

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 1, 1942

The Revisory Board convened at 10:00 and adjourned at 10:45. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 45 mins.
Unanimous decisions, 5

1. Wendt, William H. (18286)--Class J and K. "Picture of Listing Ship," "Picture of two Life Rafts," "Man Lowering Himself into Life Boat," and four others. This group of photographs was published simultaneously on March 17, 1942 in two periodicals, THE CHICAGO DAILY TRIBUNE of Chicago and THE MILWAUKEE SENTINEL, each was the final edition. The publication in THE MILWAUKEE SENTINEL was with separate notice of copyright whereas the publication in THE CHICAGO DAILY TRIBUNE was without a separate notice referring to the photographs. The Examiner would reject upon the ground that the publication of an edition without notice invalidated the copyright. The Board observes, however, that THE CHICAGO DAILY TRIBUNE is a copyrighted periodical and so the photographs would be covered into the copyright secured for the issue of the periodical as a whole. Registration, therefore, may be made based upon the publication with notice in the Milwaukee paper. THE CHICAGO DAILY TRIBUNE could execute an assignment covering its publication of the photographs.

2. Nissenbaum, M. D. (20872)--Class KK. "Apples for Health." Examiner sustained in holding that notice of copyright which is in the abbreviation "Copy." instead of "Copr." is acceptable.

3. Howard, E. T. Co. (15296)--Class K. "Protect Our Nation; Buy Defense Bonds." The work to be copyrighted is an advertisement of Pon beer and ale painted upon an outdoor signboard of the usual large dimensions. The question arises as to how the registration should be made. According to the applicant there are 55 of these painted bulletins in existence, each bearing a notice of copyright. Publication, therefore, would seem to have been effected. It is the belief of the Board that in order to be registrable as a commercial print the work need not actually be printed, i.e., photoengraved or lithographed upon the medium. Therefore the Board feels after consideration that registration could be made for the work as a commercial print since its purpose is definitely to advertise the sale of an article of merchandise, i.e., Pon Bear and Ale. Since it is, of course, impossible to deposit two copies of the signboard itself for purposes of registration, the Board suggests that applicant deposit two copies of the painting bearing notice of copyright---to full scale. The medium in which the painting is done could either be paper, cardboard or canvas.

4. Schwarzman, H. P. (20213)--Class B. "Weekly Review of the New York Meat and Poultry Markets." The deposit is a single sheet with the block heading "Purchase Audit & Survey Bureau" at the top of the sheet and the notice of copyright reading "Copyright 1942" at the bottom. Held that if the Purchase Audit & Survey Bureau is the claimant the notice would be acceptable. Inquire and request application.

5. Anker, Walter B. (18024)--Class KK. "American Bred Singer." Examiner sustained in recommending that the publication of only two copies of a label without the required notice of copyright did not invalidate the copyright under the saving clause of Section 20 of the Act.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 2, 1942

The Revisory Board convened at 10:00 and adjourned at 10:45. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Unanimous decisions, 5
Divided opinions, 1
Total time consumed, 45 mins.

1. Personeni, Joseph (19176)--Class ? "Personeni Golden Anniversary 1942 Calendar." This matter was before the Board on March 30 upon a question of registrability. The work in question is a calendar with an ornamental border on which an ordinary calendar pad and a print have been attached. The Board on March 30 recommended that registration for the work could be had as a print provided the claimant had a valid claim in the attached print. Upon further consideration, however, it is observed that various articles of merchandise are advertised on the calendar such as medicines, perfumery, food specialties, etc. The Board accordingly refers the application to the Print and Label Examiner for possible classification as a commercial print.
2. Frantz, Eva (19996)--Class E. "Defense Song." The claim in line (1) of the application reads as follows: "John Edward MacCubin, Jr. (for the class)" while the statement of composership in line (3) reads "Class 6B-6A School 221." It appears from the copies that John E. MacCubbin, Jr. is the teacher of the particular class. The Examiner would inquire whether he was the legal representative and would include the name of the particular school, Mt. Washington School and the address, Baltimore, Maryland, in addition to the school number and class in line (3). The Board is of the opinion that the claimant is sufficiently identified as acting in the nature of trustee for the class and that the composership is also sufficient as stated. Register as applied for.
3. Unique Items Co. (No Fee)--Class A. "How to Play Chess, Checkers, Chek-Mate." This is a question of notice where the initials of the claimant are given in the notice of copyright and the claimant's full name appears upon the reverse side of the sheet; that is, the claimant's full name is on the title page while the notice including the claimant's initials is on the page immediately following. The Examiner would reject upon the ground that the notice requires the full name of the claimant. The Board, however, directs entry as applied for upon the precedent established in the case of Dan Green (No. 13934) where the situation was identical with respect to the notice of copyright. Entry was directed by the Assistant Register of Copyrights in that case.
4. Griffin, Estelle Geraldine (12157)--Class A. "Gods and Goddesses in Embryo." The poor woman who is the applicant here seems to be suffering from some mental illness. The result has been a long drawn out correspondence between the Office

and the applicant endeavoring to obtain an acceptable application. We now have such an application and the copies are likewise apparently in order. The applicant, however, in her last letter implied that a number of copies were sent to publishers and the Examiner would now raise the question of whether or not publication has actually taken place. The Board directs entry as applied for without further going into the question of publication. The work is printed and is in a form admitting of publication and the application and affidavit give a date of publication.

5. Liturgical Art Sales Co. (4835)--Class H. "The Shrine" and "Springtime"--Berta Hummel prints. Correspondence with regard to these applications for reproductions of certain Berta Hummel paintings has been carried on over a period of months, first as regards to authorship, then as regards to copyright ownership and finally with respect to two notices of copyright appearing on the reproductions. All of these questions have now been resolved. We understand that A. E. Wilson is doing business as the Liturgical Art Sales Co.. The correct citizenship of the author of the reproductions has been given and the two notices of copyright on the copies have been explained. Applicant himself refers to the many letters written as "this incredible correspondence." The Examiner would now request new applications including the notation "d.b.a." in line (1) and new copies from which one of the notices has been deleted. The Board is of the opinion that entry can be made upon the copies and applications now in hand and directs that the registrations be made and the case closed. The Board overrules the Examiner in her remark in the recommendation that copyright in the reproductions of the works of art would not prevent statuettes of the reproductions being made without authority from the copyright claimant. The opposite would certainly seem to be true. See the "Spark Plug" case, Bull. 20, p. 356, where it was held that a statuette of a print published without the authority of the copyright owner of the print constituted infringement of that copyright.

6. Emmanuel Missionary College (11218)--Class A. "Cumulative Subject Index to READER'S DIGEST" from Jan. 1935 to Dec. 1941. This matter was before the Board on February 23 upon a question of "copies of the best edition." It was established that the "Cumulative Subject Index," copies of which had been deposited were actually only sold as bound with the volumes of the READER'S DIGEST. The Office accordingly requested the deposit of bound copies. Applicant now submits two copies of Vol. 38 containing the issues of the DIGEST from Jan. to June, 1941. The "Cumulative Subject Index" is bound in the front of the volume. The Board divides upon the question of whether the deposits are complete. Mr. MacCarteney and Mr. Lasica are of the opinion that the Office is now in possession of two copies of the best edition thereof then published of the work for which copyright is claimed, i.e., the Cumulative Index, bound with the volume of the READER'S DIGEST. Mrs. Brady supports the Examiner, contending that only one-half of the work as published has been deposited. In other words, she would call for the deposit of two copies of the bound volumes containing the issues of June-December. Appeal.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 3, 1942

The Revisory Board convened at 10:00 and adjourned at 11:00. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 60 mins.
Unanimous decisions, 8

1. Ronk, Marvin Grayson (21135)--Class A. "Americans All." Held that a notice of copyright separated from the claimant's name by the length of a poem on a single sheet is acceptable, notwithstanding another name is also inscribed on the sheet.
2. Bruninga, and Sutherland (61927)--Class G. "Victory Emblem." One deposit is a published decalcomania with a notice of copyright on the back of the work and is therefore unregistrable. The other deposit is a photostat of an unpublished drawing according to the claimant's attorney. The design of this drawing is very similar to that of the published print and Examiner would also reject the drawing upon the ground that the copyright had been forfeited by the publication of the decalcomania with faulty notice. The Board observes, however, that there are some differences in the design between the drawing and the print, particularly with reference to the position of the wings of the eagle involved in the design. The Board accordingly directs entry of the drawing as applied for. The print, of course, must be rejected.
3. Stewart, Hascal Vaughan (20938)--Class E. "To Be An American." The Examiner questions the composership since it appears on the copy as Mrs. L. J. Stewart and in line (3) of the application as Hascal Vaughan Stewart. The Board points out, however, that in line (6) and also in line (9) of the application this variance is explained by the statement that Hascal Vaughan Stewart is Mrs. L. J. Stewart. Register as applied for.
4. Wolff (S.J.) & Co., Inc. (13490)--Class KK. "Strawberry Marble Ice Cream." This matter was before the Board on March 23 at which time the Board sustained the Examiner in recommending that registration of these prints be applied for under the classification of commercial print. Applicants protest this classification upon the ground that the Office itself informed them a print must advertise a particular brand of merchandise to be registrable in Class KK. The deposits while they advertise no make or brand of ice cream do bear titles; they are in finished form and the Board is utterly unable to conceive how they would be used other than to advertise the sale of ice cream. Examiner sustained in again requesting KK applications.
5. New York Public Library (No Fee)--Class E. "Concerto Op. 8, No. 9." This matter was previously brought to the attention of the Assistant Register and at that time his ruling was that publication had not taken place due to the fact that the Public Library of New York, which is the copyright claimant, apparently

made copies available only through lending without the library relinquishing its property right. Applicant now files two copies of the score and parts to which a copyright notice has been added, such notice including the year date, 1942, whereas the original application filed last September gave the date as of September 15, 1938. It is still not established that statutory publication has been effected by the work having been reproduced in copies for sale. Again question publication but advise that in the absence of publication registration can still be made for the work under Section 11. A new application would in any event be necessary omitting claim in the dynamics and bowing which constitute items of editing and are therefore not registrable.

6. De Strickroth, Flavia G. (14952)--Class E. "El Arrurru," "Amar sin esperanna," "El Adios de Guaymas," "El desgraciado dia," "Creyendo en que me amabas." This matter was before the Board on March 31 at which time the Board recommended the return of the applications for the purpose of deleting the name of Flavia G. De Strickroth from line (3) as one of the co-authors inasmuch as she specifically denied the claim to translations of the lyrics which translations appear to constitute her sole authorship. The Chief Examiner now points out that the copies themselves bear the statement "Folksongs collected and translated by Flavia G. De Strickroth." Accordingly the Board reconsiders to the extent of directing the return of the copies as well as the applications for the deletion of Flavia G. De Strickroth's name therefrom if it is definite that applicant does not wish to claim upon translations.

7. Coordinating Council of French (21418)--Class A. "Le Merveilleux de la Voyage Goutte de Vitamine." This matter was before the Board on March 25 upon a question of publication without notice. In the absence of an application definitely giving a date of publication the Board directed a letter to be written asking whether publication had taken place and advising as to the requirements of the notice. Applicant now files new copies to which a notice of copyright has been added by means of a rubber stamp and states that only a few copies were distributed to members of the organization before the notice was added. Applicant also submits an application giving a date of official release which was subsequent to the addition of the copyright notice. Examiner would again reject upon the basis of the few copies distributed without notice. The Board overrules the Examiner holding that the distribution of a few copies to members within the organization need not be considered statutory publication. Claimant should be advised to recall those few copies if possible and to add the notice thereto. Registration may be made, however, based upon the official date of release.

8. State Business Service (No Fee)--Class A. "Credit Enrollment Application." Notice acceptable where the name of the claimant appears only a few inches from the copyright notice including the word "Copyright" and the year date. Explain, however, that no protection would be obtained in the blank form, the extent of the copyright being the printed text present on the form.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 6, 1942

The Revisory Board convened at 10:00 and adjourned at 10:45. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Rafter voting in the case of one corrective entry.

Total time consumed, 45 mins.
Unanimous decisions, 9

Corrective Entry:

1. Struhl, Joseph (No Fee)--Class E. "I'll Be Remembering You." Registration for this work was made in the name of a single claimant. This claimant now wishes to change the ownership to a joint one. Corrective entry is not in order. Joint ownership may be established and recorded following publication with notice. Or, he may assign share to proposed co-claimant and record document now.

General Business:

1. Garrard Press (12512)--Class A. "The Basic Sight Word Test on the Basic Sight Vocabulary." Apparently the only informality with this affidavit was that the applicant failed to have it notarized. The fault has been remedied and the affidavit returned to this Office. The Examiner would request a new affidavit upon the proposition that the instrument cannot be amended. The affidavit is held acceptable by the Board as advised by the Office notary, Mr. Smith. The notarization does not constitute an amendment of the body of the document.

2. Rydeski, Edward (5858)--Class KK. "Notice. No One has Permission to Remove Any Trees; Wheels or Accessories from This Car While This Red Arrow is visible." This work was originally issued with a notice of copyright in the name of Doyle Printing Co. It is established that the true claimant is the Rycarbo Advertising Service and that the Doyle Printing Co. meant to have its name included merely in the nature of an imprint for advertising purposes. The notice was subsequently changed to include the name of the true claimant and the Office now has copies and an application in the name of the claimant in whom the copyright is entitled to vest. The Examiner would suggest that the registration be made in the name of the Doyle Printing Co. after which an assignment may be made to Rycarbo Advertising Service. The Board considers this a dangerous suggestion inasmuch as no right may ever have vested in the Doyle Printing Co. Moreover, both applications that were filed give the same date of publication. The Board accordingly directs that registration be made in the name of the true claimant but suggests the recall of any outstanding copies in the name of the Doyle Printing Co.

3. Kirk, LeGrand F. (15954)--Class A. "Dues Sharing Option." The first edition published bore a valid notice of copyright. Subsequently a reprint was issued without notice of copyright thereby destroying what copyright had existed. The

Examiner would refuse to register any claim upon the basis that a copyright does not now exist. The Board, however, is of the opinion that registration may be made upon the basis of a copyright secured by first publication with notice. The subsequent loss of the copyright by republication without notice would not prevent maintenance of a suit for infringement based upon such infringement during the existence of the copyright and before it had been forfeited.

4. Confer, F. M. (21451)--Class A. "Micrometer and graduation designed for the elimination of addition of digits," etc. This deposit consists of a line drawing with some typewritten text thereon and two separate pages of explanatory typewritten text. The Examiner would reject, apparently classifying the entire deposit as a book. The Board holds that the diagram itself, however, is registrable as an I2 and directs that applicant be so advised, explaining that the text matter is not registrable in advance of publication.

5. Empire Publication (1493)--Class E. "The Phony Little Man With the Trick Moustache." This work was previously before the Board on January 15, 1942 upon a question of publication with proper notice of copyright. This work appears originally to have been published in England with an improper notice of copyright, subsequently republished in Canada also with a faulty notice and finally published in this country with an acceptable notice of copyright. There has always been a doubt as to the effectiveness of any registration made by this Office and certificate issued thereof, for this work, not only because of two publications, one in England and one in Canada with faulty notice of copyright, but also for the reason that the correct ownership has never been established. Applicant wishes now to withdraw his application and in view of the doubt existing notwithstanding there finally was publication in this country with a valid notice, the Board sustains the Examiner in allowing the withdrawal of the application. Refund.

6. Martin, Roy E. (21297)--Class A. "On Easter Morn," in THE GOSPEL MESSENGER. The copy deposited is a separate Easter supplement to the publication entitled THE GOSPEL MESSENGER. It is a poem in this supplement for which this registration is requested. The Examiner would require the filing of a complete copy not only of the supplement but the main issue of the periodical itself. The Board rules that the copy deposited is complete as a supplement and that registration should be made as applied for.

7. Murphy, Everett F. (No Fee)--Class A. "Presenting Your Ideas Effectively and Profiting," etc. It is questionable here whether statutory publication was actually effected. In the absence of the establishment of publication, permit the filing of the claim without action as requested by the remitter.

8. Huntington Herb-Garden Chart Division (19647)--Class A. "Dukinfield's Herb-Selector." This work constitutes one of the familiar revolving discs whereby information is obtained by interaction of such discs. In addition, however, there is quite a bit of explanatory text dependent of the operation and function of the device. There is a notice of copyright in connection with this reading: "Copyrighted and Registered by D.&H.H.G. 1941." At the bottom of the text appears the statement "Published by Huntington Herb-Garden." The applications subsequently

received were in the name of John Dunkinfield. In view of the fact that the first application was in the name of Huntington Herb-Garden Chart Division inquire as to the correct ownership; that is, is John Dunkinfield doing business as Huntington Herb-Garden. If so the notice would be acceptable.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 7, 1942

The Revisory Board convened at 10:00 and adjourned at 10:15. Those present were Mr. MacCarteney, Mr. Lasica with Mr. Reed substituting in the absence of Mrs. Brady.

Total time consumed, 15 mins.
Unanimous decisions, 3

1. Harrison, Mattie (No Fee)--Class A. "Poems and Sunday School Talks." The deposit is a pamphlet containing five poems and a short essay, each one of which bears a separate notice of copyright. The first four poems bear notice including two year dates, 1929 and 1942. The last two works are apparently now published for the first time. In addition to the individual notices there is a general notice of copyright relating to the entire publication. Examiner sustained in requesting registration of the 1929 poems as originally published. Examiner overruled in her recommendation that the two works now first published should also be registered separately. An A2 application may be filed for the present 1942 publication claiming upon the two poems now first published and any revision incident to the other poems.
2. Kayser, G. A. & Sons, Inc. (22029)--Class B2. "Milady Moderne" [7], Dec., 1941-Jan., 1942. Held that a notice of copyright placed in the masthead of a periodical which masthead occurs upon a page other than the title page or first page of text is acceptable under Section 19 of the Act, notwithstanding the notice is directly over and not under the title heading. Register as applied for.
3. Horne & Graft (22041)--Class A. "Feminine Personality and Charm." The deposit consists of a series of typewritten lessons on the subject of feminine personality and charm. Each of the lessons bears a separate notice of copyright and also includes the statement "This should be bound with previous chapters." The Examiner accepts the deposit without question merely calling for the filing of an application on form A1. In view of the form of the deposit, however, the Board directs that a letter first be written to applicant inquiring as to the extent of publication in typewritten form and further questioning whether the material was originally distributed as a unit or whether the individual lessons were not published separately. If they were so published separately, then an individual registration for each one would be in order.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 9, 1942

The Revisory Board convened at 10:00 and adjourned at 11:00. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Reed, with Mrs. Rafter sitting in the case of three corrective entries.

Total time consumed, 60 mins.
Unanimous decisions, 9

Corrective Entry:

1. Donnelley, R. R. & Sons, Co. (AA 391782)--"Mansfield Telephone Directory Including Adario, Belleville, etc." Examiner sustained in recommending that where an incorrect authorship has been placed of record a corrective entry may be made.
2. Blair, Walter E. (No Fee)--Class E. "To Me." Examiner sustained. A corrective entry may be made where the claimant's name of record has been misspelled.
3. Walker, G. R. (22070)--Class E. "Effervescent You." The arranger of this song without permission of the true copyright owner had the claim registered in his name. He now denies having any interest in the composition and requests that a new registration be made in the name of the composer who is the true claimant. Corrective entry approved.

General Business:

1. Boosey & Hawkes, Inc. (Deposit Acc't)--Class A. "Peter and the Wolf." Claim of copyright in this pocket score is made for the Spanish text which constitutes a running text in between the verse passages and the music. The Examiner would request an application on form A3 inasmuch as the text does not constitute new musical composition. The Board is of the opinion that registration may be made as applied for on form E1-Foreign in view of the memorandum of the Assistant Register approved by the Register, dated January 15, 1942, permitting the acceptance of the music applications where one of the items of claim is text matter. This publication would only be sought in music stores and in the Music Catalog of Copyright Entries.
2. Beard, Charles (Deposit Acc't)--Class A. "Swimming Glove" in COMMERCIAL INVENTIONS, Mar. 19, 1942 (6 others). Examiner would question date of publication as between the application giving March 20, 1942 and the date of issue on the copies giving March 19, 1942. Enter as applied for. According to the Periodical Examiner the date of publication (March 20) given in the application is the correct date of record for the periodical itself.
3. Volunteers of America (W.R. 40214)--Class KK. "Adjutant Volunteers of America." This particular work is a sheet embodying text and pictorial matter. The notice of copyright employs the letter "C" in a circle and the Examiner would reject

upon the ground that such a notice is not acceptable in the case of a book. The Revisory Board sees no reason why the work could not be classified as a print as well as book. There is a great deal of pictorial matter present and that portion of the copy on which the notice appears is definitely pictorial. The Board directs asking for an application on form K with a suitable remittance.

4. Jackson Webster & Read (26804)--Class K. "Recipe Folder No. 3 - M.C.P. Powdered Lemon Juice" and three others. 500 copies of an advertising print were printed with an advance year date in the notice of copyright. Applicant's attorney states that the applicant does not know what portion of these 500 copies were distributed. Since the 500 copies constituted only one batch of the number actually printed and all but the 500 bore a correct notice of copyright it is believed that the doubt should be resolved in favor of the applicant in view of the provision of Section 20 and in further view of the fact that the precise number of copies distributed with faulty notice cannot be determined. Enter upon copies bearing the correct notice of copyright.

5. Scopus Publishing Company, Inc. (84124)--Class A. "Outline of Zionist History" and two others. Held that an application giving the name of the original author and his citizenship as of "Austrian-Hungarian" in lines (3) and (4) as well as the name of the translator and his citizenship is acceptable. The translator is indicated as being the translator in the application and all of the essential information is therefore present.

6. Bowman, A. B. (18214)--Class I. "Projector." This matter was before the Board on March 20 and previously on February 23 upon a question of admissibility under the Copyright Act. It is a plastic triangle upon which certain data in the form of lines and figures indicating distances of projected lines for isometric drawings have been inscribed. The applicant's attorney has contended that the inscribed printed matter is no part of the tool or device but is pressed thereon simply for the convenience of draftsmen. The Office wrote a letter stating that if the lines and figures are essential to its use, registration under the copyright law would not seem permissible. If, however, the printed matter was determined not to be essential to the use of the tool but constitutes an independent table, then applicant's attorney was advised a further examination upon the merits could be had. The Office is now informed that the printed matter has no relation with the triangle on which it is inscribed and does not in any way refer to the use of the triangle. Upon this explanation the Board feels that registration must be made thereby sustaining the Examiner. In order that there be no question as to what is being registered, however, the Board advises the filing of a new application describing the work as a "drawing" by crossing out the alternative description "plastic work" on the face of the application form.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 10, 1942

The Revisory Board convened at 10:00 and adjourned at 10:45. Those present were Mr. MacCarteney, Mr. Lasica and Mr. Reed.

Total time consumed, 45 mins.
Unanimous decisions, 4

1. Berry, L. M. & Co. and R. R. Donnelly & Sons. (AA 391376)--Class A. "Mansfield Telephone Directory." This matter was presented to the Board yesterday by Mrs. Rafter, the question being one of a corrective entry. From the facts as presented a corrective entry seemed permissible and the Board so voted. Upon reconsideration, however, the following facts become evident. L. M. Berry & Co., the copyright claimants, submitted an application giving themselves as the authors. This application was passed for entry and duly recorded and the certificate issued. A few days later R. R. Donnelly & Sons, the printer, submitted an application in behalf of L. M. Berry & Co. for the same work but attributing the authorship to the Mansfield Telephone Company. The Office corresponded with R. R. Donnelly Sons & Co. in an effort to establish the correct authorship of the work involved. Donnelley's have twice stated it as their belief that their application was correct. They ask, however, for a refund of their fee since it was L. M. Berry & Co. who applied for the copyright first. In view of the fact that L. M. Berry & Co.'s application is already on record and the certificate issued and in view of the fact that we have only R. R. Donnelly & Sons' supposition that their (Donnelly's) statement of authorship is the correct one, the Board now votes to accept the Berry application without further correspondence. Cancel the Donnelly application and refund money as requested by them.
2. Daltour, Pierre (22633)--Class A. "Disques Litteraires Francais Saintes Prieres." The applicant in this case wishes to copyright a "record" entitled "Disques Litteraires Francais, Saintes Prieres." The Examiner correctly advises that records are not copyrightable. She recommends, however, that if the work recorded is printed and published in book form in Canada ad interim copyright may be obtained. The manuscript copy deposited is a speech in the French language and the material would not, therefore, under any consideration be registrable as an A4 which classification applies only to books published abroad in the English language. The Board, however, is of the opinion that a complete copy of the recorded speech in the form of a manuscript would be registrable as a lecture or address upon form C.
3. Hawaiian Sugar Planters Ass'n. (Deposit Acct)--Class A. "Proceedings of the 61st Annual Meeting of the Hawaiian Sugar Planters' Assn. December 8, 1941. This book is made up of a number of sections all of which, except the first section were previously published in separate form with notice of copyright. Three of the sections have been duly recorded. The Examiner would deny registration for the Proceedings as a whole upon the ground that the notice of copyright on the title page lacks the year date of publication. Directly above the notice, however, is the date December 8, 1941, which is the date on which

the annual meeting was held and just below the notice is the year date of imprint as of 1942. The actual date of publication according to the application was February 25, 1942. The Board is of the opinion that such a notice of copyright is acceptable inasmuch as two year dates appear within inches of the copyright notice and the most that would be lost would be one year's protection if the year date of the meeting should be taken as the year date of publication. With respect to one of the sections entitled "Report of Committee in Charge of Experimental Station" which bears a separate 1941 notice of copyright, if it like the other inclusive sections was first published separately then a separate registration for it should be made as was the case with the other sections. Form A2 would seem proper for the Proceedings as a whole, claiming upon the first section which, alone, does not seem to have been previously published.

4. Peters, Georgia (21693)--Class A. "Moon, Leaf and Wave." The deposit has a transparent fly-leaf inside the front cover and between it and the title page. This fly-leaf bears a notice of copyright reading: "Copyright 1940 Printed by C. W. Peters." At the bottom of the title page, not on the transparent fly-leaf but visible through it, is the name of the author Georgia Peters, who according to the application and the correspondence is the copyright claimant. The Examiner would reject upon the ground that the claimant's name was not upon the same page as the copyright notice. The Board is of the opinion, however, that since the name of the claimant is clearly discernable in connection with the copyright notice, so much so that unless one looked carefully it would most certainly be believed to be on the same page as the notice, registration may be made. For all practical purposes (visually) all of the elements are apparently on the same page. The purpose of the notice of copyright is to be read. That purpose is capable of fulfillment in the instant case.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 13, 1942

The Revisory Board convened at 10:10 and adjourned at 11:10. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of two corrective entries.

Total time consumed, 60 mins.
Unanimous decisions, 11

Corrective Entries:

1. Block, Theresa Mrs. (No Fee)--Class E. "Goodbye Sweetheart." Examiner sustained. Corrective entry may be made if desired where the claimant's name as placed of record was incorrectly spelled through no fault of the claimant.
2. Pittsburgh & Ohio Mining Co. (AA 378774)--Class A. "P and O Handbook of Code Prices of Steam Coals for Industrial Use." Registration as applied for was originally questioned in view of the fact that the copy attributed the authorship to the Pittsburgh & Ohio Mining Co. while line (3) gave Philip L. Small. Finally upon receipt of the statement to the effect that Philip L. Small was president of the Pittsburgh & Ohio Mining Co. registration was made as applied for, crediting the authorship to the individual. The company now informs the Office that the status of Mr. Small is that of employee for hire. Advise corrective entry is only form of action that can now be taken if they desire to change the statement of authorship on the record. It was, however, their ambiguity that was the cause of the incorrect record and this should be made plain.

General Business:

1. Hillsdale School Supply Company (16651)--Class A. "Democracy Test." Examiner would reject upon the ground that there is no notice of copyright on this publication. Actually the material deposited consists of the test itself which is the title given in the application and also an explanatory folder relative thereto. It is the folder which lacks the notice of copyright. The actual Democracy Test bears the full notice on the title page. Enter as applied for.
2. Lederer, Livingston, Kahn & Adsit (15374)--Class A. "Fight for Freedom." The deposit is a photostat sheet on which are reproduced numerous pictorial emblems, all incorporating the phrase "Fight for Freedom." The Office originally questioned publication in the form deposited. We are now advised by applicant's attorney that it is their information that "the material has been published only in the form submitted with the original application." The Examiner would request further information as to the extent of distribution of copies. The Board is of the opinion that no further correspondence is necessary in view of the attorney's statement quoted above and it directs entry on the K application received April 4.

3. Berinati, Thomas A. (21308)--Class I. (I2). "For Victory." This work is a watch or clock dial face with the letters "For Victory" positioned in accordance with the ordinary hour numerals. The only novel feature is the substitution of two ordinary shaped stars for the hours 2 and 10. Examiner sustained in holding that the work is not registrable in that it presents no subject matter of copyright. Reject.
4. Patterson Publishing Co. (No Fee)--Class A. "The Book of Soups." This is a case where the author in whose name the copyright originally vested by virtue of publication with notice in her name is deceased and the publishers state they have no way of locating any administrator or executor of her estate for the reason that the deceased author had not been connected with the publisher for several years prior to her death. Examiner would insist upon the filing of an application giving the required information. The Board directs filing the application without further action. The publishers have no title to the copyright and this Office cannot oblige them to assume responsibility for the registration.
5. Dutton, E.P. & Co., Inc. (Deposit Account)--Class A. "Beatrice the Ballerina." The application gives the citizenship of the author, Ivan Vassilovitch, as of the United States. The Examiner would question this statement in view of the fact that the author was born in Russia and it has not been established when he immigrated to the United States. The Board holds this unnecessary. There is no reason for this Office to question the statement of the publishers made in the application that the author is a United States citizen. The fact that the author was born in Russia is no bar to his subsequently assuming United States citizenship. Register as applied for.
6. Cohen, Leonard Z. (20609)--Class E. "I Walk Alone," "You'll Never Change," "As Time Goes on," "Out of this World." Held that a form of claim in line (1) of the application including both the claimant's legal name and his pseudonym, clearly defined as such, is acceptable. There is no occasion to require, as the Examiner recommends, the filing of applications giving the claimant's legal name alone in line (1).
7. Haines (The) Corp. (No Fee)--Class A. "1942 Catalog Label Designs for the Mattress & Bedding Trade." The title page of this Catalog is positioned as follows:

1942 Catalog
LABEL DESIGNS
for
The Mattress
and
Bedding Trade
Copyrighted
in U.S.A. and Canada
by
The HAINES
Corporation

Examiner would reject upon the ground that the notice of copyright lacks the year date of publication. Actually the book is a book of prints, the only text therein being in the nature of a single repeated blank form in which no copyright can subsist.

The Board is of the view that the notice is acceptable for two reasons: one, the work is a book of prints and not a "printed literary work" and as such does not require the year date in the notice. See the case of Basevi v. O'Toole, Inc., Bulletin No. 22, p. 26; two, there is a year date in the title immediately above the copyright notice which it is believed can be read into the notice of copyright. Register as applied for upon form A1.

8. Dickhart, Wallace H. (20579)--Class E. "Over the World Duty Calls Me." Applicant states that the author of the words of this composition designated on the copy as "A friend" actually gave him the lyrics back in 1918 near the close of the first World War. The application, however, gives Wallace Hoffner Dickhart, the applicant as the author of the new copyright matter and the statement of claim in line (7) is based upon "Words to old Waltz." Since the music by Dickhart was apparently copyrighted and the claim renewed, the only new matter presumably is the lyric by the applicant's "friend." Examiner would request a further explanation of the statement "A friend." To the Board the situation seems clear but if as applicant states the friend is the author of the lyric which is being made the basis of claim, the friend would be the author of the new copyright matter and should so be given in the application in line (3). If her name is unknown her citizenship at least should be given.

9. Gale, Hoyt, Rodney (2247)--Class A. "Basic Principles of Economics." Applicant originally deposited bound volumes of a mimeographed course of study entitled "Basic Principles of Economics." It has been established that a large portion of the material in the bound volume which was published in this form on December 26, 1941 first appeared several chapters at a time. These chapters were distributed to the lecturer's classes. Examiner sustained with respect to her recommendation that the chapters as originally published should be deposited for registration based upon their several publications. The Examiner, however, makes no reference to the bound publication of December 22, 1941 which according to the applicant contains considerable new matter not before issued, including the Table of Contents, Preface, Chapters 12-14 inclusive. The bound book, therefore, can be registered to protect the new matter now first published therein. Request an application on form A2 for the bound book.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 14, 1942

The Revisory Board convened at 10:15 and adjourned at 11:15. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of one corrective entry.

Total time consumed, 60 mins.
Unanimous decisions, 6

Corrective Entry:

1. Borrelli, Raffaele (No Fee)--Class E. "The Victory March On with the Offense Not with the Defense." A telegram was received from the claimant who apparently is handicapped by language difficulties. The import of his telegram, however, seems to be that he wishes a corrective entry made to record a change in title of his copyrighted unpublished musical composition. The change is slight and in any event a change in title offers no basis for a new registration nor for a corrective entry. Claimant should be advised that following publication with notice the desired title then may be placed of record.

General Business:

1. Hildreth, Charles E. (17970)--Class E. "Fall in America." The notice of copyright in this case reads: "Copyright 1942 by H & M, 3320 Wood Terrace, Hollywood, California." The claimant's full name is H & M Music Publishers, the address being the same. Examiner would reject upon the ground that the full name of the copyright owner does not appear in the notice. The Board overrules the Examiner, holding that the advisement to the public is quite sufficient. As stated the address of the claimant appears in the notice along with the first part of the name and if it were required the title page bears the full legal form. Register.

2. Wenk, Frederick Christian (19693)--Class A. "Engineers Instruction Manual on Diesel-Electric Locomotive Operation..." The notice of copyright appears at the bottom of the title page and reads: "Copyright 1942 - Printed in the U. S. A." Directly above is the statement of authorship reading "F. C. Wenk in collaboration with W. D. Quarles." It has been established that F. C. Wenk is the sole claimant. Examiner would reject upon the ground that the claimant's name is not in the notice. The Board directs entry as applied for, the name of the claimant being on the same page as is the notice.

3. Ideal Photographic Corp. (No Fee)--Class ? "Makers of History...Buy Defense Stamps." The work deposited is a photographic print of other photographs and prints of General MacArthur and other national heroes. It is described in applicant's letter as "a composite photographic art work." Examiner overruled in holding that the work is simply a compilation and registrable only on form A1 after publication with notice. The work is definitely a composite photograph

made up of an arrangement of other photographs and pictorial matter. As such it would be registrable as an unpublished photograph. Following publication with notice registration would be possible as either a book or a print, depending upon the applicant's own decision.

4. Savage Multi System, Inc. (23647)--Class A. "Handy First Aid Guide." This work takes the familiar form of two interacting discs with text, pictorial matter and a "window" on the top disc and the essential information on the bottom disc, depending upon which side is face up. The Examiner would reject upon the ground that the work is simply a device. The Board holds otherwise. In this case the "window" merely channels the information. It is analogous to the turning of a page, since the only purpose of the rotation is to bring a new paragraph of information describing the first aid treatment of wounds and other injuries, to the eye. The top disc in each case could be discarded and all of the information printed would be complete and intelligible. Register with the usual disclaimer in the mechanical feature.

5. Remick Music Corp. (Deposit Account)--Class E. "Latin American Rhythms." The deposit is a practical method in the art of playing Latin American rhythms for the drummer. There is explanatory text but the majority of the material consists of music. Applicant applies upon application form E. Examiner requests form E1, claiming upon compilation and arrangement. It is not seen why form E1 is called for in this case. There seems to have been no previous publication of this particular work under this title. It would seem registrable either upon form E or form A1. Since, however, application has applied on form E accept his classification and register accordingly.

1239A

THE LIBRARY OF CONGRESS—COPYRIGHT OFFICE

MEMORANDUM

REFERRING TO memorandums containing minutes of the Revisory Board.

DATE April 14, 1942

To: The Register of Copyrights

If it is possible, I would like to have a copy of future memorandums containing the minutes of the Revisory Board. These minutes will be a help in keeping current with Revisory Board rulings.

Respectfully,

Wm. E. Phillips

Chief, Deposit & Periodical Section

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 15, 1942

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

Total time consumed, 30 mins.
Unanimous decisions, 3

1. Brentano's Inc. (21424)--Class A. "Le Roman d'un Lâche." The work in question is a book of foreign origin in a language other than English (French), printed in Canada but bearing a New York imprint. The Examiner is of the opinion that since the book is printed in Canada and published in New York it should be printed in the United States and entered upon application form A1. In reviewing the Examiner's recommendation the Board observed that there is nothing in the manufacturing provisions of the law requiring the manufacture in this country of a book in a language or languages other than English and foreign origin provided the author is not domiciled here. Inasmuch, however, as the A3 application filed gives the place of publication as New York and it is understood the book is also published in Canada, the application may be returned for the addition of the place of publication abroad in line (6).
2. Dickhart, Wallace H. (20579)--Class E. "Over the World Duty Calls Me." This matter was before the Board on April 13 at which time only the application originally filed was under observance. That application was held to be incorrect inasmuch as it gave the author of the new copyright matter of this composition as Wallace H. Dickhart, the claimant, whereas from his own letter it appeared that the new words which formed the basis of claim were by "a friend." It has now come to the attention of the Board that a subsequent application was received on April 6 giving the name of the author of the new matter as "a friend." While this may be a true statement it is hardly a statement of authorship to be placed of record. The Board accordingly recommends the return of the application either for the addition of the author's name in line (3) or the statement "anonymous" in line (3) if the applicant does not know the author's name.
3. Kagan, Soloman R. (72503)--Class A. "Leaders of Medicine." A notice of copyright on these two books is in the name of Medico-Historical Press. It has been established that the sole owner of this firm has recently died. The Office in attempting to have the registrations completed has been in correspondence with the author of the books. The Examiner would request applications giving the following form of claim in line (1): "John Doe, executor [or administrator] of the estate of John Doe, sole owner of the Medico-Historical Press." The Board finds this form of claim confusing. It recommends inquiry as to whether the Medico-Historical Press is still extant. If so application should be filed in that name in agreement with the name in the notices of copyright. The Board agrees with the Examiner in that the registrations themselves should be prosecuted to completion if possible. The cases are not "closed" as applicant suggests simply by the deposit of copies and a registration fee.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 16, 1942

The Revisory Board convened at 10:00 and adjourned at 10:20. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 20 mins.
Unanimous decisions, 2

1. Carlson, Reuben T. (20539)--Class A. VAL-TEC. This matter was before the Board on March 31 upon a double question of copyrightability and whether the copies deposited constituted those of the best edition. The work is in the nature of a compilation of industrial securities with spaces for the insertion of plus and minus marks, indicating trends of statistical values. Applicant's attorney states that the work is definitely a weekly publication "containing as a part thereof the plus and minus signs." This having been established, advise applicant that registration may be had for each week's issue in Class A. Request new application form.
2. Compeco Publications (24037)--Class A. "1942 Master Edition Compeco Short-way Repair and Time-Up Manual." The deposit is a so-called Master edition of material also issued in the form of two other manuals. Examiner would require three registrations if all three publication dates were the same or if the two separate manuals were published prior to the Master Manual, then she would have the application for the Master Manual applied for on form A2. The Board holds that if the two mentioned manuals have been published with a notice of copyright they would be registrable separately. And if the contents of the 1942 Master Edition is identical with that of the other manuals, no registration for the Master Edition would be in order. Explain.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 17, 1942

The Revisory Board convened at 10:00 and adjourned at 11:00. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of one corrective entry.

Total time consumed, 60 mins.
Unanimous decisions, 6
Divided Opinions, 1

Corrective Entry:

1. Putnam's, G. P. Sons (A int. 27061) Class A. "Makers of Destruction. Meetings and Talks in Revolutionary Germany." The publisher filed an application in behalf of Hermann Rauschning for an English translation of the work entitled "Makers of Destruction." Inadvertently, the address of the original author, Rauschning, was given in line (5) of the application. This would indicate that the translator who was of Great Britain and a resident there was domiciled in New York City. A corrective entry may be made and since it would now be too late to deposit a new copy in connection with the corrective entry under the ad interim provisions, the original deposit may be recalled and re-stamped with the new registration number.

General Business:

1. Knox, Eileen Anna (21669)--Class G. "Strawberry Table Decorations." The Examiner makes a sweeping statement that a "design for table decorations [is] not registrable." To this extent the Examiner's recommendation is amended. Published table decorations would be registrable as published works of art provided they were purely decorative and have no utilitarian function.

2. Hastings, Ben (23542)--Class A. "The Marylander" (3 scenes from his life) "He Goes to War," "The Tropic Watch" and "Home Aches." The deposit is a manuscript entitled "The Marylander (3 scenes from his life)." The Examiner would question whether there should not be three separate registrations based upon the "3 scenes." The Board is of the opinion that the deposit is a single work registrable as such. The three inclusive sections are undoubtedly intended for performance as a single work at one time. Inquire only as to the variance in sub-titles which occurs between the copy and the application.

3. Fenton, C. L. (Col.) (14038)--Class A. "Radio and Vacuum Tube Theory First Revised Edition." This matter was before the Board on March 9, 1942 upon a question of copyrightability. It appeared at that time that the publication was a government publication and as such would not be subject to copyright.

The author replies, stating specifically: "It is not a publication of the Government and is not paid for by the Government in any way." He wishes the registration to be made in his name, stating that he made an error in requesting that it be copyrighted in the name of the Department of Chemistry & Electricity, U. S. Military Academy. Inasmuch as the work is not a government publication, registration may be made. Since, however, it was published in the name of the Academy, the claim should be registered as originally submitted. An assignment may then be made, transferring the rights to the author, which assignment subsequently may be placed of record.

4. Potter, H. Vinton (24013)--Class G. "Vitamins A - B - C - D & G." A single application for these five works describes them as models for works of art. The photographs, however, seem to be of the finished articles themselves which are wooden sculptures. Request separate applications describing the works as "sculptures."

5. American Bank Note Co. (24040)--Class K. "V-72008 Special," "Center Special V-82366," etc. These deposits are prints or engravings which are intended obviously to form the center pieces on various stock or bond issues. The same type of material likewise constitutes the illustrated content of bank notes. The engravings as submitted are mounted upon cardboard sheets 9 x 6. Over a long period of years the Office has accepted this type of deposit presumably as a result of an agreement between this Office and the American Bank Note Co. The Examiner would now question the propriety of accepting these deposits upon the grounds that they do not represent the best edition published and would also question the meaning of the term "lay-down" which appears upon the copies. The Board is of the opinion after careful consideration that the question of publication should not be opened. Registrations for this type of work have been made unquestioningly over a long period of years. Register as applied for.

6. Ideal Photographic Corp. (No Fee)--Class ? "Makers of History...Buy Defense Stamps." This matter was before the Board at which time it was the unanimous decision of the Board that the work as submitted could be registered as a composite photograph. The Examiner had held that registration under class J was not in order for the reason that she failed to recognize any element of copyrightability in the photography. Mrs. Brady now reconsiders and sustains the Examiner in holding the work not registrable in Class J. Mr. MacCarteney and Mr. Lasica adhere to the original opinion that the work is obviously a composite photograph consisting of a large photograph of an arrangement of a series of individually taken photographs. Appeal.

*Enter as applied for - C. L. Barnes
April 23, 1942
See Memo under
Photographs*

MINORITY MEMORANDUM

7 PHOTOGRAPH
(Composite)
April 14, 1942

Remitter: Ideal Photographic Corp. (No Fee)

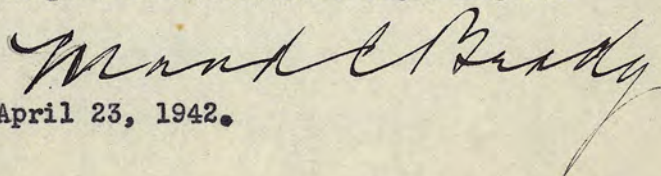
Title: "Makers of History...Buy Defense Stamps."

Question: Can the deposit be considered a photographic work as contemplated in that classification by the Copyright Act?

✓ The deposit under consideration is in the opinion of the undersigned not a work of photographic authorship and is, therefore, not entitled to registration in this Office. In the interpretation of a work of photographic authorship this Office has held that it is only when a photographer himself poses a subject or selects a view that his own personality is reflected in the resulting picture and such picture may be regarded as a work of authorship. (See Memo, February 21, 1938, H.A. Howell, approved by Register of Copyrights.)

✓ The deposit under consideration is composed of numerous illustrations, accompanied in some instances by text, which have been cut out of current periodicals, largely from LIFE, and pasted in an orderly alignment upon a large sheet of (possibly) cardboard, and a photographic reproduction made and offered to this Office as an unpublished photograph. In the composition of this work there is not only no photographic authorship but there is a lavish and dangerous use of material which has been recently published with notice of copyright and recorded in this Office. Nearly every item composing the deposit has appeared in various recent issues of LIFE magazine with the possible exception of the material grouped around the "V" at the top. The upper picture may also have appeared in some publication but even if entirely original it could not rescue the author from the penalties attendant upon the lavish use of the other material identified as the copyright property of Life Publishing Co., in the issues of that magazine for February 16, 23, and March 2 and 16. The outer border of this deposit, consisting of photographs of sixteen members of the U. S. armed forces was cut from the Feb. 16 issue of LIFE. The inner border, horizontal columns on the right and left composed of text and pictures beginning with "Stanley K. Robinson" on the left and "Alvin Mueller, Jr." on the right, was cut from the LIFE issue of March 16, "Roll of Honor" pp. 45 and 46. The pictures and text grouped at the base of the deposit are extracted from LIFE issues of February 23 (p. 33) and March 2 (pp. 46-48). The undersigned also recalls that the two illustrations at the bottom of the deposit, i.e., battleship and tractors or tanks, appeared in the same publication in issues which she has had not time to identify. The central picture of General MacArthur, an oft-published item, requires no comment, which may also be said of the pictures of George Washington, Abraham Lincoln and the Spirit of '76 which are also used.

As the deposit, therefore, does not meet the requirements of the copyright law as to authorship, the undersigned is in favor of rejecting the application.



Enter as applied for. C. L. Bouvé, April 23, 1942.

See p. 2

To sum up--in rejecting the deposit as a non-copyrightable photograph, it might be suggested to the remitter that in the event he has permission to use these various items, when the work is published as a print with the required notice of copyright such print would be registrable in this Office.

M. C. Brady

MAJORITY MEMORANDUM

PHOTOGRAPH
(Composite)

April 17, 1942

Title: "Makers of History...Buy Defense Stamps."

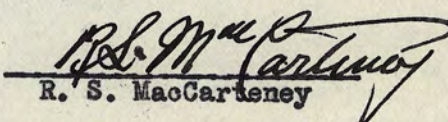
Remitter: Ideal Photographic Corp. (No Fee)

Question: Whether a large photograph of an arrangement of a series of individually taken photographs is registrable under Class J as a composite photograph.

It is the contention of the Examiner, supported by the Minority opinion that there is no element of copyrightable photography in the present deposit, the majority of the items making up the composite photograph being obviously not the original work of the applicant. The memorandum by Mr. Howell approved by Colonel Bouvé, February 21, 1938, stating "It is only when the photographer himself selects a view or poses the subject that his own personality is reflected in the resulting picture, and it is this type of photograph that especially belongs here" (class J), is further advanced as sustaining the minority viewpoint.

It is the Majority opinion that the work is actually a "composite photographic art work" as described by the applicant himself. That it is reproduced by photographic process is unquestionably true. Moreover, it is the opinion of the Majority that we have here the very posing of the subject reflecting the photographer's personality in the resulting picture that the Minority holds as essential to the creation of a copyrightable photograph. The author has taken a series of individually taken photographs and pictorial prints and has arranged them in an artistic and unique manner and photographed the result. That result in the opinion of the Majority is a composite photograph expressive of an artistic endeavor on the part of the photographer. The process of reproduction itself is not controlling. For purposes of copyright it makes no difference whether the subject is photographed or photo-engraved or lithographed.

It is, therefore, the Majority opinion that prior to publication the work in question would be registrable for copyright as an unpublished composite photograph, an analogy being the practice of certain organizations which present for copyright large photos of the prominent members of the organizations which are comprised of a series of individually taken photographs.


R. S. MacCarteney

Enter as applied for. C. L. Bouvé, April 23, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 20, 1942

The Revisory Board convened at 10 and adjourned at 10:45. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 45 mins.
Unanimous decisions, 5

1. Wood, B. F. Music Co. (No Fee)--Class A. "Exercises in Aural Harmony" - Book I." The Office in December, 1941 received an application on form E-For. for this work which is essentially a method of aural harmony. The Office requested a new application to be filed upon form A4, bringing the work within the ad interim provisions of the Act. Applicant complied and the registration was completed. He now refiles a claim for a new registration classifying the work as was done originally as a foreign published musical composition. In support of his claim he submits exhibits of three previous publications which contained even less music than the one now in question and for which works the Office granted registrations as musical composition in Class E-Foreign. The Examiner recommends that the applicant be advised that "book" is the proper classification and that full protection is afforded by such classification. The Board is of the belief that the A4 classification would have been preferable in all cases. However, since the other registrations were made in Class E where the works contained even less music---a corrective entry may be made for "Exercises in Aural Harmony" Book I, reclassifying it as an E-Foreign if so desired. The original certificate should, of course, be returned.

2. McKinley Music Pub. Co. (24696)--Class E. "The Army Engineers." Applicant files application on form E giving A. Geibel as composer of the music and S. A. Yons as author of the words. The statement of composership on the copy reads as follows: "Trumpet Call A. Geibel." The Examiner takes the unusual position that the work deposited is not a trumpet call which would be a single line of melody and suggests return of the copies for amendment. Actually, the music is that to which the hymn, "Stand Up, Stand Up for Jesus" is very often sung. It would seem to present no basis for copyright in so far as this publication is concerned. The claim presumably, therefore, should be limited to new lyrics set to old music with S. A. Yons as author of the new copyrightable material. The claim should be filed upon form E1.

3. Hutchinson, Celia Laura B. (24737)--Class E-For. "Sing a Song of Victory." This work printed in Canada bears a copyright notice reading: "Copyrighted in Canada and the U.S.A. by Celia L.B. Hutchinson. The application filed upon form E-For. gives the date of publication as April 4, 1942 at Toronto, Canada. The Examiner recommends rejection due to the incomplete copyright notice. The Board observes, however, that the work is a foreign publication (according to the application). It may, therefore, be republished with correct notice and the claim registered provided, of course, it has not been published in this

country with the present incorrect notice. So advise.

4. Andersen, Marie Alida (16150)--Class E. "Ski Serenade." The deposit is a manuscript consisting of English and Norwegian lyrics set to music and a prologue in English verse written on the outside cover and also submitted on a separate sheet of paper. The applicant states that he wishes to copyright all of the copyrightable component parts including the prologue. The Examiner would require a single registration for all of the material and suggests that the prologue be visibly set to the music. It seems questionable to the Board, however, whether the prologue is meant to be sung to the music but is not rather a separate selection without any musical connection. If that is the case it would not be copyrightable in advance of publication since it constitutes an unpublished book. If, however, it is meant to be sung, then it should be visibly set to such music and a complete copy deposited.

5. American Lumberman (Deposit Account)--Class B. "American Lumberman," Apr. 4, 1941. Held that a notice of copyright consisting of the word "Copyright and the year date of publication is acceptable where the claimant's full name appears prominently on the same page which is the title page, there being every indication that it is the prominently displayed name which is that of the copyright claimant. Register.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 21, 1942

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

Total time consumed, 30 mins.
Unanimous decisions, 5

1. Hovey, C. Earl, (7188) Class K. "Santa Claus Official Seal." The deposit is in the nature of a Christmas seal taking the actual form of a seal with ribbon appendages. It was originally questioned by the Record Section following its passage by the Examining Section upon grounds of registrability. It was seemingly a question as to how the seal was used and whether the copies deposited were those of the best edition. All this happened in 1941. Applicant answered the Office letter of April 3, 1941 on April 12 of that year, explaining that the copies deposited were those of the best edition and that the seal was used on Christmas packages but it was not in any sense a label since it described no particular kind of goods nor was attached to any particular class of merchandise. This letter was filed with the correspondence and was never answered. Applicant now requests information as to the fate of the application. Examiner sustained in her recommendation that the registration be completed and the certificate issued. A trade-mark notice observable on the copies is in all probability simply a whimsicality.
2. Iowa State (22298)--Class A. "Annotations to Code of Iowa," Vol. 3, No. 1. This was originally a question of copyright notice being in the name of the court reporter to be held in trust for the State of Iowa. The application gave the State of Iowa and the Office indicated that it should give the trustee in addition since the copyright was legally vested in him according to the notice of copyright. The Office is now advised that the particular court reporter in question has been inducted into the Service and that a new court reporter was appointed on the same date, both events taking place prior to the date of publication of the book. The Examiner questions the propriety in making the registration in view of the fact that the name of the trustee in the notice of copyright was not that of the actual official appointed at the time publication took place. The Board is of the opinion that registration can be made notwithstanding since it is in fact the State of Iowa that owns the copyright and the name of the state appears in the notice. The decision is to register as applied for, using the original application, giving the state of Iowa as the copyright claimant.
3. Douglas, Helen (24332)--Class E. "Aviators Song." Examiner sustained in requesting the city and state of domicile of the composer who was born in Nova Scotia but has not been naturalized. In addition question a variance in claim which apparently was overlooked by the Examiner. The application gives Emily Jean Bell whereas the notice on the copies is in the name of Helen Douglas.

4. College Entrance Examination Board (24090)--Class A. "Achievement Tests. Test Booklet. Form Ia. The authorship of this work is attributed in the application to eight committees totalling forty members, thirty-nine of which are United States citizens and one a French citizen. The Examiner would require a statement of United States domicile for the Frenchman. The Board directs that the application as submitted be accepted upon the basis of a preponderance of United States authorship. The work is essentially a work of United States authors.

5. Duffy, Lillian (No Fee)--Class A. "If For Me Your Love Is True, etc." This work is a folder to which bow ribbons of various colors have been attached. Opposite each ribbon is a rhyming couplet which by directing the sending of that particular ribbon is supposed to denote the sender's state of feelings toward the recipient, for example, "If for me your love is true, send to me the bow of blue." This work was first denied registration upon the ground that there was no notice of copyright and the folder apparently has been published. The applicant's attorney responds with the statement that only a few copies were distributed and the publication was halted and the notice of copyright affixed to the entire edition, minus those few copies. However, a question of authorship now arises. The Examiner, together with several of her colleagues and one member of the Revisory Board (Mr. Lasica) are still of the opinion that the verses are not original with the author given in the application but that they are old and are in the public domain. The Board supports this opinion and directs that an inquiry be made as to the originality of the authorship, expressed in the application. It should be explained that there is no copyright protection in an idea as such.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 22, 1942

The Revisory Board convened at 10:00 and adjourned at 11:00. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 60 mins.
Unanimous decisions, 9

1. Fischer, L. B. Publishing Corp. (No Fee)--Class A. "The Huguenots." This is a book published with notice of copyright in the name of L. B. Fischer Publishing Corp. The authorship is vested in two translators, both of which were former German citizens. One of the translators, Ernst Basch, has used his pseudonym in the statement of authorship on the copies. The Examiner would question the name of the other translator as given in the application and on the copy, considering it possibly to be also a pseudonym. The Board is of the opinion that all of the information necessary to the registration has been given and that it is unnecessary to go into the question of the second pseudonym. Enter as applied for but write to Ernst Basch from whom the Office received the letter on April 17, informing him that the application may not be withdrawn as he requests for the reason that publication has taken place with notice of copyright, such copyright being vested in L. B. Fischer Publishing Corp.

2. Schaller, Manuelita (21327)--Class A. "God Bless the Men of the U.S.A. (with) The Lord's Prayer." The applicant has printed the Apostles' Creed and The Lord's Prayer respectively on two cards in connection with a short original verse entitled "God Bless the Men of the U.S.A." She was informed that only a single registration was in order for the original poem, "God Bless the Men of the U.S.A." and was asked to choose between the cards containing respectively the Apostles' Creed and The Lord's Prayer. Applicant answers that she wishes to make two registrations and the Examiner would agree if the two cards were published on the same day. The Board overrules the Examiner. Only a single registration is permissible. There is only one work to copyright, namely, the verse, "God Bless the Men of the U.S.A." There is no copyright for the idea of combining the poem with standard prayers or liturgies which is the apparent intention of applicant's request for multiple registrations. Have applicant decide which copy is to be used for the registration.

3. Gillespie, George J. (25264)--Class J. "Our Lady of New York." The work in question is an altar piece in St. Patrick's Cathedral in New York City. It was reproduced as a print in the NEW YORK HERALD TRIBUNE. Photographic copies were also submitted to this Office with an application on form J2. The Examiner would deny registration for the unpublished J upon the ground that the publication in the NEW YORK HERALD TRIBUNE did not bear separate notice of copyright. The Board overrules the Examiner, holding that the unpublished photograph is registrable as such in Class J2 inasmuch as the reproduction in the newspaper is as a print, i.e., is a separately copy-rightable work. The Board further directs the holding of the balance of

of one dollar of the applicant's original two dollar fee since a further application for registration of the sculpture itself will shortly be filed.

4. Pflaum, Stanley F. (25594)--Class I. "Yankee Kitchen - Mobile Restaurant Trailer." Examiner sustained in requesting an I2 application instead of the G2 filed for this work which is a blueprint of a mobile restaurant kitchen trailer. Inquire further, however, whether copies have been distributed, i.e., published, in view of a statement on the copy submitted reading "Return all bids to-----." Also request that a new application be filed giving only the claimant's name in line (1).

5. Bardell Laboratories (18995)--Class KK. "Bardells Hair Tonic" and 2 others. This matter was before the Board on March 26, 1942 upon a question of adequate copyright notice, the notice reading "Reg. of Copyrights, Washington, D. C. 1942" above which appeared the name Bardell Laboratories. Applicant was advised that if this was a case of doing business as (the name in the application being Vincent Lido Berardinelli) the registration would be allowed. Applicant now informs the Office that at present he is not doing business with his laboratory "due to the shortage of chemicals." In view of this statement it seems questionable as to whether publication actually took place on February 27, 1942 as stated in the application. Explain publication and request three applications giving "V. L. Berardinelli d.b.a. Bardell Laboratories" if statutory publication was actually effected on the date given. Otherwise the applications should not be filed until after the labels have been published.

6. New Era Music Corp. (E unp. 290388)--Class E. "It Could Have Been Love." This work was previously registered under another title and in the name of the composer. The present application is for registration under a new title and in the name of New Era Music Corp. Examiner would require the filing of the indicated assignment in order that the second entry might be made. It is clear, however, that if the only change is one of title and ownership, it is only necessary to record the assignment. No new copyright registration would be in order. So advise.

7. Flexner, Wm. W. (24664)--Class ? "Mathematics 16. Three Maps Useful to Navigators," etc. The material deposited is in mimeographed form with a stamped copyright notice at the top of the first page reading: "Copyright as Ms. 1942 W. W. Flexner & G. L. Walker." The material is spoken of in applicant's letter of transmittal as a manuscript but it is stated that the work is to be distributed free to students taking the course. The Examiner would reject at this time, making the recommendation "manuscript book not registrable." The Board would not reject but would request the filing of an additional copy, and an application with an additional fee of one dollar following distribution to the students. Mimeographed copies are not manuscript but are in a form admitting of publication.

8. Sisson, Grace Caroline (W.R. 40258)--Class A. "Verses by Grace Caroline Sisson." The copies of this work originally received in the Copyright Office did not bear notice of copyright and accordingly the application was rejected. Applicant subsequently informed the Office that the booklets bore the copyright notice "though the leaf had been lost from the first copy as sent." It further transpires that there were some seventy-five copies printed bearing the notice of copyright and that distribution was made not by sale but by gift to the author's friends. In the view of the Board this is sufficient evidence of publication with notice and accordingly directs that entry be made as applied for upon receipt of an accep-

able remittance. The Treasurer's check returned to the Office by the applicant lacks the necessary endorsement.

9. Lord Baltimore Press (25156)--Class A. "Petroleum - Industry Hearings Before the Temporary National Economic Committee." The affidavit of manufacture lacks the county of venue at the top of the form. An affidavit is acceptable, however, where the venue appears in the notarial seal. See Meldrum v. U.S., 151 Fed. 177. Enter as applied for.

MINUTES OF THE Revisory BOARD
COPYRIGHT OFFICE
April 23, 1942

The Revisory Board convened at 10:10 and adjourned at 10:50. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 40 mins.
Unanimous decisions, 8

1. Trieglaff, Viola Dilge (20291)--Class E. "Little Sleepy Eyes." The manuscript sheet of music bears the statement "Words and melody by Viola Dilge Trieglaff." The application gives Mrs. Viola Dilge Trieglaff as composer of the music. Examiner would have the copy returned for amendment to read "Words and music by Viola Dilge Trieglaff." The Board directs entry as applied for upon the copy and application received April 13. There is no necessity to return the copy. Indeed, it is an extremely unwise procedure in the case of unpublished works except where the copy is fatally defective.
2. Glass, Theodore (24662)--Class E. "Boot Black Song." As in the above case the Examiner recommends the return of the copy because of a possibly implied informality. The claim is a joint one in the application between the composer of the music and the author of the words. Only one name appears on the back of the copy above a notice of copyright. The Board directs entry upon the joint claim as given in the application. To return the copy would change the date of copyright and deprive the applicant of protection during the interim period.
3. Horne & Graft (22041)--Class A. "Feminine Personality and Charm." This matter was before the Board on April 17 upon a question as to the extent of distribution in typewritten form, and a further question of whether publication took place as a unit or separately in chapters. Applicant advises the Office that both methods of distribution were employed. Chapters of the course were delivered to subscribers separately but they were also clamped together (as deposited) and sent in that fashion to the subscribers. It is believed that a single registration can be granted based upon such sale of the entire work. Furthermore, the course was undoubtedly sold as a unit irrespective of actual delivery of the copies. Enter upon a single application and at one fee.
4. Krepiakevich, Peter (17386)--Class D4. "Shell Fire Brides." Examiner questions the address of the claimant reading: "401 Main St. Saskatoon, Sask., Can. (of Hamton, Sask, Canada)." The Board directs entry as applied for. The location in parenthesis presumably refers to the locality from which the claimant originally came.
5. Von Schilling, Karl (24732)--Class H. "Christ of the Lifted Vision." Applicant states that of this reproduction only four copies were sold with a notice of copyright lacking the claimant's full name and a half a dozen

were distributed to personal friends. Advise applicant that he may add the full name to the copies issued to his friends and then apply for registration on a new application giving a date of new publication as the date on which copies were first placed on sale with full notice. The relief provided by Section 20 seems applicable here.

6. Editorial Nuevo Mundo S. de R. L. (25696)--Class A. "Autobiografia y Otros Escritos." This is a Spanish translation of a selection and arrangement by Carl Van Doren of the "Autobiograph and Other Writings by Benjamin Franklin." The Spanish translator is León-Felipe and he is so given in the application. The Examiner would question whether or not the translation was made after the selection and arrangement of Carl Van Doren. For what purposes it is not clear. The work is obviously a Spanish translation and since the translator is given as the author the Board directs entry as applied for.

7. Toof, S. C. & Company (23991)--Class A. "Defense begins at Home." The copy opens out into a single sheet and it is composed of pictorial matter and an amount of text. The notice of copyright in the abbreviated form appears upon the print entitled "Defense Begins at Home." Applicant files application upon form K. The Board holds that entry should be made as applied for--as a print. There is no need for any limitation of claim since limitation is automatically indicated by the classification.

8. Tagliabue Mfg. Co. (C.T.) (24932)--Class A. "Official Guide to Principal Tests of Petroleum Products." The deposit is a wall chart in the nature of a guide as to what particular petroleum product should be used presumably in connection with the lubrication of machines and other articles manufactured by the claimant. Pictures of the various machines decorate the borders of the chart. Examiner sustained in holding that the work seems to be only indirectly for use in connection with the sale or advertisement of articles of merchandise. Its primary use is as a chart of instruction. Entry, therefore, may be made as applied for--as a book.

THE LIBRARY OF CONGRESS—COPYRIGHT OFFICE

MEMORANDUM

REFERRING TO "Makers of History...Buy Defense Stamps."

DATE April 23rd, 1942

This material was submitted for registration as a photograph. One basic objection is made in the minority memorandum, submitted through the Revisory Board, and that is that the deposit "...does not meet the requirements of the copyright law as to authorship..."

Two reasons are given in support of this view:

- A. That "...in the interpretation of a work of photographic authorship this Office has held that it is only when a photographer himself poses a subject or selects a view that his own personality is reflected in the resulting picture and such picture may be regarded as a work of authorship."

The above general principle seems perfectly sound to me. But the subject which a photographer can pose is not necessarily a living subject. It may be, and in thousands of cases is, an object like a picture or work of art. But just why this principle was cited is not clear to me. We all know that arrangements, whether such arrangements assume the form of compilations of literary material taken from various sources, or arrangements of illustrations taken from various sources, are recognized under copyright jurisprudence as constituting an act of authorship. Selection, juxtaposition, balance all enter into the various reasons and it is these elements which form the basis of literary property.

- B. It is alleged in the minority memorandum that "...Nearly every item composing the deposit..." has appeared in various issues of periodical publications which themselves have been copyrighted and registered.

The necessary implication flowing from this statement is that there is some pictorial matter - even insignificant when compared with the entire contents of the material - which may be original. But let us suppose that of the many pictures and textual illustrations which are to be found on this material there was not a single element which was original with the applicant. He has gathered all of this material together and assembled it in such a way as to make a picture composed of text and other pictures. To deny that this process involves an act of authorship would be, as already stated, to fly in the face of a recognized principle of copyright jurisprudence which is reiterated in legal effect in Section 6 of the Copyright Act.

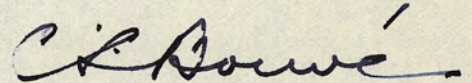
It is stated in the minority memorandum that "the upper picture may also have appeared in some publication but even if entirely original it could not rescue the author from the penalties attendant upon the lavish use of the other material identified as the copyright property of Life Publishing Co.,..." The objection

seems to be that one of the reasons against registration is that the Life Publishing Company has a better right to the use of text and pictures than the applicant. How does the Copyright Office know this to be a fact? As far as the Copyright Office is informed the author of this composite work may have obtained a license from Life Publishing Company to use this material. Of course if this is not the case the applicant uses it at his own peril. If the Copyright Office were to refuse registration on such ground as this it would constitute itself a Judge as between the applicant and the Life Publishing Company with regard to respective substantive rights in literary property. That this is not a function of the Copyright Office has been declared and recognized as a matter of administrative instruction and practice over and over again.

In the light of the foregoing, it is concluded:

- a. That the contention that this material is devoid of authorship cannot be sustained;
- b. That a refusal to register cannot be based in whole or in part on the conclusion that A may be infringing the right of B.

Enter as applied for.



Register of Copyrights

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 24, 1942

The Revisory Board convened at 10:00 and adjourned at 11:10. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of one corrective entry.

Total time consumed, 70 mins.
Unanimous decisions, 9

Corrective Entry:

1. Broadway Music Corp. (No Fee)--Class E. "I Love Me." This work was originally published in 1922, the first edition omitting the names of Edwin J. Weber, composer, and Jack Hoins, one of the lyricists. The claim was thus recorded. This error was noted by the publisher after the first edition was printed. The correction was made on all editions printed thereafter but the publisher for some reason failed to apply for a corrective entry until this moment. They submit a copy of one of the subsequent editions on which the names of Edwin J. Weber and Jack Hoins appear in connection with Willie Howard as constituting a combined authorship. A corrective entry may be made upon the filing of a new application on form E and a new registration fee and the return of the original certificate No. 560058. Although the applicant wishes the return of the copy deposited showing the additional names, the Office should retain the copy in accordance with the procedure established for corrective entry. Authorization from the composer originally of record would seem unnecessary in view of the republications with the added name which have apparently gone unquestioned over a period of years.

General Business:

1. Worcester, Gurdon J. (25183)--Class D. "The Spellbinder." The deposit is a motion picture scenario which the Examiner does not feel is sufficiently elaborated to be registrable as a dramatic composition under which classification applicant applies. The Board, however, following examination, feels that the work is sufficiently elaborated according to the ruling of the Register in a similar case to be registrable in the form deposited. There is almost a complete working out of the dialogue and the directions for acting are certainly complete. Register as applied for.

2. Martin, Aubrey (No Fee)--Class G. "Let's Help Uncle Sam" etc. The Examiner would deny registration for this work upon the ground that it is "vulgar." The Board holds that there is a difference between vulgarity and obscenity. The former is registrable if it is a "writing of an author." The latter is not. This is a pictorial vulgarity. Register upon receipt of an application on form G2 and the registration fee of one dollar. Advise catch phrases not copyrightable.

3. Jaco-Lac Decal Co. (No Fee)--Class K. "Army Air Corps Insignia" and "Naval Aviation Insignia." Applicants deposit illustrated sheets of miniature aviation insignia decalcomanias for use on model airplanes. The insignia of the air squadrons are certainly not copyrightable as such. The illustrated sheets as deposited now are not representative of the best edition of the published decals. It would not seem that even they would constitute copyrightable matter. However, inquire as to any possible new authorship involved in the reproduction of the decals before flatly rejecting the works. If registrable at all it would be as Ks, requiring the deposit of the finished decal of each design.

4. Connecticut (State) Department of Education (74397)--Class A. "Boats Across New England Hills." There has been much correspondence in regard to this particular work, hinging on the establishment of statutory publication and certain other variances. The authority to whom acknowledgement was made for advice concerning the preparation of this book has protested the publication of the book in view of his statement that it is full of errors and misstatements and, therefore, he does not wish his name connected with the Project. The Office is now advised by the Department of Education of the State of Connecticut, which is the claimant, that "the publication will probably not be distributed." It does appear as though a number of copies were sent out according to a statement made earlier in the correspondence. Since the bulk of the edition is not to be distributed, however, the Board recommends rejection as unpublished. Also, the copies deposited with voluminous errata should not be the ones to go to the Library of Congress. Reject and refund.

5. Consolidated Pencil Corp. (No Fee)--Class ? "Serving Our Country... Remember Our Boys." Applicant deposits an advertisement of a so-called "Honor Roll, described as a display board where one can list the employees of a firm or corporation or other organization which employees are in the armed services. The advertisement does not bear notice of copyright and is therefore, not subject to registration. Examiner recommends that the Honor Roll itself might be registered as a K for the pictorial illustration thereon. The Board is of the opinion that the display (so described) seems to be an article of manufacture and as such not copyrightable. So advise.

6. Howell, Soskin, Publishers(16653)--Class D. "We Hold These Truths." Held that a work published "under the auspices of the United States Government by arrangement with the United States Office for Emergency Management" but embodying the original writing by an individual, the publisher being a private firm which claims the copyright, is not a Government publication within the meaning of the Act. Register upon receipt of an application on form D1 as Examiner recommends.

7. National Broadcasting Co., Inc. (23017)--Class D. "Point Sublime," Episodes 1-66. The National Broadcasting Co., Inc. has deposited 67 different episodes of a radio program for registration upon a single application and at one fee. They were informed that each episode was registrable upon its own application and fee. A protest is now filed, stating that

"nothing in the manuscript renders it unsuitable for complete performance on one program." Applicant further expresses the fear that the Office's refusal to grant copyright to the manuscript as a single entity might result in a subsequent finding by a court to the effect that they failed to secure copyright upon a complete dramatic composition but had attempted to copy-right portions of a single work. The Board sustains the Examiner in rejecting applicant's argument. The case of Marx et al v. U.S., 96 Fed. 2nd 204 is on all fours with this question. Reject as a single work. Each separate broadcast requires a separate registration.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 27, 1942

The Revisory Board convened at 10:00 and adjourned at 11:10. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 70 mins.
Unanimous decisions, 12

1. McCann-Erickson, Inc. (Deposit Account)--Class A. "Good Posture for Defense of Health and Country" and two others. The question here is one concerning the validity of a notice of copyright. It has been ascertained that the legal name of the claimant is S. H. Camp & Co. The notice of copyright on this particular publication, however, is in the name of Samuel Higby Camp Institute for Better Posture. Examiner would reject, stating that the claimant's legal name is not in the notice. The Board is of the opinion that if Samuel Higby Camp Institute for Better Posture is a legal entity, registration may be made upon an application giving the claim in line (1) as "Samuel Higby Camp Institute for Better Posture (S.H. Camp Co.)." With respect to the other items involved under this remittance, Examiner sustained.

2. Lang, Frank (25852)--Class E. "Hungarian Dance No. 1" and "Symponetta No. 1." This would seem unquestionably to be a mental case and, indeed, the Office has for years been receiving applications from this person, the greater majority of which have been rejected for one reason or another. The present deposit consists of musical notation without any relation to the words written beneath it. In other words, the works are not musical compositions within the meaning of the Act. The words are not singable to the music. The Board recommends rejection and further applications should be discouraged since one of the sentences in the text indicates that the man is "sneaking" money out of his relief check in order to pay for these perfectly worthless registrations.

3. Westchester County Children's Ass'n (24906)--Class A. "You, Your Child and the War." The application is in the name of Westchester County Children's Association, Inc. The notice of copyright likewise includes this name in heavy type beneath which is the address of the claimant while still further below appears the statement, "cooperating with Westchester County Defense Council," the latter in a lighter type. The Examiner would apparently read "Westchester County Defense Council" into the copyright notice as co-claimant and thereby pronounces a variance in claim. There would seem to be no question here as to the proper claimant. The name in heavy type directly in connection with the notice of copyright agrees with the claimant in the application. Enter according to application.

4. Eagan, C. A. & Co. (25495)--Class A. "Told to us" in THE WESTERN FARM LIFE, April 15, 1942. The Examiner in her recommendation makes the following state-

ment: "Since (C) in a circle is used in the notice, only the print is registrable." The Board is of the opinion that this is too broad a statement. Under the provisions of Section 3 of the Act. Where there is pictorial illustration and a certain amount of text matter and the abbreviated form of notice is used, it is not inconceivable that a court might hold that the copyright secured would extend to the text as implied in Section 3. The Examiner's recommendation should be amended to read "Since (C) is used in the notice, the work is registrable as a print."

5. Chappell & Co. Inc. (Deposit Acc't)--Class E-For. "Angels in Uniform" (with additional lyrics for monologue). This application on form E-For. includes the statement: "with additional lyrics for monologue" after the title in line (6). The copy includes a separate sheet consisting of the monologue with a notice that it is "to be spoken during the playing of two choruses." Examiner requests an explanation of the statement and would inquire whether there has been any previous registration for this music. The Board sees no evidence of any form of publication and the statement on the copy indicates performance of the monologue in connection with the playing of the choruses. Enter as applied for.

6. Groff, Charles W. (No Fee)--Class J. "Nursing Time No. 2." Applicant files two photographic prints, one of which is a rephotograph of the original combined with new subject matter. The resulting photographic prints constitute two separate photographs, each of which is separately registrable. So advise.

7. Timberg, Herman (26079)--Class E. "If You're Physic-ly fit for making love, you're physic-ly fit to fight." The Examiner would question the inclusion of the second letter "l" in the word "physically" as appearing in the title of a separate lyric sheet deposited in connection with the music manuscript. The title as appearing in the application, on the front cover and on the first page of music is identical in spelling the word "physica-ly." Enter as applied for.

8. Merlein, Jay J. Company, Inc. (26322)--Class A. "Two Ways to Reduce the Priority Record." The deposit contains in addition to the instructions for playing the game of Gin Rummy and certain pictorial illustrations a pad of blank forms. The notice of copyright reads "Entire contents copyrighted 1942 Jay J. Merlein Co., Inc." Enter as applied for, then write a letter as to the excessive claim in the copyright notice. No copyright in a blank form.

9. Byrd, Wallace (32968)--Class E. "Battle Hymn of Freedom." Examiner overruled in recommending rejection of a piece of sheet music where the copyright notice is inscribed on the back of the title page which is in between the title page and first page of music. Both sides of the sheet may be considered as a "page." The notice is otherwise so prominent as to warrant acceptance. Enter on form E1.

10. Walgreen Drug Stores (21878)--Class K. "Walgreen's Victory Room" and "Victory." This work was originally deposited for registration with a typewritten notice of copyright. The Office wrote inquiring as to whether all copies distributed bore such a notice. Applicant replies that all copies distributed did not bear a typewritten notice of copyright and submits two

new copies with a printed notice. The Examiner would reject outright. The Board is of the opinion, however, that while the applicant should be advised that if publication took place without notice, copyright is forfeited. He should, nevertheless, be asked first as to the extent of distribution without notice.

11. Huntington Herb-Garden Chart Division (19647)--Class A. "Dukinfield's Herb-Selector." This matter was before the Board on April 6 upon a question of acceptability of the notice of copyright which contained the initials of the claimant, including the initials of the company selling the work. It now appears that the claimant, John Dukinfield, is doing business as the Huntington-Herb-Garden. If such is, indeed, the fact, an application may be filed, giving the claimant as "John Dukinfield d.b.a. Huntington Herb Garden." Both Dunkinfield's name and that of Huntington Herb-Garden appear in full on the copies. Question correct date of publication and also ask for a disclaimer in the mechanical feature consisting of the usual manipulative wheel or disc.

12. Brentano's Inc. (25126)--Class A. "Pas d'affaires avec Hitler!", "Trompés par Hitler" and "La vie Merveilleuse de Sarah Bernhardt." These applications have been filed upon form A3 giving the place of publication as Montreal, Canada. The works themselves are books of foreign origin in a language other than the English language and have been published abroad, i.e., in Canada. The Examiner questions a "Brentano's, New York" imprint on the title page. The Board is of the opinion that no explanation is necessary as to New York imprint. The works are clearly foreign works published in Canada as stated in the applications. Cases similar to this which clearly are publications of the same series were entered following receipt of applications requested by this Office, giving the place of publication as Montreal, Canada notwithstanding the copies bore a New York imprint.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 28, 1942

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, 4

1. Chance, A. B. Co. (No. 25307 (used))—"Guy Calculator". The Copyright Office has registered a claim of copyright to the copy-rightable text occurring on the card mounting this device. Applicant now deposits what appears to be a newer edition of the same work, and the Examiner says that the new matter is restricted to the directions for manipulation of the device and such directions are not subject matter of copyright. The calculator or device is enclosed in a jacket and there are printed instructions on the jacket as well as on the card. It is not clear from the Examiner's recommendation whether new matter is on the jacket or on the card mounting the device. If on the former, then no registration is in order, since there is no notice of copyright on the jacket. If on the latter, however, registration could be made since the instructions are not on the device but are on the card mounting the device, and therefore come within the saving clause of paragraph one, Sec. 201.4 of the Code of Federal Regulations of the Copyright Office. Return to the Examiner for clarification.
2. Groot, Adrian (No. 24567)--"Uncle Sam Is on the Job." This work is a cardboard sheet on which jointed figures of Uncle Sam and a Japanese soldier are fastened in such a way that by pulling a string the foot of Uncle Sam gives a well-directed kick to the Japanese figure. The background is pictorial, representing the earth's curvature from Japan to the United States. The Examiner would reject upon the ground that the work is a device and therefore not registrable. The Board is of the opinion, however, that the work is not a device in the sense that it is a tool or instrument that must be manipulated in order to produce the required information. The Board holds that the work would be registrable as a print notwithstanding there might possibly be a "toy" aspect involved. Register upon Form K.
3. Banta, George, Publishing Co. (25734)--"Radio Fundamentals." Do not question the United States Naval Institute as being a valid holder of copyrights. Their publications are not Government publications within the meaning of Section 7 of the Act. Register as applied for.
4. National Music Co. (44084)--"Music of Wings." There were two printings of this musical composition. One was made in 1940 and carried a notice of copyright in the name of the composer, Eleanor Everest Freer. The other printing took place in 1941 and carried

a notice of copyright in the name of the National Music Co. and also Spanish lyrics. The Office questioned whether publication of the first printing had taken place, and if so requested application be filed for the first edition. The National Music Co. now advises the Office as follows:

"The first edition to which you refer was not satisfactory and was disposed of. The edition with the Spanish words we consider as the first salable edition and the only edition."

The Examiner would request a further statement as to whether copies of the first printing were distributed. The Board overrules the Examiner in view of the statement made in this letter of April 10, and directs registration based upon the application in the name of the National Music Co., and the copies bearing the Spanish words.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 29, 1942

The Revisory Board convened at 10:00 and adjourned at 10:55. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of one corrective entry.

Total time consumed, 55 mins.
Unanimous decisions, 6
Divided opinions, 2

Corrective Entry:

1. Doubleday, Doran & Co., Inc. (A146689)--Class A. "Turn of the Table." Registration was made in accordance with the application filed, giving the citizenship of the author, Jonathan Stagge, as of the U.S.A. He is in reality a British subject and the publisher wishes to file an amended application but does not desire to submit additional copies. Advise that if corrective entry, deposit of additional copies and new application are requested. *is desired*

General Business:

1. Leeds Music Corp. (E unpub 291402)--Class E. "Eesie Weesie Spider." The Leeds Music Corp. filed an application for registration of this composition in their name as claimant. This application was numbered but the certificate has not yet been mailed. The Office then discovered that a previous registration for the same work was made in the name of the composer and accordingly we requested an explanation. The Leeds Music Corp. now wishes to withdraw their application and the Board overruling the Examiner who would request a further explanation, recommends cancellation of the Leeds Music Corporation application as applied for.
2. Pellissier, Anthony (24903)--Class E. "I'm a Cowboy from the West." Applicant filed a copy of his musical composition on March 2 and again on April 16. The work is unpublished and the Examiner would register upon the copy received on April 16, following the deposit of an application on form E2. The Board directs entry on the copy first received on March 2, 1942 since the copyright would commence as of that date.
3. Pestel, Arthur (26368)--Class E. "Elégie." The presence of a notice of copyright on a manuscript does not necessarily imply publication has taken place. Applicant has filed his application on form E2 as for an unpublished work and the copy seems to be a photostat of a hand-made original. Register as applied for on form E2 without raising the question of publication.
4. Compton, F. E. & Company (20853)--Class A. "Basic Rural School Board Sales Talk." Applicant has filed an application on form A2, giving a statement of new matter as "Changes & corrections on white pages 1 to 13," together with

copies of the work. It is not clear why the Examiner should question a previous publication in view of the application itself. Register as applied for.

5. Diver, Thomas R. (25715)--Class K. "Insignia, Medals and Decorations, U.S. Navy, Marines & Coast Guard." This print was originally rejected upon the ground of an inadequate notice of copyright which lacked the claimant's name. Applicant now reapplies, submitting new copies which bear a correct notice of copyright. The layout of the print is slightly changed to form a white background for certain of the representations of medals, and the full titles of these medals have been inscribed under the cuts. It appears, however, that the work was originally published without the claimant's name appearing on the copies. Examiner sustained in her recommendation that the applicant be advised that if the print was actually published on March 19, 1942 with an inadequate notice it is now too late to remedy the mistake. The reissued print is substantially the same print as is the original. The white background referred to and the addition of the full titles would not result in the creation of a new work subject to copyright upon its own merits.

6. Better Packages, Inc. (26319)--Class KK. "Warning -Enemy Ears May Be Interested." This work is a pictorial poster published by Better Packages, Inc., the manufacturers of an article known as Counter Boy and Tape Sealing Machines. It purports to give a pictorial warning against incautious talk. The Board divides upon the classification under which this claim may be registered. The applicant himself applies for registration of the work as an artistic print, using form K. Mrs. Brady and Mr. Lasica agree with the Examiner in holding that the work is primarily intended to advertise the sale of Tape Sealing Machines. Mr. MacCarteney is of the opinion that the advertising aspect is secondary, the primary purpose being to caution the public against incautious speech. He thinks that registration should be made as applied for. Appeal. Majority sustained - See Memo under "Prints".

7. Westinghouse Electric & Mfg. Co. (80167)--Class A. "Surface Condenser Performance Formulae". The Office originally questioned publication in the form deposited. The copies appeared to be photostats of a slide rule. Applicant advises that these sheets bearing engineering data were prepared and some of them given out to persons outside of the organization so as to constitute a publication of a sheet of engineering data. The Board divides upon the classification under which the registration is to be made. Mr. MacCarteney and Mr. Lasica are of the opinion that the registration may be made as applied for as a book since certain formulae are reproduced on the copies and it was otherwise a work resulting from mathematical computation. Mrs. Brady is of the opinion that the work is not a book but would be registrable only in Class I. Appeal. *Daneford. Register as applied for as A' - W. H. Wine 5-1-42*
See Memo "Book"

BOOK

MINORITY MEMORANDUM

April 29, 1942

Remitter: Westinghouse Electric & Mfg. Co. (80167)

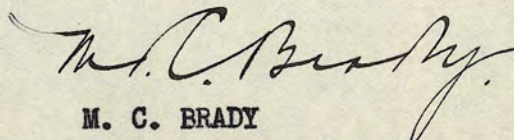
Title: Surface Condenser Performance Formulae

Question: Should application Form A-1 be used in registering this work?

The question originally raised in this correspondence--see Copyright Office letters of January 5 and March 16--was concerned with the deposit of photostat copy of a drawing of a slide rule or similar device. As slide rules are not subject matter of copyright protection, the Office pointed out that registration could not be made. There was very properly no mention made in these letters of the classification "book," used by the remitter in filing application Form A-1. This remitter, Birney Hines of the Patent Department of Westinghouse Electric & Mfg. Co., states in his letter of April 15, 1942--

"These sheets bearing engineering data were prepared and some of them given out to persons outside of our organization so as to constitute a publication of a sheet of engineering data."

If upon this dubious statement of publication registration must be made for this work, it appears to the undersigned that application Form I-1 for published drawing of a scientific or technical nature will be less unsuitable than application Form A-1 which applies to "books" first published in the United States, two copies of the best edition being stipulated as the correct deposit. Although these deposits are doubtful as copyrightable drawings of a scientific or technical character, in the opinion of the undersigned a registration as a drawing would be less conspicuously unsuitable than to record such a work as a "book." The remitter, I should judge, is not particular as to the action of this Office as long as we issue a certificate of copyright, and would file the better Form I-1 if requested to do so. In the opinion of the undersigned this request should be made, that an I-1 application replace the A-1 filed on Dec. 12, 1941.



M. C. BRADY

Doubtful--but register as applied for. W. H. Wise, May 1, 1942.
Where a doubt exists applicant should be given benefit of the doubt,

See BOOK

MINORITY MEMORANDUM

Remitter: Westinghouse Electric & Mfg. Co. (80167)

Title: Surface Condenser Performane Formulae

Question Should application form A1 be used in registering
this work?

Doubtful--but register as applied for. W. H. Wise, May 1, 1942.
Where a doubt exists applicant should be given benefit of the
doubt.

MINORITY MEMORANDUM

April 29, 1942

Remitter: Better Packages, Inc. (26319)

Title: "Warning -- Enemy Ears May Be Interested."

Question: Whether a pictorial print which is purportedly published for the purpose of warning the public against incautious speech, but which does indicate the publisher's merchandise is registrable as an artistic or commercial print.

The work in question is a pictorial poster. Prominently across the top in red and white appears the slogan "Warning -- Enemy Ears May Be Interested." Impinging on this warning and forming the center portion of the poster is a picture of several workers, one handling a box that has recently been taped, another operating a machine, and a third doing another job. Beneath this picture, still in large red type is the further adjuration "To Keep Free Speech Later Don't Speak Freely Now!" Beneath this in small black type is the statement: "This poster is published by Better Packages, Inc., Manufacturers of COUNTERBOY and Packer Tape Sealing Machines as part of its contribution to the war effort."

Mrs. Brady and Mr. Lasica uphold the Examiner, contending that the primary purpose of this work is to advertise the sale of COUNTERBOY and Packer Tape Sealing Machines, and that the purported publication as a contribution to the war effort cannot offset the purely selfish reason behind the publication of the print.

Mr. MacCarteney, on the other hand, takes the view that the advertising aspect is secondary in that it makes its appearance only at the very bottom of the work and in visual importance is decidedly secondary to the uncommercial aspect of the work consisting of a warning to the public. Applicant files an application on form K, classifying the work as an artistic print. The statement is further made that the poster is published as "part of its (the publishers) contribution to the war effort." The minority opinion does not feel that this Office must challenge the motive behind publication of the print, impugning the sincerity of the applicant's statement. There is no reason to suspect that the poster was not published unselfishly and the fact that reference is made to the publisher's merchandise, it is felt, is legitimate as is the representation of workers handling the publisher's product.

It is the minority opinion, therefore, that registration may properly be made for the work as applied for as an artistic print under the uncommercial title given, i.e., "Warning -- Enemy Ears May Be Interested."

Majority sustained after consultation
with the Register. W. H. Wise,
April 20, 1942.

R. S. MacCarteney
R. S. MacCarteney

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
April 30, 1942

The Revisory Board convened at 10:00 and adjourned at 10:30. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Steagall voting in the case of one corrective entry.

Total time consumed, 30 mins.
Unanimous decisions, 3
Divided opinions, 1

Corrective Entry:

1. Wicks, Thomas E. (NO Fee) Class G. "Serving America." Thomas E. Wicks, the remitter, originally applied for registration of this work as a copyright claimed jointly by himself and one Floyd A. Johnston. The copy deposited in Mr. Wick's hand-writing included Floyd A. Johnston as co-claimant. The registration was made accordingly and now the Office is asked to make a corrective entry, crediting Thomas E. Wicks with the sole ownership. He states that a mistake was made. The Board sustains the Examiner in holding that no corrective entry is in order but that an assignment may be recorded if one can be obtained from the co-claimant of record. Applicant should be advised that a new registration would be in order in any event following publication with notice and adjustment of the claim can at that time be made according to any agreement reached with the co-claimant now of record.

General Business:

1. Mottus, Joseph (No Fee)--Class A. "Baseball Key Game." Applicant advises that only a few copies of the leaflet "got away without the copyright notice." This advice was received subsequent to the Office action in rejecting the application due to the absence of notice of copyright. The Examiner would still reject but the Board directs that inquiry should first be made as to the number representing "the few" copies distributed without notice. If there were only a very few then Section 20 might apply and a new application could be filed subsequent to bona fide publication with notice.
2. Johnson, Lloyd (W.R. 40286)--Class ? "Rio Grande Writer" Vol. 1, No. 1, Spring '42. Held that a notice of copyright is acceptable where the claimant's name while not in direct connection with the notice is nevertheless in proximity thereto, being included in a statement of publication directly beneath the notice consisting of the word "Copyright" and the year date. Accept but write warning letter since this is the first issue of the periodical.
3. Witt, Frank (25944)--Class A. "The Father, Son and Holy Spirit Trust Co." This work is in the form and shape of an ordinary check in which religious utterances have been substituted for the various textual headings and information incident to the usual negotiable instrument. In addition on the reverse side are three verses from the Bible in connection with the space provided for the usual

endorsement of a check. Mr. MacCarteney and Mr. Lasica are of the opinion that there is some degree of authorship involved in the general conception and arrangement of this work and also as regards the textual sequence and that registration could be made for what such registration may be worth. Mrs. Brady, on the other hand, supports the Examiner in holding that the work is not a writing of an author and is, therefore, not registrable. Appeal. Register as applied for on Form A'
See Memo "Copyrightable" W. H. W.
5-4-42