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MAJORITY MEMORANDUM

NOTICE

March 10, 1942

Remitter: E. L. Bosqui Printing Company

Title: Rules & Rates for Fire Insurance
and Allied Lines

Question: Whether registration of the claim to copyright in a book is permissible when the notice of copyright appears neither upon the title page or the page immediately following but does appear upon the fourth leaf following the title page and on each of the subsequent ninety-six pages of the book.

The Chairman of the Board feels that registration for this work is permissible in view of the presence of a notice of copyright upon each page of the textual material. The majority feels, however, that the question of the notice of copyright and the position thereof as set forth in Section 18 and 19 of the law must be strictly construed which position is supported by judicial decisions and text writers alike. Attention is again called to the statement of Judge Patterson in the case of J. A. Richards, Inc. v. New York Post, Inc. 23 F. Supp. 619 in which the Judge stated that :

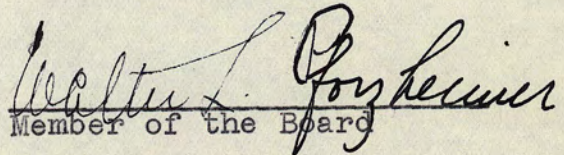
"By explicit provision of the statute the place for copyright notice in the case of a book or printed pamphlet is on the title page or the page immediately following. It follows that a notice on any other page no matter how prominent is ineffective."

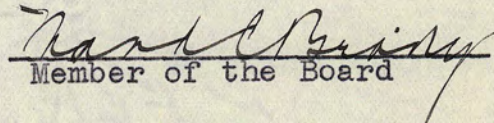
This statement appears to be declarative of the Copyright Act and particularly Section 19 thereof. In Bentley v. Tibbals 223 F. 247, 253 the Circuit Court stated that "statutory requirement as to notice must be strictly complied with."

The case of United Thrift Plan Inc. v. National Plan, Inc. 34 Fed. (2nd) 300 cites in terms the case of Freeman v. the Trade Register and in this connection stated that "... the court believed that the copyright was invalid because the copyright notice was not on the title page, and no holding to the contrary has been cited."

If a suit for copyright infringement was brought by the copyright owner of the book in question here, it would be vulnerable to a motion by the defendant demanding summary judgment on the pleadings on the ground of violation of the specific views of Section 19. The citation of the cases quoted above and, as stated in the United Thrift Plan case, the absence of any holding

to the contrary, makes it binding for the undersigned to hold that the work here in question has been published with a notice of copyright in derogation of the specific terms of Section 19 of the statute, making registration in this Office impossible.


Member of the Board


Member of the Board

Minority sustained.

Register--Notice of copyright on every page of text is adequate notice to public. Give applicant benefit of the doubt. W. H. Wise, March 11, 1942.

(Notice in the case of Richards v. New York Post was on "rear cover" only.
W. H. Wise, March 11, 1942.

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MINORITY MEMORANDUM

March 10, 1942

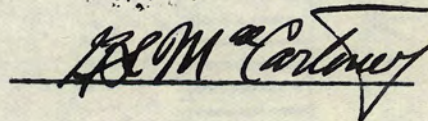
Remitter: Bosqui, E. L. Print Co.

Title: "Rules and Rates for Fire Insurance and Allied Lines."

Question: Whether a notice of copyright which is repeated on every one of 96 pages of a looseleaf publication is sufficient compliance with Section 19 in the absence of a notice of copyright upon the title page or page immediately following which pages preface page 1 of the textual material.

The Majority opinion is that the dictum of Judge Patterson in the case of Richards v. New York Post, that the notice of copyright in the case of a book must be placed upon the title page or page immediately following is to be followed and this work which lacks the notice either upon the designated title page or page immediately following must accordingly be rejected.

It is the Minority opinion that every single one of the 96 pages comprising the copyrightable material is under copyright by virtue of publication thereof with notice of copyright. Moreover, since it is a unit publication a single registration would cover the 96 pages of text matter. It is the Minority view that in the circumstances it would be absurd to deny registration merely because neither the title page nor page immediately following of the book as a whole did not bear a notice of copyright. The Office should, therefore, place the claim of record since such a plethora of notice more than offsets the absence of it from the strictly statutory position. The purpose of the provisions as to notice has been met.



Register--Notice of copyright on every page of text is adequate notice to public. Give applicant benefit of the doubt.

W. H. Wise, March 11, 1942

(Notice in the case of Richards v. New York Post was on "rear cover" only. W. H. Wise, March 11, 1942.)

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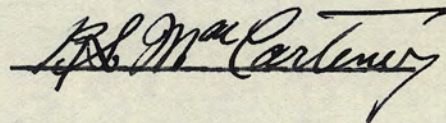
March 10, 1942

Remitter: Greene, Dan (13934)

Title: "Survey of High School Students' Future Educational Plans."

Question: Whether a postcard which bears a notice of copyright including the initials of the claimant on one side while the claimant's full name is printed on the other side may be registered.

It is the view of the Minority that a postcard bearing a notice of copyright including the initials of the claimant on one side whereas the only other name on the card is that of the copyright claimant which is on the other side should be accepted. Since there is only a single name it could only be connected with the initials of that name in the notice of copyright. The card itself is meant to be picked up and turned from side to side and the public, therefore, has every opportunity to discover who is claiming the copyright. The undersigned, therefore, would accept this notice especially in view of the fact that another work submitted by the same claimant is being accepted which work bears a notice of copyright also containing the initials of the claimant but with the claimant's name printed on the same side of the sheet. The difference between the claimant's name on the same side of the sheet as the notice containing the initials and the claimant's name appearing on the opposite side of a postcard from the notice of copyright would seem to the undersigned too narrow and technical to result in the acceptance of a claim on the one hand and its denial on the other.



Register but write letter. This has been submitted to Col. Bouvé.
W. H. Wise, March 16, 1942.

MAJORITY MEMORANDUM

NORICE

March 10, 1942

Remitter: Dan Greene

Title: Survey of High School Students
Future Educational Plans

Question: Whether a copyright notice containing the initials D.G. in lieu of the name of the copyright owner is a valid notice in the absence of any other name upon the same page. The name, Dan Greene, appears upon the reverse of the card, however.

It has been repeatedly stated that the statutory requirements as to notice must be strictly complied with. Citations in support of this contention have been noted in the memorandum filed on this date in connection with the remitter entitled, "E. L. Bosqui Printing Company." This strict construction applies as well to Section 18 of the Act as to Section 19 discussed in the Bosqui memorandum.

A reasonable interpretation regarding the notice of copyright may be utilized, however, and a memorandum on this subject was issued by the Register of Copyrights in December, 1937. In this memorandum the Register stated:

"[2] If what purports to be the copyright notice fails to designate the name of the copyright owner, the notice is prima facie bad but before rejecting the application on the ground of an invalid notice the material should be examined for the purpose of determining whether or not the name missing from the conventional notice is in such juxtaposition thereto as to justify the conclusion that it was intended to serve as a part of such notice," (underlining ours).

In the present case only the initials of the copyright owner appear in the notice of copyright. The work involved is a self-addressed penny postcard. The name of the copyright owner appears as the addressee upon the reverse of the postcard but by no stretch of the imagination could it be said that the presence of his name as the addressee upon the reverse of the card "was intended to serve as a part of such notice." The memorandum of the Register in regard to the measure of Section 18 envisaged only the possibility of the name of the copyright owner when said name appears upon the same page as the remainder of the notice of copyright. However, when only the initials of the copyright owner appear in the notice, he should not be

saved by the mere accident or chance of the appearance of his name upon the reverse of the work as the addressee of a postcard. Had his name not appeared thereon, no possible question of the adequacy of notice with mere initials would be considered. The undersigned feel that no registration in the present case is in order.

Walter L. Honbener
Member of the Board

Frank C. Brody
Member of the Board

Register but write letter. This has been submitted to Col. Bouvé.
W. H. Wise, March 16, 1942.