is found in conjunction with the statement on the copy, "Copyrighted 1941," which is printed on the second page of the music at the bottom of that page. We have therefore a publication of music with a totally defective notice, not in the place provided by the statute, and in the opinion of the undersigned a consequent loss of copyright. The practice is growing in this Office of recording such claims after expressing a doubt as to their efficacy. In the opinion of this member of the Revisory Board, there could be no justification for such procedure in the instant case. There is quoted in this connection the pertinent syllabus summarizing the findings in the case *Lydiard-Peterson Co. v. Woodman* (204 Fed. R. 921)--

"The holder of a copyright has no monopoly by virtue of the issued copyright itself; his rights being measured solely by the statute, provided he has complied therewith."

M. C. BRADY

Accept notice - name of claimant appears on copy on a single sheet.

WHW, 12-5-41.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 2, 1941

The Revisory Board met at 2:30 P.M. and adjourned at 3:40 P.M.
Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 80 minutes.
Unanimous decisions, 8.

1. Exhibit Supply Company. No. 71331. Class A. "Blind Dates," Nos. 1-32 M, "Blind Dates," Nos. 1-32 W, and "Army and Navy," Nos. 1-32. The cards originally received bore advance year dates in the notice of copyright, the date of publication being given in the application as October 27, 1941, whereas the notices included the year date 1942. Applications accordingly were rejected. Applicant now re-files new copies with new applications, giving different numbered titles and a date of publication as of October 28, 1941. In his letter of transmittal he states that only a certain number of the cards bearing incorrect notice were printed. Inquire as to the extent of such distribution with incorrect notice.
2. George Reuben Paine. No. 66189. Class A-2. "Victory Statuette." This deposit is a mounted wooden "V" in which is inserted a metal soldier giving the appearance of stepping through the "V." Applicant applied for registration of this work as a sculpture. The Board supports the Examiner in holding that the work may not be registered as a sculpture because the figure of the metal doll is an article of manufacture such as are sold in stores, and is not original with the applicant.
3. Walter C. Ross. No. 76978. Class A-1. "The Pledge to the Flag." The deposit is a book-cover with a print including the "Pledge to the Flag" on the outside cover. On the inside flyleaf are diagrams and instructions on the use of the cover and on the back the "Star Spangled Banner" is reproduced. Registration may be made for the print on the outside of the cover upon receipt of an application on Form K. Registration as a book as applied for does not seem in order in view of the fact that the 1940 notice on the text apparently refers to a previous publication. The print "The Pledge to the Flag" bears a correct 1941 notice. There are no other copyrightable elements.
4. Cullom and Ghertner Company. No Fee. Class E (?) "His Wonderful Love." This matter was before the Board on November 12th, at which time the question of publication in the form deposited was raised.

Applicant now submits a new application on Form E, but without any further explanation. Advise applicant that a title is necessary in application. The question of publication should again be raised due to the absence of the year date in the new application. A lack of a collective title on the copies would not seem to preclude registration of the unit work. If it has been published without collective title, suggest the applicant might give title as "'His Wonderful Love' and other songs."

5. Ernst Kaufmann, Inc. No. 72763. Class A-1. "Memento and Certificate of Baptism," and "In Remembrance of Your Confirmation." This matter was before the Board on November 13th, at which time applicant was advised that registration should be limited to the prints on which the notice of copyright appeared. In view of the difference in the incidental decorations between the two prints "Memento and Certificate of Baptism" and "In Remembrance of Your Confirmation," permit applicant to make separate applications. Also advise that prints on back of the sheets would not be included in the registration since as published the latter prints are separated from the notice.
6. Thomas Castillo. No. 76375. Class "Idea." "The Languages Advertisement." Examiner is sustained in rejecting this work as a lecture. It apparently is nothing but a description of an idea.
7. Stone Stable Press. No. 48574. Class A. "Dot Leetle Fur Cap." This matter was before the Board on August 8⁵, 1941, and subsequently the basis of claim was questioned since at the very most the work seemed to be a revision of an old poem in the public domain. Applicant's most recent letter sheds no more light on the basis of claim other than to state that there has been a revision of dialect. The Board supports the Examiner in her recommendation that there is apparently no original work of authorship involved in this present publication. The poem in Pennsylvania Dutch dialect is an old one and the dialect apparently remains the same. *See M P. 1057*
8. Dow, Jones and Company, Inc. No Fee. Class A-1. "Wage Control Favored by Administration Leaders in Congress," and "Retail Price of New Automobiles." Applicant wishes to copyright two items which appeared on the Dow, Jones broad-tape news tickers on November 24th and 25th. Examiner is sustained in her recommendation that sheet entitled "Wage Control Favored by Administration Leaders in Congress" may be registered upon receipt of A-1 form, additional copy and two-dollar fee. The Sheet entitled "Retail Price of New Automobiles" would not be registrable inasmuch as the notice of copyright lacks the year date.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 4, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 10:15 A.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 15 minutes.
Unanimous decisions, 4.

1. John Boyle, Jr. No. 74473. Class G-1. "Duckhead." The deposit is a metal, lifesized duckhead painted in the fashion of a mallard. As originally deposited in the Office it was observed that there were screw holes in the bottom of the duck's neck, and the Office inquired whether the work was not an article of manufacture having some utilitarian use. Applicant's attorney replied that "the article as submitted has no utility." Since, however, the identical work was advertised in the magazine "Mens' Wear," as a paperweight and bottle opener, the Examiner is sustained in her recommendation that the article be rejected.
2. Travis Berkley Howard. No. 77434. Class A-1. "My Family Tree and History." This work was originally deposited on November 8th bearing an insufficient notice of copyright lacking the year date of publication, and application was rejected. Applicant now files new application with letter stating the "the publication of some particular copies [with faulty notice] were through a mistake." The Examiner would reject without further ado. Held, however, that inquiry should first be made as to the extent of distribution of copies with faulty notice.
3. M. F. Fifield. No. WR 37636. Class I. "Certified Pedigree." Applicant files two blue-prints in blank of a proposed circular style of certified pedigrees. Examiner would register as I-2. Held, however, that the work is simply a blank form and as such is not subject to copyright protection. Also advise that there is no protection provided for a particular style of work. Reject.
4. Emanuel R. Posnack, Esquire. No. 77007. Class KK. "Jaygol." Held: That a card containing the word "Notice" in blue, beneath which are three lines of Chinese characters in red, followed by the name "Jaygol," again in blue, which card, according to the application advertises an insecticide of the title "Jaygol," may be registered as a commercial print. The Chinese characters furnish sufficient artistic element to justify acceptance.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 5, 1941

The Revisory Board convened at 2:35 P.M. and adjourned at 2:50 P.M. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica, in the absence of Mr. Pforzheimer whose day it was to sit.

Total time consumed, 15 minutes.
Unanimous decisions, 3.

1. John F. Vuilleumier. No. 68875. Class A-1. "Stevan Madigan." A copy of this book, which was printed and apparently published in Switzerland, was submitted by the author, John F. Vuilleumier, for registration for copyright in this country. Ordinarily, the work being of foreign origin manufactured and published abroad, applicant would be advised that he could republish with notice and subsequently apply for registration. It appears, however, that the author is domiciled in this country. Inquire accordingly as to whether any copies of this foreign manufactured book were published in this country. If so then the copyright is forfeited since there is no notice. If publication has not taken place in this country the work can be manufactured here and published with notice, and registration subsequently applied for.
2. Howard H. Monk and Associates. No. 77504. Class ? "'KO' Stale Kitchen Odors.." and 2 others. The one item in question here deals with the publication entitled "ILG Home Appliances." This is a four-page leaflet which opens out into a single sheet. A printed insert, however, advertising changes necessitated by the national defense program in the manufacture of this particular production has been pasted inside the folded sheet. The Examiner states that this renders the work in excess of a single sheet and therefore not registrable as a commercial print as applied for. The Book Examiner, moreover, finds that the notice of copyright is on the back outside cover when folded and due to the presence of the insert is therefore fatally misplaced. The Board is of the opinion that the work is a commercial print, and that the insert being only a half-page's width does not render the basic work in excess of a single sheet. Enter as applied for as a commercial print.
3. Evangelical Press. No. 77338. Class A. "American Rhapsody." This work bears a notice of copyright constructed as follows:

Copyrighted, 1941
Printed and Distributed By
The Evangelical Press
Harrisburg, Pa., U.S.A.

On the opposite page under the title and an outline map of the United States appears the statement of authorship: "By Wolfgang Preuss." The author is given as the claimant in the application. The Examiner would reject outright upon the basis that the notice lacks the name of the copyright owner. The Board, however, feels that at the most there is a variance in the claim here, since a name is undoubtedly present in connection with the notice of copyright. Held: That a letter should be written upon the basis of a variance in claim rather than an outright rejection at this time.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 8, 1941

The Revisory Board met at 10:45 A.M. and adjourned at 11:30 A.M. Those present were the Senior Attorney (who was acting for Mr. MacCarteney as Chairman) and Mr. Pforzheimer and Mr. Lasica.

Total time consumed, 45 mins.
Unanimous decisions, 2
Divided decisions, 1

1. Benziger Brothers, Inc. (74462)--Class A. "Breviarium Romanum." This Office in its letter dated November 25, 1941, asked the copyright claimant for a more complete statement of what the new matter consisted to which the claim was made. In response they failed to furnish this Office with the data required. Write again and explain detailed information is required.
2. Pick, Gerard (52244)--Class D. "The Mullers." The applicant has deposited a booklet containing several episodes of a radio play. Upon being advised that each one would require separate registration, he requests this Office to register only Episode 1, and return the rest of the material to him. The Examiner is of the opinion that cannot be done in that each and every episode must be registered. The Revisory Board holds that such Episode 1 may be registered alone if the applicant so desires, and recommends that the complete copy containing all of the episodes be returned so that he can re-deposit the single episode with the proper application correctly identifying the episode.
3. Marquis Company, A. N. (73251-53)--Class A. "Compilation consisting of a form of Questionnaire for Securing Information for Who's Who in America." The copy consists of a form for securing information for the compilation of "Who's Who in America." Mr. Pforzheimer and Mr. Lasica support the Examiner in holding that it is a blank form. Mr. Smith, however, contends that there is present more than just an ordinary blank form; that there is compilation of certain questions in addition to some explanatory text matter. He therefore recommends entry upon an application disclaiming the blank form features. See "Blank Form" Dec. 8/1941

MINORITY MEMORANDUM

December 8, 1941

Remitter: Marquis, A. N. Company (73251-53)

Title: "Compilation consisting of a form or Questionnaire for
Securing Information for Who's Who in America."

Question: Is the deposit a blank form?

The deposit consists of a questionnaire sheet used in securing biographical information. Mr. Pforzheimer and Mr. Lasicca sustain the Examiner in holding that the work is a blank form because of the presence of the blank lines used to answer the questions asked.

Mr. Smith contends that the blank form features can be separated from what actually amounts to the "writings" of an author, that is, the various questions and explanatory text matter. Whatever doubt may exist should be resolved in favor of the applicant if an application is filed disclaiming the blank form features.

L. C. Smith

Minority Sustained, W. H. Wise, 12, 12-41

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 9, 1941

The Revisory Board met at 10:30 A.M. and adjourned at 11:30 A.M. Those present were: The Senior Attorney (who was acting for Mr. MacCarteney as Chairman), Mrs. Brady and Mr. Pforzheimer.

Mrs. Rafter sat in for one corrective entry.

Total time consumed, 1 hr.
Unanimous decisions, 7

Corrective entry:

1. Andrews (Mrs.) Alfred B. (D⁴-76058 & E²-274789). "Guido Ferranti" (Orchestra Score with text) and "Guido Ferranti" (Piano Score). The applicant wishes to make a more complete statement of the authorship upon the record. This can be done by corrective entry, but she will not be permitted to have included upon her certificates of copyright registration the statement, "Used by permission of Edgar S. Werner & Co.," as that would place this Office in a position as giving official recognition that such permission was actually obtained.

Regular business:

2. Amerika-Institut (Deposit Acct.)--Class E. "Symphonie Nr. 4 in G-dur." The Examiner would reject material if the work does not contain new musical composition. The Revisory Board, however, is of the opinion that the registration of a copyright claim could be made to cover any new and original text matter, such as the Foreword, which the work may contain.

3. Melander, Peter H. (73746)--Class A. "Let Us Defend Our Beloved Land." Applicant states: "This poem and song is published by me not for gain or profit but just as gift to my friends." The Examiner holds that a gift to friends is not publication. The Revisory Board reverses the Examiner, holding that it should be considered publication for the purposes of registration of the copyright claim, as a doubt exists which must be resolved in favor of the applicant.

4. Iowa University, Bureau of Educational Research. (72512)--Class A. "Iowa Placement Examinations in English Training, Form M, Series ET-2" (& 2 others). The notice upon the copies reads, "Copyright 1941 by the Authors. All rights reserved." There is more than one author, yet only one of them is given in the application as copyright owner. The Revisory Board is of the opinion that if all the authors are legal copyright owners, then all names must be given in line (1) of the application. If, however, the name of the author which is given in the

application now filed is assignee of all the other authors, the present application is acceptable, or if he is trustee holding the copyright for the benefit of all the other authors, then application should be filed so identifying him.

5. Connecticut (State), Department of Education, and Charles Rufus Harte. (74397)--Class A. "Boats Across New England Hills." There was received from Charles Rufus Harte a letter in which he questioned statements made in a book deposited by the copyright claimant, Department of Education of the State of Connecticut. Mr. Charles Rufus Harte is mentioned in the Acknowledgment printed in the book, as follows: "We wish to acknowledge our indebtedness to Mr. Charles Rufus Harte, who has devoted many years to a study of the Farmington Canal, and has generously contributed both knowledge and advice during the preparation of this brief account. Photographs and illustrations are used through his courtesy." The Revisory Board is of the opinion that the problem suggested by Mr. Harte is one that should be settled between him and the publisher and the copyright claimant, rather than one that can be determined in this Office, and it would be suggested that if he requires legal counsel in this regard he should employ the services of a competent attorney in his locality.

6. Powers Co. (The) (76764)--Class A. "Student Navigational Computer." The Examiner rejects the work as being a device. There is present, however, considerable explanatory text matter which can be considered separate and distinct from the device and subject to registration as a "book". Request application which disclaims any claim to the device features.

7. Baldwin (Rena) (78337)--Class E. "At the Place of the Sea." There are deposited copies of a musical composition which do not bear the year date in the copyright notice. The applicant states that the work is to be published at Christmas time, when copies will be distributed with Christmas greetings. Examiner is of the opinion that rejection should be made and fee refunded in view of the fact that it will be too late to get a letter to the Philippines in time to correct the copyright notice on the copies before publication at Christmas. The Revisory Board feels that the Office is duty bound to make every effort to get a letter to the applicant, and recommends that a communication be dispatched at once advising as to the provisions of the copyright law in regard to the notice.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 10, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 10:30 A.M. Those present were: Mr. Smith (acting for Mr. MacCarteney), Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 30 mins.
Unanimous decisions, 6

1. Warwick, Howard (78394)--Class D² (?). "Speak Your Mind." The applicant files a radio script with application form D-2. The Examiner questions the form of the deposit, which includes a list of questions to be asked at the end of the program. The Revisory Board is of the opinion that the material is not dramatic in form, and suggests that Class C application be sent. The deposit may include the list of questions and is acceptable in the present form, thus overruling the Examiner, who states that the work is not in form for presentation over the radio. In reference to the other informalities discussed by the Examiner the Revisory Board sustains her.
2. Menzies, Alva R. (Mrs.) (78559)--Class A. "Advanced Course in Filing." The copies deposited by the applicant appear to be made up of individual units, each having its own pagination. One copy bears a typewritten copyright notice on the Foreword, which is the page just inside the cover; the other copy bears a typewritten notice on the index page, which follows the page containing the Foreword. The Examiner recommends rejection on misplaced notice. The Board, however, is of the opinion that inquiry should be made whether all copies of the work bore the copyright notice and in what position, in addition to requesting an explanation whether the individual units were previously published.
3. Grau, B. Ostler & Miller, Amy Grau (77372)--Class E. "It Aint Goin' To Happen Anymore (Yoo Hoo) Wiggily, Wunks & Wu." The Examiner makes a number of recommendations concerning the work, but the Revisory Board notes that the applicant states the work is published, and further that it bears no notice. The work should therefore be rejected on that basis.
4. Hazzard, George H. (78656)--Class A. "Saga of San Diego." The title page of the work reads as follows--

"SAGA OF SAN DIEGO

Highlights in the History and Life of the
First Settlement on the Pacific Coast

1542 to 1942

By Geo. H. Hazzard

First Edition

Copyright by
Geo. H. Hazzard

Published by Neyenesch Printers, Inc.
San Diego, California
November, 1941"

The Examiner rejects on the basis of defective notice, in that the year date is omitted. The Revisory Board, however, accepts the notice as containing the year date, and refers the matter to the Examiner concerning informalities in the application.

5. Barton Press, Inc. (No Fee)--Class A. "Hotel Douglas. Hotel Information." The title page of the deposit reads as follows:

"HOTEL
DOUGLAS

Newark's Newest and Finest

Room No.
Name
Persons
Rate
Copyrighted 1941"

The copyright claimant according to the communication received with the request for an application is the Hotel Douglas. The Examiner rejects holding that the name of the claimant is not in the notice. The Revisory Board reverses the Examiner on the basis that the notice is acceptable if the Hotel Douglas is the copyright claimant.

6. Marks, Edward B. Music Corp. (Deposit Acct.)--Class E (?). "Bastien and Bastienna." The work deposited is a dramatico-musical composition. There was received with the copies an application form E-1 specifically limiting the copyright claim to: "English lyrics, choral arrangements and stage direction." The Examiner requests a new E-1 application

limiting the copyright claim to "English lyrics and choral arrangements," in that stage directions do not constitute musical composition. The Revisory Board, however, is of the opinion that a D-3 application should be filed and that the copyright claim should be specifically limited after the title in the application to the new matter as given in the present E-1 application.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 11, 1941

The Revisory Board met at 3:00 P.M. and adjourned at 4:00 P.M. Those present were: Mr. Smith (acting for Mr. MacCarteney), Mrs. Brady and Mr. Lasica.

Mrs. Rafter attended for consideration of two corrective entries.

Total time consumed, 1 hr.
Unanimous decisions, 6
Divided decisions, 1

Corrective entries:

1. Divers, J. Wyatt (No Fee)--Class E. "My Sweetheart."
2. Hornung, Emil Ed. (73210--Used). "The Spirit of True Americanism"¹(J-31402).

Corrective entries can be made in both these cases. The previous registrations of these unpublished works were made prior to 1941. If a corrective entry is made at this time with the deposit of a new unpublished copy, the records of this Office will show copyright dating from the date of the new deposit. This has been the practice of the Office in connection with corrective entries in the past. The Revisory Board, however, is of the opinion that for the Office to take this action misleads the public with the information which is furnished in the Catalogue of Copyright Entries, in that with the making of a corrective entry and the deposit of a new copy the copyright term in the work appears to have been extended by the establishment of a new copyright date. The Revisory Board, therefore, recommends that these cases be referred to the Register of Copyrights so that a definite form of action can be obtained with respect to the making of corrective entries and that the printed Catalogue of Copyright Entries will show the date of deposit of the copy in the original registration when a corrective entry is made. *See "Corrective Entries" Dec. 12/1941*

Regular business:

3. European Statuary & Art Co. (No Fee)--G-1. "Statue of Jesus." The question before the Revisory Board is whether in the case of a published statue of huge size will the Office accept identifying reproductions such as photographs in lieu of the actual copies themselves. This is a matter within the discretion of the Register of Copyrights if past practice is to be followed. Accordingly, this case is referred to the Register of Copyrights for attention.

4. Lord, Jack (73550)--Class A. "Where to Sin in San Francisco. 1st Ed. 1939." The copyright notice upon the work reads "Jack Lord and Jenn Shaw Copyright 1939." The copyright claimant, Jack Lord, explains that no

person exists by the name of Jenn Shaw, but for the purpose of making the copy look more attractive that name was added to the notice. Accept application giving Jack Lord alone as copyright claimant.

5. Marquette, Bleecker (No Fee)--Class A. "A Housing Manual for Cincinnati Schools." The title page of the work deposited December 2, 1941, reads as follows:

"A HOUSING MANUAL
FOR CINCINNATI SCHOOLS

1941

COPYRIGHT APPLIED FOR.
This material may not be
used without the consent
of the authors.

Prepared by
Bleecker Marquette, Executive Secretary
Ethel F. Ideson, Assistant Secretary
Better Housing League
Cincinnati, Ohio"

Copies which were earlier deposited omitted the statement, "COPYRIGHT APPLIED FOR. This material may not be used without the consent of the authors." The Office is advised, however, that these earlier copies were never published and that all copies distributed bore the statement just mentioned. The Revisory Board is of the opinion that the copyright notice will be acceptable if the authors are actually the copyright claimants. A warning letter, however, should be sent regarding the correct form of the notice.

6. Krog, Marius (77850)--Class E. "A World of Song." The deposit consists of a loose leaf binder in which are placed a number of separate booklets each punctured to fit the binder. Some of the booklets bear the copyright notice; others do not. The first booklet in the book which is labeled "General Index and Foreword," does not bear the copyright notice, and hence should be rejected if it is considered the title page of the work. The remaining booklets in the binder, however, which bear the copyright notice are subject to registration, and the applicant should therefore be requested to file a single A-1 application to cover all of these booklets which bear the notice. In other words, the general title, "A World of Song" should be given upon the application, followed by the numbers of those volumes bearing the notice, so that the registration of the copyright claim will be limited to those parts which

bear the statutory notice.

7. Watson, Cole, Grindle & Watson (70062)--Class K. "Elsie, Elmer and Beulah." The deposit consists of a gameboard. In the center of the gameboard is the picture of a barn and three separate pictures of the characters Elsie, Elmer and Beulah. In connection with the pictures of these characters there is a copyright notice. It appears directly under the picture "Beulah." Mrs. Brady and Mr. Lasica are of the opinion that the work is a gameboard and must be rejected on that basis. Mr. Smith, however, is of the opinion that the three pictures of Elsie, Elmer and Beulah can be considered distinct and separate from the board as such, especially in view of the fact that the copyright notice is particularly placed in proximity to these three pictures. Mr. Smith realizes that in the past we have thrown out gameboards of this nature, except in a few cases when Mr. Howell, then the Assistant Register of Copyrights, permitted them to pass. One in particular is the "Paul Revere" game. In view of the fact that the recent clarifying amendment to the "device" rule enabled the Office to take a more liberal view in connection with the registration of copyright claims to copyrightable matter appearing upon devices, Mr. Smith believes that the question of gameboards should now be reviewed with the same purpose in mind; that is, that if there is present upon the gameboard copyrightable matter which can be considered not essential to the playing of the game, then registration of the copyright claim should be made, especially when as in the present instance the copyright notice is directly in connection with such copyrightable matter. See "Gameboard" Dec. 11/1941.

MINORITY MEMORANDUM

December 11, 1941

Remitter: Watson, Cole, Grindle & Watson (70062)

Title: "Elsie, Elmer and Beulah"

Question: Can copyright matter appearing upon the gameboard be registered if it does not form an integral part of the gameboard in the playing of the game?

The deposit consists of a gameboard. In the center of the gameboard is the picture of a barn and three separate pictures of the characters Elsie, Elmer and Beulah. In connection with the pictures of these characters there is a copyright notice. It appears directly under the picture "Beulah." Mrs. Brady and Mr. Lasica are of the opinion that the work is a gameboard and must be rejected on that basis. Mr. Smith, however, is of the opinion that the three pictures of Elsie, Elmer and Beulah can be considered distinct and separate from the board as such, especially in view of the fact that the copyright notice is particularly placed in proximity to these three pictures. Mr. Smith realizes that in the past we have thrown out gameboards of this nature, except in a few cases when Mr. Howell, then the Assistant Register of Copyrights, permitted them to pass. One in particular is the "Paul Revere" game. In view of the fact that the recent clarifying amendment to the "device" rule enabled the Office to take a more liberal view in connection with the registration of copyright claims to copyrightable matter appearing upon devices, Mr. Smith believes that the question of gameboards should now be reviewed with the same purpose in mind; that is, that if there is present upon the gameboard copyrightable matter which can be considered not essential to the playing of the game, then registration of the copyright claim should be made, especially when as in the present instance the copyright notice is directly in connection with such copyrightable matter. If this Office accepts the position of the minority member of the Board, an application should be filed giving after the title (similar in cases of devices) a disclaimer to the gameboard features of the work.

L. C. Smith
Acting Chairman of Revisory Board

Register upon application received December 9, 1941, in which claim of copyright is limited to pictures. Copyright notice is placed directly under pictures and not so as to be applicable to gameboard.

W.H.Wise 12/13/41

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 12, 1941

The Revisory Board met at 10:30 A.M. and adjourned at 11:20 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 50 mins.
Unanimous decisions, 8

1. Stutzman, Kathaleen (78994)--Class E. "Because You See I'm So In Love With You" and "Melody Without A Name." Two unpublished manuscripts have been submitted. The first, "Because You See, etc.," lacks the words to the verse. Examiner sustained in requesting a complete copy including verse and chorus. The second work, "Melody Without A Name," contains no words, and applicant has removed reference to words from the copy. Do not question absence of lyrics in this case. Enter as applied for.
2. Art Metal Works, Inc. (78862)--Class ?. "Keep It Flying." Application has been filed on Form J-2 for what apparently is a photostat of a drawing or print, embodying an American flag with a slogan in a scroll, reading "Keep It Flying." Examiner sustained in holding that the wrong application has been deposited, and that if the work is an original drawing registration may be made in Class G-2, further advising that slogans as such are not copyrightable.
3. Schlesinger, Betty J. (66228)--Class D-2 (?). "Whose Happiness." An unpublished synopsis of an intended play was originally submitted on October 8. This was rejected upon the usual grounds. A new copy filed October 26, 1941, while elaborated, does not sufficiently meet the requirements for a D-2 registration, in that five pages of the manuscript describe only the action in narrative form. Examiner sustained in requesting a complete copy.
4. Warner, Henry Laurence (73369)--Class (?). "Scanning the Shops with Sheila Shea." This seems to be a service prepared by applicant to be sold to merchants who in turn have these advertisements published in a newspaper in a column entitled "Scanning the Shops." The Office previously requested an explanation whether publication took place in the form deposited. Applicant's explanation made in his letter of December 6 is still not clear. Inquire further as to the meaning of paragraph three of his letter re "selling procedure."
5. Ivey & Ellington, Inc. (No Fee)--Class KK. "Net Price List," & 1 other. Applicant on Nov. 18, 1941, submitted samples of material he wished to register, requesting the proper application forms. This

material was referred to the Print & Label Examiner, who on November 26, wrote stating that registration should properly be made under Classification KK. In the meantime, however, the applicant had filed applications on Form A-1 with fees of \$2.00 each, and the Examining Section had passed these applications as representative of "books." Applicant on December 1 answered the Print and Label Examiner's letter of November 26, acknowledging he had made applications incorrectly on Form A-1 and requesting the proper KK forms. The Print and Label Examiner presented the case to the Board for clarification as to the correct classification of this and similar material. The Board is definitely of the opinion that the works in question are commercial prints, in that they are used in connection with the sale or advertisement of articles of merchandise. It recommends that a letter be written the applicant advising that a mistake was made in this Office and requesting the return of the certificates of registration with new applications on Forms KK with additional fees and copies necessary for KK registrations. The Board would further observe that this same embarrassing situation has arisen on several occasions, apparently due to a lack of coordination of the Examining Section proper and the Print and Label Examiner. The Board recommends that some form of procedure be worked out so that doubtful material (as between A-1 and KK) may be coordinated with respect to the Examining Section and the Print and Label Examiner.

6. Pierce, R. J. (78485)--Class A. "Municipal Appropriations Status. Copyrighted Service." This work apparently was originally deposited in October of 1940, and was rejected as a book of blank forms not subject matter of copyright. At this time (December 4, 1941) the work is again presented for examination looking to registration by the firm of attorneys Munn, Liddy, Glascum & Kane, which makes no reference to any previous application for registration of the work. Examiner sustained in her rejection of the work as a book of blank forms.

7. National Cash Register Co. (Deposit Acct.)--Class A. "Sample Pages of Daily Statement of Business as shown by National Cash Register Book No. 44." Applicant filed an application giving the title of the work as "Daily Statement of Business as shown by National Cash Register Book No. 44." The Office wrote requesting a new application giving the full title including the words "Sample Pages of," preceding the title, as given on the application. Applicant objects on the ground that the words "Sample Pages of" are not actually a part of the title of the material for which we are seeking copyright protection." The Board upholds the Examiner in her reiteration that as deposited for registration the full title must be given including the words "Sample Pages of." The Board goes further than the Examiner, however, and directs that in addition to the full title the following be added, "Instructions for Posting," together with a disclaimer in the blank forms.

8. Nelson, Florence (No Fee)--Class E. "Close Ranks." Applicant reveals to the Office that the printed copies of this song received

on October 13, with notice in the name of U. S. Music, Inc., were not submitted by her, and that she has secured a release of her words from the U. S. Music, Inc., and intends shortly to publish a new version with different music but using the same lyrics. Held that inquiry should be made as to whether the edition received on October 13 with notice in the name of U. S. Music, Inc., was actually published as stated in the application. If so, registration should apparently be made for that edition as well as the forthcoming edition.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 15, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 11:00 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica, with Mrs. Rafter sitting in as a voting member on one corrective entry.

Total time consumed, 1 hr.
Unanimous decisions, 9

Corrective entry:

1. Publishers for Extension School (AA-382198). "Practice Tests for Patrolman and Chief of Police." Applicant wishes to correct the authorship given incorrectly in the original application as M. M. Pergande, whereas the true author is stated to be Clay Dietrich. Permit corrective entry to be made, requesting return of the original certificate together with an additional \$2.00 registration fee and two additional copies.

Regular business:

2. Busser & Harding (60577)--Class KK. "Play Ball." This work is in the nature of a commercial label, constituting a container for packages of the commodity known as "Bubble Gum," which packages also contain picture cards representing Big League baseball players, together with short biographies of their careers. The Copyright Office originally requested an application omitting reference to the cards in the space provided for the nature of the merchandise. Applicant replies, contending that the picture story cards which are incorporated with the bubble gum are well-defined articles of merchandise and are so regarded by the children who primarily are the prospective buyers. Held that there is merit in this contention and that the application should be passed for entry, including the picture story cards as part of the merchandise advertised since the applicant definitely so desires.

3. Borrowed Timers (The) (78181)--Class ?. "Bedtime Prayer Reminder." This deposit consists of a printed card which has a pictorial illustration reproducing the famous portrait of "Christ in the Garden of Gethsemane," together with various Biblical texts. To this card is attached a felt emblem in the form of a shield, on which is superimposed a cruciform which through some chemical treatment is supposed to glow in the dark. The Examiner would reject upon the ground that the idea of a glowing cross is not copyrightable, and further that the notice of

copyright is on the back of the card to which the felt emblem is attached. The Board, however, recommends that the application be referred to the print and label Examiner for possible action under that classification inasmuch as the applicant himself describes the work as a pictorial label. The card is definitely attached to an article of merchandise, i.e., the felt emblem.

4. Oxford University Press (78307)--Class A. "The War: Second Year." This is a publication in book form of material originally published in four separate parts, presumably in Canada. Examiner sustained in questioning the propriety of the registration as applied for as a single book without any limitation of claim. If there is new matter present in this unit book publication, then such new matter presumably can be registered. In the absence of new matter, no registration seems to be in order inasmuch as the placing together of the four separate parts unchanged would not constitute a "writing of an author."

5. Browne, Harris L. (78690)--Class A. "Life Lines." Where the notice of copyright appears upon the back of a page bearing nothing but the title, which page precedes what is actually the main title page, such a notice will be acceptable as to position under the provisions of Section 19. Register as applied for, but write warning letter.

6. Conn, C. G. Ltd. (79674)--Class A. "The Baton - Vol. 10, No. 1." A notice of copyright in which the name of the claimant is separated from the other two elements by some intervening text matter, which, however, is simply a statement as to the publication of the work, is deemed acceptable for purpose of registration. Enter as applied for, but write warning letter.

7. Schubert, Edward & Co. (Deposit Acct.)--Class E. "I Leave My Peace With You." Application for registration of this work has been filed on Form E, giving as the composer, Gustav O. Hornberger. The composer's name appears prominently in the conventional position at the top of the first page of music. Underneath, however, appears the statement: "Organ & Hammond Registration by Howard S. Savage." The Examiner considers this to constitute a variance of composership, since Hornberger's name alone appears in the application. The Board is of the opinion, however, that since organ registration is not new music, and in addition the presence of the name of the arranger is not necessary in the application, the application submitted should be accepted giving Gustav O. Hornberger as composer.

8. Mail Ad Co-Op (78946)--Class A (?). "Advertising Matter from: Mail Ad Co-Op. Mail Man ... pieces are mailed, etc." The deposit is a slip of paper folded. In the left column appears the statement: "Advertising Matter from" followed by an address. In the right column are two brief

sentences, reading as follows: "MAIL MAN pieces are mailed to this same Address Number. Give Each piece to a different Resident or Place each piece in a separate mail box. Resident. Copyright 1941 - Mail Ad Co-Op." The Examiner would simply question whether the notice of copyright which is in pen and ink appeared on all copies. The Board holds, however, that there is no "writing" that could be dignified as constituting the "writing of an author" necessary to the establishment of a valid claim of copyright. Explain also that ideas are not copyrightable.

9. Boyle, John, Jr. (74473 refunded)--Class G (?). "Duck Head." This matter was before the Board on December 4, at which time the article submitted for registration was rejected upon the ground that it was an article of manufacture in the nature of a bottle opener. This was apparently substantiated by an advertisement in the December, 1941 issue of the periodical "Men's Wear," in which ^{the} very article was illustrated clearly showing the functional feature of the article. The attorney for the applicant requested reconsideration upon the grounds that he has not seen the issue of the periodical referred to, and in any event the work as deposited (without the bottle opener) would be registrable as an artistic piece of statuary. The Revisory Board again sustains the Examiner in rejecting this work, inasmuch as it is definitely known to be on sale in the local stores as a bottle opener.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 16, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 11:00 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 1 hr.
Unanimous decisions, 10
Divided opinions, 1
Majority vote, 1

1. Bruninga & Sutherland (66579 refunded)--Class ?. "Davis Ti-Meter [Elapsed Time Calculating Chart]." Application for registration of this work was originally rejected on October 24 for the reason that the article was most obviously a mechanical device and as such was not registrable. Applicant's attorney now requests reconsideration upon the ground that the subject matter of the tabulation constitutes the "writing of an author." The attorney also inquires as to the procedure to be followed in securing a review of the ruling of the Register of Copyrights. The only point before the Revisory Board was whether the Examiner should be sustained in again rejecting this work. The Examiner is so sustained. The article is a device and therefore not registrable.
2. Lindstrom, J. W. (69250)--Class A. "Duplex and Apartment Houses." This matter was previously before the Board on October 25 at which time the Board recommended that a letter be written inquiring as to the extent of distribution of copies of this publication which at the time of deposit bore insufficient notice of copyright, lacking the year date of publication. The applicant replies that only fifty copies were sent to a dealer and only a few of these were in the hands of customers, the remainder having been destroyed. The Examiner would again reject upon the ground that there was sufficient distribution to constitute publication. The Board overrules the Examiner. Held that the provisions of Section 20 may properly be invoked in this case since only a few copies were distributed with faulty notice.
3. O'Toole, William (80015)--Class A. "Note Key Game and Chart." There are several items under this remittance number but only one entitled "Note Key Game and Chart" has the attention of the Board. This material consists of a game enclosed in a paper envelope which envelope bears directions for play and a proper notice of copyright. Held that the classification of book adopted by the applicant and tacitly approved by the Examiner should be considered upon the ground that the envelope is conceivably a commercial label advertising an

article of merchandise, i.e., the game. Refer to Print and Label Examiner for possible action under that category.

4. Terre Haute Advertising Co. (79403)--Class A. "Presenting the Gettysburg Lincoln." This deposit consists of a quarto sheet which may be opened out into a single sheet. The notice of copyright reads "Copr. Thadco 1941." The Examiner would reject upon the ground that the claimant's full name is not in the notice. Since, however, the name Terre Haute Advertising Co. (the claimant according to the application) appears directly across from the copyright notice when the sheet is opened out, the Board believes there has been sufficient compliance with the provisions of Section 18 to justify registration. A warning letter, however, should be written to the claimant with perhaps the filing of a new application making the relation between Thadco and Terre Haute Advertising Co. in line (1) plain.

5. Kelly, James F. (77062)--Class A. "From A Hilltop." Held that where a publisher in agreement with the author of a book takes out the copyright in its, i.e., the publisher's, name to hold in trust for the true copyright owner who is the author, that a notice of copyright in the name of the publisher is acceptable. This is in accordance with the decision rendered in the case of Bisel v. Ladner, Bul. 20, page 89. Enter upon receipt of a new application in the name of Jayaness Company and explain assignments.

6. National Name Plate Co. (No Fee)--Class G. "Patriotic Shield and Victory Brooch Design - No. 71 Shield Design [and] No. VB 125 Victory Design for Sea Shell Brooch." The deposit consists of two drawings, the smaller of which is identically incorporated in the larger which in addition includes a curved design of stars; the whole included within a shield-shaped outline. The Examiner would permit two registrations, one for each drawing. The Board is of the opinion, however, that since the smaller drawing is incorporated in the larger one, only a single registration, that is for the larger drawing, is necessary. Applicant should also be advised as to design patent protection.

7. McCarty, Howard J. (77771)--Class I2. "Collingwood Memorial." Applicant has submitted blueprints in the nature of working drawings for this memorial together with application on form G2. Suggest registration under Class I2 since the drawing as deposited is clearly a working drawing containing measurements, dimensions and other factual data usual to a drawing of a scientific and technical character.

8. Bond Stree Press, Inc. (71339)--Class A. "Public Notice of Copyright" in BELAIR TIMES, October 3, 1941. This matter was before the Board on November 4, 1941 at which time the purpose of this advertisement, reading as follows, was questioned:

PUBLIC NOTICE OF COPYRIGHT

The Bond Street Press, Inc., publishers of or printers of and Copyright owners of the Stake Bulletin, the Maryland Tax Bulletin, The Cecil Gazette, The Harford Gazette, The Baltimore Gazette. This advertisement Copyright Oct. 1941, by the Bond Street Press, Inc., Belair, Maryland.

Applicant merely replies that "We wish to copyright the advertisement on page 2 of the Harford Gazette and Times, not the names in the advertisement. Our object is to identify the Public Notice in the event we ever wish to protect ourselves under the general rules of the law relating to unfair competition." Examiner is sustained in her recommendation that this application be denied registration since the advertisement in question contains no copyrightable subject matter but is simply a recitation of five publications purported to be published and copyrighted by the Bond Street Press, Inc. Reject.

9. Times-Mirror Printing & Binding House. (No Fee)--Class A. "Don the Beachcomber Menu," etc. Several items are involved here, among which are certain cards containing identical text but different pictures of alcoholic drinks of which the main ingredient is rum. The Examiner would request separate applications on form K for these several cards. The Board recommends, however, that they first be submitted to the Print and Label Examiner for possible action under that classification in that an article of merchandise, namely, rum, seems here advertised.

10. Hodges, Lewis Paul. (78471)--Class C. "Blindman's Buff on the Radio." The Examiner correctly questions the classification assigned this material by the applicant. Applicant files form D2 but the work is obviously not a dramatic composition. If anything it is a lecture or address and would take form C. The Examiner further questions whether the copy as deposited represents the complete broadcast. The Board, however, is of the belief that the work is sufficiently complete in that the "Conduct Test and Consolation Act" which the Examiner indicates as missing appear upon the card stapled to the back of the copy.

11. Bell Aircraft Corporation. (Deposit Acc't)--Class A. "Soldering & Special Operations in Electrical Crib" and "Cable Splicing and Tube Bending." These two publications as originally deposited bore notice of copyright reading "Copyright 1941." Above and slightly to the right appeared the phrase "Bell Aircraft Training Course." The Bell Aircraft Corporation is the copyright claimant given in the application. This matter was not brought to the attention of the Revisory Board and a letter was written informing the Bell Aircraft Corporation that the notices of copyright were inadequate. They reply that other copies "prepared for outside sale and distribution" which copies bore an entirely correct notice of copyright, were distributed on the same day and that they filed copies bearing such notice. Mr. MacCarteney

and Mr. Pforzheimer hold that the copies as originally deposited bore sufficient notice of copyright to permit acceptance of the applications and recommend entry upon the original copies. Mrs. Brady deems the original notice insufficient. She will not vote on the question, however, pending issuance of a memorandum from the Register of Copyrights regarding notices of copyright. In the absence of any vote on her part, however, the majority view prevails in this case.

12. Stone Stable Press (48574)--Class A. "Dot Leetle Fur Cap." This matter was before the Board on two previous occasions, namely, August 8, 1941 and December 2, 1941. In the first instance it was held that the question of obscenity should not be raised in this case. In the second instance, however, the Board voted to uphold the Examiner in rejecting the application upon the ground that the work was not an original work of authorship with respect to the authorship given in this application. The applicants now file a letter stating that it is their belief that "the writer had made sufficient additions to warrant copyright." Upon this question the Board divides. In view of the fact that a copy of this poem which he believes was virtually identical in text and dialect has been seen by the Assistant Attorney, Mr. Pforzheimer, which copy he believes is not under copyright, Mr. Pforzheimer and Mrs. Brady would reject this application. Mr. MacCarteney, on the other hand, believes that in the absence of specific evidence that there has been no revision of dialect (the basic claim in this case) that the Office is bound to accept the applicant's statement to the effect "the writer had made sufficient additions to warrant copyright" and he would accordingly place the claim of record upon receipt of a new application, claiming only on the revision of dialect. Appeal. See "Basis of Claim" Dec. 16/1941

MAJORITY MEMORANDUM

December 16, 1941

Remitter: Stone Stable Press (48574)

Title: "Dot Leetle Fur Cap"

Question: Whether an application for registration of a published poem claiming upon revision of dialect where there is probability that the original poem is an old one in the public domain may be accepted for registration in the absence of specific evidence that there has been no basic revision of such dialect.

In a letter dated November 29, 1941, the remitters informed this Office that it was their belief that they "were the first publishers" of "Dot Leetle Fur Cap." In their letter of July 29, 1941, the remitters also stated that "we do not know that the poem has been previously published..."

Shortly after this poem was brought before the Revisory Board upon the question of obscenity, the Assistant Attorney was shown a copy of the same poem at a dinner in Fairfax County. This poem had been printed and published without any notice of copyright upon it. The person showing the poem to the Assistant Attorney, upon inquiry, stated that she had found it among her father's papers and that it had been in his possession for many years. To the best of this lady's recollection, they had had it for thirty or forty years.

The poem deposited in connection with the present application and the poem seen in Fairfax County were virtually identical. There were one or two changes in the last couplet. The poem seen by the Assistant Attorney in Fairfax County was in the identical dialect as the copy deposited in this Office, and to the best of the Assistant Attorney's recollection there were no substantial differences between the poem as deposited in this Office and the older copy seen in Fairfax County.

The lady who showed the Assistant Attorney her copy of "Dot Leetle Fur Cap" has left Fairfax for what appears to be an indefinite period. A telephoned inquiry made upon December 16 indicates some doubt as to the date of her return. Therefore, it is impossible to secure her copy of the poem.

However, in view of the fact that the Assistant Attorney has seen and examined the original copy, he is unable to subscribe to the remitter's statement that The Stone Stable Press are the "first publishers" of the poem. Although the statements in the Minority Memorandum have some weight, in view of the above the Assistant Attorney cannot subscribe to them. He is authorized to state that Mrs. Brady joins with him in this opinion.

MINORITY MEMORANDUM

December 16, 1941

Remitter: Stone Stable Press (48674)

Title: "Dot Lestle Fur Cap"

Question: Whether an application for registration of a published poem claiming upon revision of dialect where there is probability that the original poem is an old one in the public domain may be accepted for registration in the absence of specific evidence that there has been no basic revision of such dialect.

It is the contention of the majority based upon the Assistant Attorney's statement that he has seen a copy of this poem and that it was virtually identical in text and dialect with the copy now submitted for registration that the present claim based upon "revision of dialect" is inadmissible. It is the minority view, however, that since this Office has before it no copy with which to compare the present deposit, the Office would not be justified in denying registration especially in view of the applicant's statement that "the writer had made sufficient additions to warrant copyright." In the event the applicant contested a rejection based upon the ground that there were no copyrightable changes involved in this publication, the Office could have absolutely no evidence to support its contention. It is not within the purview of this Office to go into questions of substantive right and in the absence of evidence to the contrary a claim based upon what is, *prima facie*, copyrightable subject matter should be accepted.

R. S. MacCartney

Write for a better statement of the basis of the present claim.

W.H.W. 12/22/41

MINUTES OF THE REVISORY BOARD
 COPYRIGHT OFFICE
 December 17, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 10:30 A.M.
 Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 30 mins.
 Unanimous decisions, 6

1. Lavanburg Foundation, Fred L. (No Fee)--Class A. "Uniform Maintenance Service Recording." The deposit is a chart listing on the right hand side some 132 items constituting fixtures in an apartment house. The left hand side of the chart is a blank form containing spaces in which check marks may be made corresponding to the listed items. The Examiner would reject on the ground that the work is simply a blank form. The Board holds, however, that if this work has not as yet been published, registration may be had for the list of items upon publication with the proper notice of copyright, disclaiming copyright in the blank form. If publication has already taken place, then of course the presence of the simple C in a circle in the notice of copyright would prevent registration.
2. Frisk, E. T. (No Fee)--Class I. "Friskee-Buildee Game. Figs 1-9, 9a, and 11-19." Applicant submits a sheet of drawings of the blocks used in connection with a certain game, which game was originally patented and the patent has since expired. The Examiner would suggest that registration be made for the drawing upon Form I-2. It seems to the Board, however, that the drawing deposited may represent the original patent specifications, and if such is the case the drawing of course would not be copyrightable. The Board recommends advising applicant games are not copyrightable, and that it is doubtful whether the drawing itself would be subject to copyright protection.
3. Sinclair, Marjorie R. (79244)--Class C (?). "The Star Spangled Banner, Its History and Significance." Applicant files an eight page typed script, together with an application on Form C. Held that there is no necessity to question this work as a lecture as Examiner recommends. Register as applied for if application is in order.
4. Bishop Co., G. H. (No Fee)--Class ?. "Bishop Air Control Shirt Folding Instructions." This work consists of a sheet containing nine prints illustrative of a method of folding shirts. Under each print are a few lines of text explaining the action indicated by the print. The Examiner would reject because the simple C in a circle is used in the notice of copyright instead of the word "Copyright" or its

abbreviation "Copr." The Board is of the view, however, that a possible article of merchandise is involved here in the nature of an instrument or machine. Refer to the print and label Examiner for possible action under that classification.

5. Dreckman, Harold A. (80162)--Class A. "Speed Chart." This race chart consists of a compilation of figures in columns. There is a movable arm, also divided into columns, which repeat the column headings appearing at the top of the chart itself. Held that such a movable arm is simply a convenience in reading the chart, such as would be a ruler. The information sought is not dependent upon the manipulation of the arm. Enter as applied for if the application on Form A-1 received November 22 is in order.

6. Schubert & Co., Edward (Deposit Acct.)--Class E. "I Leave My Peace With You." This matter was before the Board on December 15, at which time the recommendation of the Examiner was misunderstood. The Board was of the opinion that the Examiner was holding there was a variance in the name of the composer as between the application and the copy. This it appears was not the case. The Examiner was questioning a statement made after the title in line (7) of the application to the effect that "organ with Hammond registration" was by G. O. Hornberger, whereas it appears from the copy that the registration was by Howard S. Savage. Upon reconsideration the Board recommends that applicant be advised to file a new application giving the title only in line (7) and omitting reference to organ registration, which is not copyrightable matter.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 19, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 10:30 A.M. Those present were: Mr. Smith (acting as Chairman for Mr. MacCarteney), Mrs. Brady and Mr. Pforzheimer. Mrs. Rafter sat in on one corrective entry case.

Total time consumed, 30 mins.
Unanimous decisions, 4

Corrective entry:

1. Boosey & Hawkes, Inc. (Deposit Acct.)--Class E. "A Shepherd's Mountain Air" and "Invocation et Fanfaire." The registration of the copyright claims as originally made furnishes the wrong nationality of the author. Explain corrective entry can be made to remedy the situation.

Regular business:

2. Watkins Co., John B. (81264)--Class A. "With Confidence in our armed forces . . ." The deposit consists of a short quotation from the President's address to Congress December 8, 1941, enclosed in a heavy blue border. An A-1 application is filed. Reject.

3. Kalish, Ralph (73398)--Class ?. "Line Guide R-W." This matter was before the Revisory Board on November 28, 1941. The Revisory Board again rejects the work as a device or instrument used for the purpose of properly adjusting paper in a typewriter.

4. Gross, Jack - Intimate Tales Record Co. (81139-40, 81147, 81149-50)--Class E. "Over the Hill," "She Wouldn't Let Them Take It," & 3 others. The words of the musical compositions are obscene. In view of the fact that phonograph records of material of this nature are being advertised in Esquire and certain New York newspapers, which came to the attention of the Acting Chairman, in addition to being placed on sale in Washington stores (The Sun Radio Co.), the Revisory Board has come to the conclusion that before it takes any action in finally rejecting the matter as being obscene, consultation should be had with the Solicitor of the Post Office Department to know their reaction in view of the ~~current~~ popularity of these "Party Records," as they are currently known.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 22, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 11:10 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer, with Mrs. Rafter sitting as a voting member for two corrective entries.

Total time consumed, 70 mins.
Unanimous decisions, 14

Corrective entries:

1. Fox, Sam Publishing Co. (80969)--Class E. "All Out For America." Applicant wishes to file an amended application showing that John Adams, the author of the words, is a pseudonym of Mayhew Lake. Examiner sustained in her holding that the recordation of a pseudonym is of insufficient importance to warrant a corrective entry.
2. Grover, Arthur B. (No Fee)--Class E. "I've Heard the Music." Examiner sustained in recommending a corrective entry where the statement of claim in the original application was insufficient lacking the name of a co-claimant of copyright. Request new copy, fee and application.

Regular business:

3. O'Toole, William (80015)--Class ?. "Note-Key Game and Chart." This matter was previously before the Board on December 16, 1941. The point at issue is whether an envelope in which is inserted a gameboard, said envelope containing text and illustrations, could be registered as a commercial label. Examiner sustained in his recommendation that the envelope be registered as a label.
4. Bishop Co., G. H. (No Fee)--Class A. "Bishop Air Control Shirt Folding Instructions." This matter was previously before the Board on December 17, 1941, at which time it was decided to refer the application to the print and label Examiner for possible action under that classification. The Examiner recommends that the matter is not a commercial print in that a service is advertised rather than a particular article of merchandise. That being the case, the Board sustains the original book Examiner in rejecting the work because the simple C in a circle has been used in the notice of copyright instead of the word "Copyright" or its abbreviation "Copr." Since the work is not a commercial print, it can only be classified as a "book" under the title "Bishop Air Control Shirt Folding Instructions." Reject.

5. Rich, Jack C. (81054)--Class G. "Overseas Highway, 1941." This work is a reproduction done in the silk screen process of a painting. Applicant states that the artist is under contract "to the above publisher." Question whether publication in the form deposited has as yet taken place. There is no notice of copyright evident upon the copies, and if it has been published without notice the copyright has been forfeited.
6. Maryville College (67046 & 69687)--Class E. "Alma Mater." There has been voluminous correspondence with respect to the application for registration of this work. The resultant facts seem to be that a collection of songs in which the original of this song was included was published without notice of copyright. Moreover, the changes evident in the new publication of the song sheet submitted for registration were, according to the applicant, occasioned through generations of the school body. Held that such changes offer no basis for copyright in that a particular authorship is not determinable. "Traditional custom of singing" would bear the same relation as do folk songs with respect to copyrightability. Reject.
7. Times-Mirror Printing & Binding House (No Fee)--Class ?. "Don the Beachcomber Menu, etc." This matter was before the Board previously on December 16, 1941, at which time it was decided to refer the matter to the Examiner of prints and labels for possible action under that classification. The Examiner finds that the fifteen cocktail cards and the pictorial food and drink menus are commercial prints, in that the articles advertised are articles of merchandise. The Board sustains the Examiner in that each item should be registered in Class KK. Request applications, fee and second copies.
8. Barton Press, Inc. c/o G. W. Hartley (No Fee)--Class A. "Hotel Douglas. Hotel Information." The only name in conjunction with the notice of copyright is the Hotel Douglas. The application filed gives Douglas Hotel Company as the claimant. Request statement as to whether Douglas Hotel Company is doing business as the Hotel Douglas. If so, request new application giving name of copyright owner as "Douglas Hotel Company doing business as Hotel Douglas."
9. McCarty, Howard J. (77771)--Class G. "Collingwood Memorial." This matter was previously before the Board on December 16, 1941, at which time in view of the fact that working drawings of the memorial had been deposited the Board recommended the filing of an application on Form I-2. Upon reconsideration, based upon the applicant's statement that he wishes to copyright the design for the monument, it is believed that registration may be made for the work as a "design for a work of art," upon the filing of a new application on Form G-2, describing the work as such in line (1).

10. American Decalcomania Co. (55842)--Class K. "State of Wisconsin 2 $\frac{1}{2}$ Tobacco Tax Stamp" & 1 other. The only question here is one regarding the specific form of claim to be registered. The notice of copyright forming the background of the copies is in the name of the "State of Wisconsin, Treasury Department, whereas the application gives the copyright owner as "State Treasurer, State of Wisconsin." The applicant explains that the form of claim in the application is in accordance with the terms of their contract with the State of Wisconsin. Enter as applied for upon the applications received December 13.
11. Irwin, Samuel P. (Deposit Acct.)--Class A. "Illinois Official Reporter No. 1, Vol. 378." The Examiner would question the date of publication given in the application as December 12, 1941, whereas the date of issue on the copies is December 17, 1941. Enter as applied for; do not question date of publication. According to recorded applications for previous issues of this publication, the date of publication is never the date of issue.
12. Kokke, Bernice (80679)--Class E. "You're The Brightest Star in Heaven." This work arranged for orchestra bears only a single notice of copyright on the first page of music of the piano conductor part, which follows the first trumpet part. The Examiner would reject outright. Held, however, that registration can be made for the piano conductor part which bears a good notice, upon receipt of a new application limiting the claim to such part.
13. O'Neill, M. C. (80591)--Class B. "Monthly Evening Sky Map - May-June, 1941" & 4 others. The applications agree in placing the respective dates of publication on the 4th of the preceding month of issue. Examiner would question this since one previous issue was published on the 28th of the month. Do not question the date of publication as herein inscribed. Enter as applied for.
14. Cones, Frank (78680)--Class E. "Put A Ring on Finger." For over a period of a year the Office has at intervals received applications and manuscript copies of musical compositions with incoherent letters of transmittal. The applications have never been acceptable, due to various informalities and the fact that no registration fees were ever submitted. There are now upon deposit quite a collection of these manuscripts upon which the Office is unable to act due to informalities, including the absence of fees. By way of exception, a remittance of \$2.00 was received on December 6, 1941, in connection with a song entitled "Put a Ring On Finger." The application in this case is likewise defective, and the Examiner requests a ruling from the Revisory Board as to the procedure to be followed in handling this applicant's works. The Board is of the opinion that there seems to be some mental derangement from which the applicant is suffering which

makes it useless to correspond with him with respect to the existing informalities in his applications. It, therefore, recommends the return of all material received from this applicant, and to continue such return in the future unless proper applications, fees and copies are received in each case. Return all material now on file.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 23, 1941

The Revisory Board convened at 10:05 A.M. and adjourned at 10:50 A.M. Those present were: Mr. MacCarteney, Mr. Pforzheimer and Mr. Lasica.

Total time consumed, 45 mins.
Unanimous decisions, 9
Divided Opinions, 1

1. General Biological Supply House, Inc. (Deposit Acc't)--Class A. "Comparison of Fossil and Modern Plants; Fossil Birds; Fossil Fishes" and nineteen others. The deposits consist of seven large biological cards and fifteen smaller cards. Both sets of works bear technical drawings of various flora and fauna together with explanatory text matter. The larger cards have a complete notice of copyright including the word "Copyright" in addition to the year date of publication and the name of the claimant. Examiner sustained in requesting applications on form A1 for these cards to protect both the text and the illustrations. Examiner is overruled, however, with respect to the smaller cards which she would reject since the symbol "C" in a circle is employed instead of the word "Copyright." The Board holds that these smaller cards do contain scientific or technical drawings and that registration may be made as applied for on form I-1 to protect such drawings with the exception of the card entitled "The Nature of Fossil Plants" which card contains only text matter and is therefore not registrable due to the improper form of notice.

2. Colonial Coin and Stamp Publ. Co. (80911)--Class ?. "Encased Defense Savings Stamps." The deposit is a small card containing on one side the brief couplet "Buy Defense Stamps right away" [and] "Best buy you can make today" and three United States Postal Savings Stamps enclosed in cellophane on the other side of the card. Examiner sustained in rejecting this work since there is insufficient text matter and ideas are not copyrightable.

3. Mosher, E. Milton.(80881)--Class A. "Old Glory Glorified." Examiner sustained in rejecting this application upon the ground that the notice of copyright is defective in that it lacks the name of the copyright owner. Moreover, it is not understood upon what basis applicant could claim copyright in this deposit inasmuch as the text matter is admitted to be that of an unknown author and the print incident to the work is simply a reproduction of the famous "The Spirit of '76."

4. McKay, Wm. Robert. (81221)--Class E2-For. "Bigger and Better Bombs on Berlin." In view of present transportation difficulties in the Pacific Ocean, accept application where there is only a difference in the spelling of the composer's surname between the application and the copy amounting to whether the name should be spelled with one r or two rs, i.e., Noris or Norris. The Board advises the making of cross reference cards with reference to the spelling of the composer's name. It holds, moreover, that there is no need to question publication in this case. The copy seems obviously to represent an unpublished class of work and the applicant himself has so described it by filing a form E2.

5. Quickprint (The). (80269)--Class K. "Serving You." Held that a shield-shaped piece of cardboard with a red border and a white center bearing therein the inscription "Serving (star) You" in blue contains no elements of originality which would justify the granting of copyright registration. Examiner overruled. Reject.

6. Atlanta Journal (81931)--Class A. "Outbreak of War finds Georgia Army Posts on Their Toes.." in December 14, 1941 issue of THE ATLANTA JOURNAL. Held that a notice of copyright reading "Journal Photos Copyright 1941" is sufficient where the full legal name of the copyright owner is the Atlanta Journal Company and where THE ATLANTA JOURNAL appears at the top of the page of the newspaper sheet whereon are reproduced the photographs. However, request complete copy of the issue containing the contribution.

7. Berman, Samuel H. (81715)--Class ? "Sam H. Berman Radio School of the Air." This deposit is termed "audition blank" to be filled in by the applicant for broadcasting. It contains in addition to a considerable amount of text in connection with the lines to be filled in, an agreement constituting two paragraphs of text matter. Explain to applicant that blank forms are not copyrightable but if this sheet is printed and published with notice of copyright registration may be made for the text alone. However, refund at this time since the work as deposited is obviously still in unpublished form.

8. Schreiber, Leo John (74735)--Class C. "An Anatomy of Cubic Pictorial Design". Applicant originally deposited a manuscript which was held not to be in a form admitting of oral delivery. The applicant was so advised and on December 13 a new copy was received. This copy it is stated represents the work "to be delivered as a genuine lecture, and not merely a convenient form for getting a copyright." The Examiner is still of the opinion that a bona fide lecture has not been deposited. The Board overrules the Examiner. Held that the copy as deposited is in a form acceptable for registration as a lecture. The presence of the words "this letter" and "sketch below" does not preclude consideration upon the supposition of oral rendition.

9. Pope, Irene Arlice (80402)--Class A. "When Toys Live." This booklet as originally deposited for registration on November 4 bore a notice of copyright as follows:

Irene Arlice Pope

Souvenir Edition
Designed by
Research Department
College of Actual Science
Los Angeles, California

Copyright 1941
Printed in U.S.A.

The Examiner held this to be a defective notice lacking the name of the copyright owner (who is the authoress) and Circular 54 rejecting the application was sent and the fee refunded. Applicant now reapplies for registration depositing two copies with an entirely correct notice of copyright definitely including the name of the claimant as an integral part thereof. Examiner would again reject upon the grounds expressed by Circular 21. The Board overrules the Examiner holding that the original notice of copyright was actually acceptable in that the claimant's name appeared above the notice notwithstanding the presence of the name of the Research Department, College of Actual Science between it and the other elements of the notice. Register.

10. Hamilton Manufacturing Co. (77783)--Class ?. "Customer Dividend Bond Dispenser." The only items at issue here are 20 so-called "Customer Dividend Bond Dispensers." These are large cardboard sheets the top half of which is generally devoted to a pictorial illustration while the bottom half contains lines of holes common to the usual punch board games. At the bottom of the cards under the gameboard element a full copyright notice has been inscribed on each card. The Board divides upon the question of registrability. Mr. Lasica and Mr. Pforzheimer would primarily question publication in the form deposited inasmuch as the printers proof figures relative to the color process still are on the side of the cards. These members of the Board, however, hold that if correctly published, the works are registrable in Class K as print or pictorial illustrations provided the applicant limits the claim to the prints and disclaims the gameboard features. Mr. MacCarteney on the other hand feels bound by the policy of the Office in rejecting gameboards as not coming within the scope of protection provided by the Copyright Act. He does not feel that the exception provided for in Section 201.4 of the Code of Federal Regulations of Copyright Office as amended would obtain here since these cards do not bear "a copyright notice which does not purport to copyright the instrument or tool as such." The notice as presented on these cards can only be interpreted as a general one relating to the entire publication. Appeal.

See "Gameboards" Dec. 23, 1941.

See minutes p. 1123

MINORITY MEMORANDUM

December 23, 1941

Remitter: Hamilton Manufacturing Co. (77763)

Title: "20 Punch Board Bond Dispensers"

Question: Whether a punch board to be used to stimulate the sale of bonds and containing a pictorial illustration can be registered as a print provided the claim is limited to the print and disclaims the gameboard features. The notice of copyright on the copies is a general one.

The majority of the Board feels that registration for the pictorial element in these punch boards may properly be had following the establishment of publication and the filing of applications limiting the claim. It is the undersigned's opinion, however, that the policy of the Copyright Office in denying registration to these works that are in the nature of gameboards must be adhered to in this case since the only exemption for such action, namely, the amended section 201.4 of the Code of Federal Regulations of Copyright Office is not applicable in this case (assuming devices and gameboards may be considered as analagous works). The exception to rejection provided for in that section is a work published with a copyright notice which does not purport to copyright the essentially uncopyrightable features, namely, the instrument or tool as such (here the gameboard). The notice of copyright on these punch boards, however, is placed squarely under the punch feature, thereby setting up a claim in the publication as a whole. The undersigned feels that this case is different from that of a print appearing as part of a gameboard which was recently accepted since in that case the notice of copyright was directly under the copyrightable print and was not in a position where the public would judge that a claim was being made for the gameboard as such. To accept these works for registration would be a further loosening of the rule announced by the Register of Copyrights and carried out in hundreds of instances subsequently that gameboards would not be accepted for registration in the Copyrights Office.

R. S. MacCartney

Question publication in form deposited of large cards [printer's proof figures still on side of cards]--if correctly published works registrable in Class K as "prints" if applicant limits claim to print and disclaims the gameboard features. Sustained--By order of Register. W. H. Wise,
Jan 2,

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 24, 1941

The Revisory Board convened at 11:00 A.M. and adjourned at 11:35 A.M. Those present were: Mr. MacCartney, Mr. Pforzheimer and Mr. Lasica.

Total time consumed, 35 mins.
Unanimous decisions, 7

1. Johnson, Hannah (67360)--Class J. "The Presence of Jesus." The Copyright Office has been endeavoring to establish the facts of publication and the correct date thereof as regards this photograph. Applicant's letter of November 12 stated that no copies had been sold or otherwise distributed. Such being the case the application received December 12 repeating the date of publication as of October 1, 1941 would seem to be incorrect. Explain publication again.
2. Holmboe, Clifford E. (No Fee)--Class A. "A Story of the Cigarette." The notice of copyright on this work lacks the year date of publication necessary to the notice in the case of a book. Examiner sustained. Reject.
3. Blanche, Madame, Inc. (59291)--Class G. "Wax Figurines Named Personality Portraits." There has been considerable correspondence with respect to the registration of these wax figurines. The individual figurine could, the Office has pointed out, be registered in Class G. The applicant, however, now definitely informs the Office that the only reason she is endeavoring to secure copyright is that she simply wants to protect the original idea of wax figurines. That being the case the Board recommends rejection since the applicant cannot secure the protection desired under the copyright law.
4. Associated Music Publishers, Inc. (75453)--Class D-For. "Le Rosier." This matter was opened by the filing of a renewal application giving the name of Henri Casadesus as the renewal owner based upon the claim that he was the original author. Search having been made it was discovered that the original registration was based upon a statement of authorship in the name of Christian Riquet. The Office inquired of the remitter, Associated Music Publishers, Inc., who informed the Office that they had no knowledge of Christian Riquet. They then filed an application on D3-For. giving Henri Casadesus as the composer and accompanying it with a copy of the 1914 publication

on which Casadesus' name appeared prominently as the composer. This registration, of course, was requested so that a new application for renewal of copyright might be filed which would properly be based upon an original registration giving Casadesus as the composer. The Board is of the opinion that this application should be accepted since it should not be the Copyright Office who decides between adverse claims to copyright. A renewal registration may subsequently be applied for, based upon this D3 application attributing the music to Henri Casadesus.

5. Spangler, Ralph M. (82276)✓-Class KK. "XS-Morrison's XS Wafers." The only name appearing in connection with this label is that of the Morrison Medicine Co. whose address is given as 1265 North Vermont Avenue, Los Angeles, California. The name of the claimant in the application is Ralf M. Spangler who has the same address as the Morrison Medicine Co. Inquire whether Ralf M. Spangler, the name on the application, is doing business as the Morrison Medicine Co., the name in connection with the notice. Examiner sustained in classifying this work as a commercial label.

6. Wright, Johnnie and His Tennessee Hillbillies (81449)✓-Class E. "Gran' Dad He's Not Old," "Back Over the Mountains," "He Is My Saviour" and 7 others. The Examiner in this case questions publication in the form deposited. Since, however, applicant states that copies are sold direct by radio and in groups it is not thought that publication should be questioned, nor the fact that the notices of copyright were corrected. It is not inconceivable that applicant himself should have discovered the notice of copyright as originally inscribed on the copies was defective and should have remedied it. With respect to "If I Never Come Back"--if this work was published according to the application, then no registration can now be had for the work as unpublished simply due to a change in title.

7. Richards, E. L. & Co., Inc. (80635)--Class A. "Railroad Security Analysis Visual Method." Held that a year date appearing above the notice of copyright may be read into the notice notwithstanding the claimant's name and address are between it and the notice. Accept.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 27, 1941

The Revisory Board met at 10:00 A.M. and adjourned at 10:55 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer, with Mrs. Rafter sitting as a voting member for two corrective entries.

Total time consumed, 55 mins.
Unanimous decisions, 13
Divided decisions, 1

Corrective entries:

1. DONNELLEY & Sons, Co., R. R. (A-159372)--"Voyages to Vinland. The First American Saga." The remitter in the case of this application advised that the name of the printer was incorrectly given in the affidavit. Permit corrective entry upon return of certificate and the filing of a new application, new copies and registration fee.
2. Chodorov, David (E²-278164)--"Hopscotch." This work was entered in the name of David Chodorov and Harry Wyle. It transpires that the second claimant to the work is Larry Wyle. Permit corrective entry.

Regular business:

3. Coin Savers (No Fee)--Class ?. "Giving Again." This work is a coin container having holes for the insertion of ten cent pieces. It bears a pictorial illustration and also a verse of poetry. Since, however, the picture is reproduced by permission of another copyright owner, and the verse was "selected," neither of these copyrightable elements enters into this claim as now presented for registration. There are no further copyrightable elements discernible, and the Board accordingly recommends rejection.
4. Gassmam, Philip Pinkie (80329)--Class A. "Match It" - in "Cape May County Gazette, December 5, 1941." The material in question is a box advertisement appearing in a newspaper, and is to be used according to the letter of transmittal "for advertising purposes and for merchandising different items like cigars, cigarettes, etc." The print and label Examiner, however, finds that the material is not KK material, since it does not contain any pictorial or decorative matter and does not itself seem to advertise articles of merchandise. The Board sustains the Examiner in rejecting the application.

5. Williamson & Williamson (80684)--Class ?. "The Day and Night Watchman." Applicant files application on Form K, but the only pictorial element contained in the work, which incidentally is a card, is the conventional flame representation symbolizing fire in connection with a fire alarm call. Examiner sustained in rejecting the application.
6. Davies, A. Glenn (82347)--Class A. "Tapping Your Job Resources." Held that a copyright notice separated from the name of the claimant, given in the application, by the address of the institution of learning where the applicant presumably teaches is an acceptable notice.
7. Free, Fred H. (82208)--Class A. "Wayside Reveries." A notice of copyright separated from the name of the claimant by a statement of the extent of the edition is to be considered as an acceptable notice. Enter.
8. Hopkins, Russell (Deposit Acct.)--Class A. "First Complete Wage-Hour Law. Digest for Beer Distributors" - in "Beer Distributor" Dec. 1941. The notice of copyright on this publication takes the following form--

"Copyright 1941
Beer Distributor
Publishing Company
43 East Ohio Street, Chicago, Ill."

The name of the copyright owner in the application is given as Russell H. Hopkins. The Examiner would reject upon the ground that there is no name in the notice. The Board overrules the Examiner, since there is obviously a name, viz., Beer Distributor Publishing Company, inscribed in the closest possible juxtaposition to the notice. Write, however, concerning the established variance in claim.

9. Marquisee, Della B. (82242)--Class G (?). "My Kin is In." This work consists of an elemental representation of what may possibly be intended to be a high hat. On the side of what is possibly the crown of the hat is the letter "V" with the inscribed superscription "My Kin is In." In the opinion of the Board there is no copyrightable subject matter involved in this representation. Reject.
10. Means, Edna (81593)--Class A. "Two Comedy Radio Scripts" & 10 others. The Board sustains the applicant in applying for registration of these groups of mimeographed monologues as "books." Write, however, concerning informalities in the affidavits.
11. Jam Handy Picture Service, Inc. (82515)--Class J (?). This is the usual Jam Handy material, consisting of "stills" pasted to sheets of paper. The Jam Handy Service Inc., applies for registration as "unpublished photographs." The "stills" themselves show drawings and text matter, which kind of material has been in the past registered in this Office under the classification of "book." The Board, accordingly, suggests that registration be made in Class A following statutory publication.

12. Gulezian, Lucy E. (56087 & 82534)--Class E. "Orchestrations of Grikor M. Suni, Vol. I." Examiner sustained in accepting application upon Form E-2 for registration of the various "Orchestrations of Grikor M. Suni, Vol. I." It is not believed that this material has been published in the form deposited, and, accordingly, in the absence of publication each separate composition would be the subject of a separate copyright and would require separate registration.

13. House of Art, Inc. (73446)--Class K. "Pals," "We Give Thee Thanks," & others. The Office questioned the basis of copyright for certain prints upon the ground that works bearing identical titles and by the same artist were already of record in this Office. Applicant replied that the prints now in question have a new element by way of new sizes from new plates and for different processes of reproduction. Applicant also points out that there is in existence a royalty contractual arrangement which was made with the artist and which has continued and remains in force and effect with the artist's heirs. Upon the basis of this explanation the Board recommends registration. *Examiner would reject. Examiner sustained - W.D.W. - after consultation with C.D. Barlow Jan. 6, 1942.*

14. Events Pub. Co. (74601)--Class B. "Events - January, 1941." The application filed for "Events - January 1941" issue gives the date of publication as December 30, 1940, whereas the copy bears a 1941 notice of copyright. Mr. MacCarteney and Mrs. Brady feel bound by the rules of the Office to reject this application upon the ground that the work has been published with an advanced year date in the notice. Mr. Pforzheimer, however, holds that the fact that publication did not take place until December 30, 1940 would be regarded as an extenuating circumstance. He supports the view for entry in a separate memorandum.

See "Notice" December 31, 1941.

MINORITY MEMORANDUM

December 27, 1941

Remitter: The House of Art (73446 & 73823)

Title: "Pals" & "We Give Thee Thanks"

Question: The question in this case involves the ownership of these two prints, originally copyrighted in 1924 in the name of the author Jessie Wilcox Smith. Her copyright in these works is still extant, and should be the property of her legal heirs. Is it possible for the publishers with whom we are corresponding, and who describe themselves as the "exclusive publishers in print form of all her works," to make new, larger prints of the original and publish them with a copyright notice, conferring a later ownership upon themselves by reason of the making of new plates? If such is the case, any print may be rescued from the public domain forever as the general public is notified by the successive publications with notice that their (the public) right to copy has not yet matured.

It is the opinion of the undersigned that the making of a new plate and publishing prints therefrom does not constitute authorship, but is an infringement upon the copyright existing in that print.

In the case of King Features Syndicate v. Fleischer et al, 299 Fed. Reporter, where the copyright in a book of cartoons (prints) was held to be infringed by a doll, Judge Manton in his decision which was in favor of the appellant held that the reproduction of a cartoon (a print) in a different medium, i.e., a toy, was an infringement. A reproduction in the same medium would therefore be at least equally an infringement. Judge Manton referred to "the original conception of the artist" and to "his title to any lawful use of his property, whereby he may get a profit out of it." In the instant case, it appears to the undersigned that there would be at least an equal appropriation of the property rights of the heirs of the deceased author, which is not explained in the statement re contractual arrangements in the first paragraph of the letter of Nov. 28, 1941, received from this remitter. This statement is as follows:

"For a great many years we were always the exclusive publishers in print form of all her work and this royalty contractual arrangement has continued and remains in force and effect. The royalty was always paid until her death and is still being paid to her heirs."

The question should be asked if the reproduction of the author's prints by the publishers, bearing notice in their name, was a part of "the royalty contractual arrangement," as the right to print, reprint, publish, copy and vend is vested in the original author or proprietor by the Act. And further, it should be the subject of determination by the Register of Copyrights whether or not the making of a new plate and the reproduction therefrom by a new process and in a new size constitutes authorship and confers copyright upon the author of such reproduction.

Examiner would reject. Examiner sustained.

W. H. W. after consultation with the Register. 1-6-42. BRADY

MINORITY MEMORANDUM

December 31, 1941

Remitter: Events Publishing Co., Inc.

Title: "Events," January, 1941

Question: Whether the January issue of a periodical published on December 30, 1940, with a 1941 notice of copyright is registrable in this Office.

In this case the majority desires to reject the application for registration of the claim to copyright in the January, 1941, issue of a monthly review entitled "Events" on the ground that the notice of copyright upon the magazine gives the year date 1941, whereas the application for registration gives the date of publication as December 30, 1940.

The undersigned is well aware that Section 18 of the Copyright Act requires that the notice of copyright should include the year date of publication. He is also aware that the past practice of the Office has been to reject these applications under similar circumstances.

Numerous court decisions have held that an advance date in the notice of copyright invalidates the copyright upon a work. This is in line with the thought that where a monopoly is granted by means of statute it should be strictly construed in favor of the public. Publication of a work with an advance year date in the notice would mislead the public into thinking that the published work has an additional year of protection, which the courts have tended to consider to be a fraud against the public interest.

If a book were published in December with an advance year date in the notice, ostensibly with an eye to the Christmas trade, in the hope that the advance year date would give it an additional touch of currency, the undersigned would reject the application on the basis of the advance year date in the notice. In the instant case, however, publication of the pamphlet took place on Monday, December 30, 1940. The copyright owner was desirous, no doubt, of having the January issue of "Events" on the stands by January 1, 1941. However, as January 1 is a holiday, distribution would doubtless be difficult on that date. Therefore, the January, 1941, issue was published upon December 30, 1940, but with a 1941 copyright notice. There appears to the undersigned to be no reason in equity why this application for registration should not be entered. No fraud upon the public has been committed.

The undersigned entertains considerable doubt concerning the majority's action in declining to accept this application. He does not believe that this Office, in view of recent decisions, can safely tell this claimant that he has no copyright. In view of the above the undersigned contends that the application must be accepted.

Reject--advance year date in notice. Sustained W. H. Wise, Jan. 2, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 29, 1941

The Revisory Board convened at 10:00 A.M. and adjourned at 10:15 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 15 mins.
Unanimous decisions, 3

1. S. J. Wolff & Co., Inc. (80264)--Class K. "No. 420 Patriotic Set." The works in question are large prints depicting icecream sundaes and sodas. They bear no text nor do they advertise any particular brand of icecream. This Office has in the past had correspondence with this remitter and the classification of such works was determined to be Class K. The present deposits would have been registrable as artistic prints had they been published with notice of copyright. No notice appears on the copies deposited, however, and rejection is therefore in order.

2. Lewis, Myron H. (32871-refunded)--Class A. "Claim of Lien - Lewis Form No. 14." The work in question, a claim of lien, was originally received in this Office on May 16, 1940 at which time it bore faulty notice of copyright lacking the year date of publication. No application accompanied the copies, however, and accordingly the fact of publication was not at that time established. The Office inquired as to whether publication had taken place but without response until December of this year when two new copies were deposited, this time bearing the correct notice of copyright. Examiner would reject upon the ground that the year date 1940 in the notice implies that copies were published at that time with a faulty notice. The Board, however, recommends that the Office first inquire as to whether publication initially took place in 1940 without a year date in the notice. This fact has not to date been established.

3. Velebny, Paul J. (783921-refunded)--Class A. "Virginia & Kansas Railway Co. Passenger ticket." Applicant originally applied for registration of this work in 1940, the work itself constituting a sample railroad ticket. Action at that time resulting in the refund of applicant's remittance was predicated upon the supposition that incomplete copies had been deposited. A new application has now been received together with a letter of transmittal explaining that these tickets are samples presumably to be sent to various railroad companies for possible sale. Examiner sustained in holding that a ticket being an article of utility is not copyrightable nor registrable under Section 201.4 of the Code of Federal Regulations of Copyright Office.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
December 30, 1941

The Revisory Board convened at 10:00 A.M. and adjourned at 11:10 A.M.. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer with Mrs. Rafter sitting in as a voting member on one corrective entry.

Total time consumed, 70 mins.
Unanimous decisions, 12
Divided opinions, 1

Corrective Entry:

1. Ricoparian (No Fee)--Class B. RICOPARIAN, Vol. 3, No. 3, December, 1941. The original application gave an incorrect date of publication. Suggest corrective entry.

General Business:

1. Embassy Tours, Inc. (No Fee)--Class A. "California and the West 16 Day Grand Tour" (1 other). A sheet advertising "Embassy Tours" from the United States to Mexico was originally received with no copyright notice inscribed. No registration, of course, was obtained. Copies have now been deposited which bear a correct notice and examiner would accept upon basis of revision. The Board upon examination does not find sufficient new matter to warrant a new registration and it holds that the new application should be rejected.

2. Cirone, Joseph N. (82467)--Class ?. "Drawing of Patriotic Emblem." This work is in the nature of a drawing identical with the service flag so prominently used during the first World War. Examiner would accept as a drawing. The board overruled the examiner, holding that there is no copyrightable subject matter involved. Reject. Refund.

3. Woodcock, Virgil E. (81928)--Class A. "300." Held that printed instructions for playing a game published as part of a gameboard and where there is a notice of copyright which does not necessarily apply to the gameboard may be accepted for registration upon receipt of an application giving a specific title and limiting the claim to the copyrightable text.

4. Marine, Richard E. (20356)--Class KK. "Directions for Peer Machineless Permanent Waving." Examiner sustained in holding that this leaflet does more than instruct the purchaser of a permanent waving machine as to how to use the machine but goes beyond and definitely advertises an article of merchandise. The work is therefore registrable only as a commercial print.

5. Marine, Richard E. (22305)--Class KK. "Let Loxol Shampoo Lusterize Your Hair." The same as above.

6. Presser Co., Theodore (Deposit Acc't)--Class R. "Asa's Death." This renewal application is based upon an original registration made in 1914 which in turn was to cover one song present in a collection that did not appear in an even earlier edition published in 1909. The renewal application does not specifically limit the claim but in view of the fact that the original registration did not specifically limit the claim, the Board feels that this application may be accepted upon the ground that the registration will cover only the essentially registrable material without extending the copyright already existing in the remainder of the work.

7. Boston Music Co. (Deposit Acc't)--Class R. "Key to the Exercises in Part Two of a Treatise on Harmony." Held that the Office practice of allowing one day's grace in the arrival of an application for registration of a renewal of copyright should be discontinued. If the present Copyright Office policy of allowing one day's grace is upheld by the Register, the renewal claim as "proprietor of a work copyrighted by a corporate body otherwise than as assignee or licensee of the author" should not be questioned. The Board is of the opinion, however, that the application should be rejected because of non-arrival of the application within the statutory year.

8. Lorenz Publ. Co. (Deposit Acc't)--Class R. "And Many Nations Shall Come and Say," "Search Me, O God," "Seek Ye the Lord," "How Beautiful Upon the Mountains" and "Rejoice in the Lord." The applications for the original registration of these copyrights were filed upon form E1 and based the claim upon "revision of voice parts and accompaniment." Reference to the original record shows that the claim was based on "revision." Accept the renewal applications upon the basis of the original applications referring to "accompaniment." Renewal applications may also be accepted lacking a statement of authorship of renewable matter in the case of a composite work.

9. Hurst, Willard (82559)--Class A. "Law in Society." Examiner in this case is sustained in so far as her statement that "order of arrangement" is not a proper basis of claim in the case of these books. The Office should request a more detailed statement of new matter. Examiner overruled with respect to the remainder of her recommendation. These are two complete separate publications issued in 1940 and 1941 respectively. The Office should further inquire as to the second edition, revised copy of 1940, Vol. 1.

10. Neupert, George (82648)--Class ?. "A Comprehensive Plan to Found Greater Chicago." Applicant files an application on form C for a single typewritten sheet outlining a proposed plan to found "the greater Chicago." Examiner would question whether the work is prepared for oral delivery. The Board, however, goes further in rejecting the application outright. The work as deposited is not a lecture.

11. Air Review Pub. Corp. (No Fee)--Class K. "Set the Rising Sun!" The applicant wishes to copyright a conventional drawing of the rising sun of Japan in connection with the slogan "Set the Rising Sun." The Examiner

goes into the merits of the subject matter involved. The Board, however, thinks this is unnecessary and recommends rejection of the claim upon the basis of publication without notice of copyright.

12. Fraternity of Phi Gamma Delta (81075)--Class A. "Songs of the Fijis and Their Colleges." This book of songs bears a notice of copyright at the bottom of the Foreword on the page directly across from the first page of music. Mr. Pforzheimer and Mrs. Brady would reject the application upon the grounds that the notice of copyright is in the wrong position. Mr. MacCarteney would accept the position of the notice as constituting a substantial compliance with the provisions of Section 19. He would, however, request a new application on form E1 giving a statement of the new matter involved in this claim.

Appeal.

*Write case attention to provisions of C.G.T. any arguments presented will be considered. Register of Rights U.S. G. 1-2-42
See "Notice" Dec. 30, 1941*

MAJORITY MEMORANDUM

December 31, 1941

Remitter: Fraternity of Phi Gamma Delta (81075)

Title: "Songs of the Fijis and their Colleges"

Question: Whether a notice of copyright inscribed on the page opposite the first page of music of a song book is acceptable as substantially complying with the provisions of Section 19.

Application for registration of the claim to copyright in this work was filed upon Form A1, which is the classification for a "book." It is obviously the applicant's thought to secure copyright protection for this work as a "book."

The volume commences with a title page, upon the reverse of which (page two) appears a table of contents. Page three also consists of a table of contents, upon the reverse of which (page four) appears the Foreword. The notice of copyright appears under the Foreword upon page four.

The undersigned consider this a misplaced notice of copyright, sufficient to deny the application for registration. This denial is based upon the opinion of Judge Patterson (the present Undersecretary of War) prior to his elevation to the Court of Appeals of the Second Circuit, in the case of J. A. Richards, Inc. v. New York Post, Inc., 23 F. Supp. 619 (D.C., S.D., N.Y., 1938). As the Minority Memorandum points out, Judge Patterson states that

"The plaintiff is right in urging that substantial compliance with the Copyright Act is all that is required. But when the Act requires that copyright notice be applied at a particular place in a work (the title page or page next following), the courts may not dispense with the requirement and say that a notice appearing somewhere else is enough."

The minority contends that one examining the first page of music in this book "could not fail to see the notice with the book open before his eyes." Judge Patterson, in the case cited above states in this regard,

"By explicit provision of the statute the place for copyright notice in the case of a book or printed pamphlet is on the title page or the page immediately following. It follows that a notice on any other page, no matter how prominent, is ineffective." (underlining ours)

The majority feel themselves bound by this decision to hold that the notice of copyright is misplaced, whether application for registration of this work be made as a book (as the applicant has done) or in Class E as suggested by the examiner. The application must be rejected.

Write--call attention to provisions of Act. Any arguments presented will be considered. By order of Register. W. H. Wise, Jan. 2, 1942.

MINORITY MEMORANDUM

December 30, 1941

Remitter: Fraternity of Phi Gamma Delta (61075)

Title: "Songs of the Fijis and Their Colleges"

Question: Whether a notice of copyright inscribed on the page opposite the first page of music of a song book is acceptable as substantially complying with the provisions of Section 19.

The work in question is a book of songs and at the bottom of the foreword on the page across from the first page of music there appears a copyright notice in the name of the Fraternity of Phi Gamma Delta. Mrs. Brady and Mr. Pforzheimer hold that the appearance of the notice on the page across from the first page of music does not constitute compliance with Section 19 providing that the notice in the case of musical compositions must appear either upon the title page or first page of music. In support of their contention they quote the language of the late Judge Patterson of the District Court of New York in the case of J. A. Richards, Inc. v. New York Post, Inc. in which the Judge expressed himself as follows: "It follows that a notice on any other page [than the title page or page immediately following] is ineffective." Further "But when the Act requires that copyright notice be applied at a particular place in a work, the courts may not dispense with the requirement and say that a notice appearing somewhere else is enough."

Mr. MacCarteney contends that circumstances obtaining in the two cases, the one at issue and the decision referred to above, are not analogous. In the Richards case the notice was placed on the back cover of a 52 page pamphlet. In holding that a notice not placed according to the Statute, no matter how prominent, is ineffective Judge Patterson then specifically referred to the United Thrift Plan, Inc. and the Bessett cases; both of which dealt with notices of copyright appearing on the back covers of multiple paged booklets. In the case at issue there are not "many pages intervening" between the strictly statutory position and the actual position of the notice. The notice is directly across from the first page of music where it could not possibly be overlooked. Indeed, one seeking to determine whether or not copyright was being claimed and thereby examining the first page of music could not fail to see the notice with the book open before his eyes where it appeared on the same plane on the opposite page.

It may possibly be that a court rendering a narrow decision in strict compliance with the letter rather than the spirit of the law might adjudge the notice incapable of supporting a suit for copyright infringement. It is the view of the Minority, however, that the Copyright Office being simply an office of administration should in its decisions take also into account the spirit of the law and where there has been substantial compliance any doubt as to the validity of an applicant's claim should be resolved in favor of the applicant and the registration granted.

Write--call attention to provisions of Act. any arguments presented will be considered. By order of Register. W. H. Wise, Jan. 2, 1942.