

Vol. # 5 -
1077 - 1333

Jan ¹⁹⁴² - June 30, '42

Memoranda inserted

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 2, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:40 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 40 mins.
Unanimous decisions, 5
Divided Opinions, 1

1. Mutual Loan Company (79291)--Class A. "Introducing Pay-Day Loans" in SIOUX CITY JOURNAL of December 5, 1941. The copyright office received on December 8 a newspaper clipping of an advertisement for which copyright is sought. This clipping bore a correct notice of copyright. The Office, however, wrote requesting the deposit of a complete copy of the issue. Applicant subsequently submitted a complete copy of the SIOUX CITY JOURNAL for Tuesday, December 16, but the advertisement appearing in that issue was defective, having used the copyright symbol instead of the word "Copyright" in the notice. Examiner would reject but the Board observes that the earlier advertisement contains additional copyright matter which does not appear in the publication of December 16. The additional material in the advertisement published December 5, 1941 accordingly can be registered upon receipt of a complete copy of the periodical of that date containing the advertisement.
2. Marquisee, Della B. (82242)--Class G. "My Kin is In." This matter was before the Board on December 27 at which time the work was rejected upon the ground that it did not constitute a copyrightable drawing. Following the conference had with the Register of Copyrights on December 31, 1941 and the Register's written decision in the case of the print entitled "Serving You" (remitter--The Quickprint, Cash No. 80269) to the effect that "the Board as well as the Examining Section must always bear in mind that in a case such as this particularly the entire production matter as a whole constitutes the writing--which includes every phase of pictorial or written matter--every line in its relation to the whole," the Board reverses its opinion and now sustains the Examiner in holding that the work is a copyrightable drawing and may be registered as such upon receipt of an application on form G2.
3. National Check Accommodation Service (AA385862) Class A. "Foundation of Copyright." The name of the copyright owner as given in the application is "National Check Accommodation Service (Simon P. Lesselyoung and Paul J. Swift, sole owners)." The notice of copyright on the copies is in the names of "National Check Accommodation Service and its affiliated National Checkashurance Association." The Index Section questions the

application which was passed by the Examining Section in that the name of the affiliated company has not been given in line (1). The Board deems the form of claim given in the application acceptable and the Index Section can if it so wishes cross reference the affiliated company.

4. Hopkins, Russell (Deposit Acc't)--Class A. "First Complete Wage-Hour Law Digest for Beer Distributors" in BEER DISTRIBUTOR, December, 1941. This matter was before the Board on December 27, 1941 at which time the Board overruled the Examiner, she having held that no name appeared in the notice of copyright. The notice of copyright on the cover of this periodical definitely contained the name "Beer Distributor Publishing Company." There was, however, a variance as between this notice and the name given in the application. It now appears that the Board considered the wrong copyright notice. The notice correctly to have been considered appears on Page 17 of the publication and has to do with a contribution to a periodical. This notice is definitely faulty, lacking the name of the copyright claimant. Examiner sustained. Reject.

5. Watson, Fredric (83193)--Class A. "Ashes." The notice of copyright appearing on the cover reads "Copyrighted by Lillian E. Crowell, All Rights Reserved." Examiner would reject upon the ground that there is no year date in the notice. Directly above the notice, however, appears a statement "Published by Lillian E. Crowell, Newark, New Jersey, 1941." This, the Board feels, may be read into the notice. Certainly no one would be in doubt as to the year in which the copyright was secured by publication. While accepting the notice as sufficient, the Board would inquire as to whether the copies deposited are representative of the best edition. The title on the first page of text of both copies has been pasted to the page.

6. Benziger Brothers, Inc. (74462)--Class A. "Breviarium Romanum." The work in question is a breviary used in devotional services of the Roman Catholic Church. It is, of course, in Latin and since application had been filed upon form A1 the Office felt it necessary to request more detailed information concerning the authorship of the work. The authorship in the application was attributed to Benziger Brothers, Inc. (proprietors). In reply applicants state that "the book has never been published in this country in any shape or form and we have been given for the first time the right to do so." Applicants further state "we claim copyright for the complete work and we repeat that the matter in this book has never been published before this in the United States. This explanation is satisfactory to Mr. MacCarteney and Mr. Lasica. It is their contention that the applicants, of course, do not mean that the psalms have never before been published in the United States or other liturgical material appearing in the book but that this particular book is in the nature of a compilation and a composite work now published for the first time and accordingly form A1 would be correct. Mrs. Brady on the other hand would require a limitation of claim to the new matter and would also require a statement to the effect that "the matter in this book has never been published before this in the United States." Appeal. See Memo "Basis of claim"

Enter.

MINORITY MEMORANDUM

January 2, 1942

Remitter: Benziger Brothers, Inc. (74462)

Title: Breviarium Romanum

Question: Should there be further correspondence to substantiate a claim for copyright in the Breviarium Romanum?

The undersigned disagrees with Messrs. MacCarteney and Lasica, *holding* that an explanation should be requested as to the first sentence of the second paragraph of applicant's letter dated December 15, 1941, which sentence reads--

"We claim copyright for the complete work and we repeat that the matter in this book has never been published before this in the United States."

It is her opinion that the text of this book is not subject matter for registration of claim to copyright, as it is in the public domain and should not, therefore, bear a notice of copyright. The arrangement of the text, stated in the letter to have been the basis for registration, does not constitute authorship. Furthermore, there have been numerous Roman Brevaries containing the same liturgical text published in this country and used by various religious communities for at least a century. Therefore, the statements in claimant's letter that the matter in this book has never been published before in the United States must be challenged. Claimant further states in his letter that there have been editions in Europe since 1566, always of course in the Latin language as all Roman Catholic liturgy is, and the mere American reprinting in the United States of a book in which there is no authorship, and which is in the public domain, does not seem subject matter for registration of copyright under the copyright law of this country.

With respect to the issuance of a certificate for "Missae Defunctorium," such certificate was issued in error as that work is also liturgical, therefore in the public domain.

M. C. BRADY
M. C. Brady

Enter as applied for upon basis of applicant's letter of Dec. 15, 1941.
Upon order for C. I. Bouvé. W.H.W. 1/8/42

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 3, 1942

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

Total time consumed; 45 mins.
Unanimous decisions, 6
Divided Opinions, 1

1. Still, William Grant (82231)--Class E. "Miss Sally's Party." The work deposited is a completely worked out manuscript of a ballet including detailed directions for the performance of the action involved. The Examiner would hold that the scenario involved would not be registrable in unpublished form. Upon examination, however, the Board feels that the work is a completely worked out ballet and that entry may be had as a dramatico-musical composition in accordance with the recent memorandum of the Register of Copyrights concerning the acceptance of unpublished ballets and scenarios.
2. Waring, Laura W. (83642)--Class A. "You Asked For It." Held that a notice of copyright on the fifth page removed from the title page is not in conformance with Section 19 of the Copyright Act, and that an application for registration of such a work must be rejected.
3. Republic Bank Note Company (No Fee)--Class A. "The W & D Santa." The Examiner would deny registration for this work upon the ground that the notice of copyright is defective in that it lacks the name of the claimant. The Board sustains the Examiner and also points out that even were the notice complete the work could not be registered since it constitutes an article of utility, namely, a comic lamp shade to be placed around lamps and other source of illumination.
4. Semco Color Press, Inc. (78443)--Class A. "Inspection Practices, Unit X, in Fire Service Training" [and] "Salvage and Overhaul Practices, Unit IV, in Fire Service Training." With respect to "Inspection Practices Unit X" the Office had questioned the true authorship involved. The copies bore a statement "Compiled by The Department of Trade and Industrial Education, Oklahoma A. and M. College" whereas the application gave W. Fred Heisler, the copyright claimant, as the author. The authorship of W. Fred Heisler having been established by correspondence, the Board overrules the Examiner in her further recommendation that this is a question of "employer for hire" and the Board holds that the original application received on December 4, 1941 giving Heisler as author should be accepted.
"Salvage and Overhaul Practices, Unit IV." The application for this

work gives W. Fred Heisler (compiler) in line (1). Since, however, he has been established as the author as well as the compiler, the name W. Fred Heisler alone should appear in line (1) of a new A2 application.

5. Gross, Jack (81139)--Class E. "Over the Hill" and five others. These manuscripts were before the Board on December 19, 1940 upon a question of obscenity with respect to the song lyrics. The Board recommended that the Senior Attorney secure an interview with the Solicitor of the Post Office Department to discover whether such works would be mailable. Following consultation between the Senior Attorney and the Post Office Department, the Board recommended that this material be rejected since it is advised through the memorandum of the Senior Attorney that the Post Office Department would not consider the material mailable.

6. Hoguet, Neary & Campbell (82669)--Class ? "Remember Pearl Harbor." Applicant's attorneys have filed eight applications covering the various component parts of a work which in complete form consists of a drawing and a photographic print showing a battleship and planes enclosed in concentric circles with stars and the legend "Remember Pearl Harbor" between circles. The Examiner, it is believed, justly feels that the applications filed on forms J1 and K are duplicates as to the subject matter involved. However, before making any definitive decision with respect to the registrability of this material, the Board would first inquire as to the actual form in which copies are published. The Board would also point out that the drawings showing concentric circles with the legend and stars by themselves would not seem registrable. Write for further information.

7. Rucker, Edmund John (84006)--Class E. "A Bugle Call-Remember Pearl Harbor." Applicant has applied for registration of two measures of music constituting what is described as a bugle call entitled "Remember Pearl Harbor." Actually there are six notes involved with the well-known slogan "Remember Pearl Harbor" set thereto. It is the opinion of Messrs. Mac Carteney and Pferzheimer that this sequence of notes could quite conceivably be termed a complete bugle call, i.e., musical composition, since such calls are as a matter of fact noted by their brevity, in keeping with the function of the call. They would admit the work to registration in the absence of proof that the composition was not original with the applicant. Mrs. Brady, on the other hand, sustains the Examiner in rejecting the application. Her contention is that the work is simply a musical slogan with six notes which does not constitute a musical composition. Mrs. Brady, however, declines to write a minority memorandum in the absence of which the majority opinion of the Board prevails. Enter as applied for.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 5, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:50 A. M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 50 mins.
Unanimous decisions, 10
Divided Opinions, 1

1. Doubleday, Doran & Co., Inc. (Deposit Acc't)--Class A. "The Law Encyclopedia for Home and Business." The statement of claim in this A2 application is couched in the following language, "the adding of current data to bring the work up to the moment & compiling into 1 vol." The Examiner objects to this statement of compilation regarding "compiling into one volume" as presenting nothing registrable. The Board is of the opinion that compiling into one, or for that matter any number of volumes, definitely could result in a copyrightable writing of an author. Do not request omission of this item from the statement of claim.
2. Gray Printing Company (W.R. 37671)--Class A. "Replacement Parts Catalogue." This work was originally denied registration upon the ground that the notice of copyright was faulty. There is now presented a so-called "revised edition" which does contain some changes throughout. Examiner would accept upon the filing of an A2 application. The Board notes, however, that the notice of copyright in the absence of a title page appears at the bottom of the 4th page of text from the front cover which must be considered as the title page. Such being the case the Board recommends that a letter first be written to the applicant explaining the provisions of Section 19. The Office will consider any argument they may wish to advance.
3. Swan, Lester A. (83022)--Class A. "Tips on Field Hockey." This notice of copyright is misplaced, appearing on the 4th page removed from the title page. Write explaining the provisions of Section 19 and advise applicant that the Office will consider any argument they may wish to advance in support of their application.
4. Huston, Frank C. (82713)--Class E. "He Loved Me So" [and] "More Like My Lord." The Examiner would question publication in the form deposited since the song sheets have been cheaply printed. The Board sees no reason to raise this question. It is the rule that publications of this sort are printed upon single sheets and distributed in that manner to church or chapel congregations. In the view of the Board this is simply an inexpensive publication. Enter as applied for.

5. Kelly, Bruce I. (83767)--Class E. "Too Bad." By the use of an unusual letter "R" the claimant's first name appears to the Examiner as Brice. The copy, however, plainly shows the name to be Bruce and the Board recommends entry without questioning the rather unusual lettering.
6. Wales, I. (80482)--Class A. "Better Records" [and] "Army and Navy Y.M.C.A. Handbook." Both of these works are the results of committees of organizations, each headed by a chairman. The chairman's name is given in each application. The Examiner would request the filing of new applications including the statement "and others" with respect to the authorship. The Board does not believe this is necessary and recommends that entry be made as applied for. The Index Section can annotate if it so desires.
7. Christensen, Axel W. (83684)--Class E. "Break Study No. 34." This work is one number of a periodic music bulletin and at the top of the first page of music appears the date of issue January, 1942. The Examiner would question the statement January, 1942 in view of the fact that the notice of copyright includes the year date 1941 which is in agreement with the date of publication December 12, 1941 appearing in the application. The Board overrules the Examiner. There is no need to question the "date of issue." This is a periodical publication of music and the date of issue may quite properly be indicated as subsequent to the date of publication.
8. Ryding, Reuben (83409)--Class E. "In a Christmas Sky." Applicant has filed an application on form E2 together with one printed copy of this song and a remittance of one dollar. The Office inquired as to possible publication since the work as deposited was printed. Applicant advises that the work is unpublished, its use being restricted to a particular singing organization and that if it is ever published then a second registration will be applied for. Examiner would inquire further as to the exact number of copies made. The Board deems this unnecessary and returns the application to the Examiner for entry.
9. Gordon, J. P. Co. (82707)--Class ?. "Gordon Art Fibre Seat Covers" [and] "Gordon Seat Covers." One item comes before the Board. The application for "Gordon Seat Covers--Form No. 212-1." This folder opens out into a single sheet which definitely advertises an article of merchandise, namely, automobile seat covers. There are several inserts in the folder but they are not bound or stapled to the advertising sheet itself but constitute separate literature. Refer to Print and Label Examiner for consideration.
10. Wason, Leo Robert (84082)--Class E. "Poem Suite No. 1." The manuscript copy deposited bears the title "Poem Suite (No. 1)". One of the several applications received in the course of correspondence with this applicant regarding this work also gives the title "Poems Suite No. 1." The Examiner suggests that "Poems Suite" pertains to a number of works. She further indicates, however, that "Suite No. 1" might be an acceptable title if the composition is complete. Enter as applied for upon the copy and the application giving the title as "Poem Suite No. 1."

11. Stellmacher & Clark, Inc. (81635)--Class I. "Time All Over the World" (dial). The deposit is a photostat of a drawing showing simultaneous correct time of major cities of the World. It is understood when this work is published it will be in the nature of a mechanical device since the directions refer to "turning the inner wheel." Applicant has filed an application on form I2 and the majority of the Board believes that this application may be accepted notwithstanding the ultimate purpose of the work in published form. Mrs. Brady, however, sustains the Examiner in holding that the material as presented is not subject matter of copyright. Appeal.

*Accept Application
on form I-2 - See Memo "Drawing"*

MINORITY MEMORANDUM

Drawing

January 5, 1942

Remitter: Stellmacher & Clark, Inc. (81635)

Title: "Time All Over The World" (dial)

Question: Is a photostatic copy of a dial, presenting the appearance of the dial of a clock, and completely encircled with text matter, copyrightable as a technical drawing?

The basis of this dissent is found in the deposit itself which, in the opinion of the undersigned, has the attributes of an unpublished book, but not those of a scientific or technical drawing. The drawing elements of the deposit, which is entitled "Time All Over The World," consist of three concentric circles, an inner circle which is about five inches in diameter, and is spaced about one inch from the second circle. The third circle, spaced three-eighths of an inch from the second, is incomplete, having a segment missing at the top of the sheet and one at the bottom of the sheet. The inner circle encloses a dial which has the appearance of the face of a clock, showing 24 hours instead of the conventional 12 hours. In the center of this dial is found the inscription, "Time All Over The World," and this inscription is given in the application as the title. Under the title are the "Directions". Also, the inch wide space between the inner and the second circles is devoted to printed text matter consisting of the names of the pivotal cities all around the world. When the deposit is actually completed and published, there will be an "inner wheel" (see directions on the face of the dial) which will be turned to ascertain "the correct time in any city--read the correct time in all other cities." Thus the inner wheel which is not a part of the present deposit will show when in the proper position that when it is 12 o'clock noon in New York, Montreal, Valparaiso, Havana, Panama Canal, Lima, that it is one o'clock in Caracas, Buenos Aires and Panama; two o'clock in Rio de Janiero, and so on around the 24-hour dial. The deposit, therefore, consisting almost wholly of text matter is not in its present form subject matter for copyright registration. When published with notice of copyright it will be a very useful device, but possibly because of the operation of the device to secure the information desired it would still not be subject matter for protection under the copyright statute.

M. C. Brady
M. C. BRADY

Accept application on form I2--Advise re published device.

W. H. Wise, Jan. 12, 1942.

DEVICE
(See drawing)

MEMORANDUM

January 3, 1942

Remitter: Stellmacher & Clark, Inc. (81635)

Title: "Time All Over the World" (dial)

Question: Is a photostatic copy of a dial, presenting the appearance of the dial of a clock, and completely encircled with text matter, copyrightable as a technical drawing?

Accept application on form I-2--Advise re published device.
W. H. Wise, Jan, 12, 1942

See main memorandum under "drawing."

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 6, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:30 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica--Mr. Lasica sitting in the place of Mr. Pforzheimer, who, on account of Mr. Smith's absence from the Public Information Office, remained in charge there.

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

1. Hilty, George Richard (82825)--Class A. "Merry Christmas--Flag Unfurled, Clinched Fist, Thumbs Up--Victorious New Year." This work is in the nature of a card consisting of text matter and a pictorial illustration. The notice of copyright placed at the bottom of the card reads as follows:

"Design Copyright and patent applied for George R. Hilty, Miami, Florida, 1941."

The Examiner is of the belief that the word "design" appearing in the copyright notice limits the copyright to the pictorial element and accordingly she requests application form K. The Board is of the opinion that the presence of the word "design" does not limit the copyright to the pictorial element and since the other elements of the notice required in Section 18 for a book are present, registration may be made in Class A. Ask for application form A1.

2. Rockwell & Bartholow (83388)--Class K. "Weathercraft," "Weather Log," and "My Weather Forecast for Today." Examiner sustained in requesting application form KK for the label to be affixed to a box top containing a toy. Two other items entitled "Weather Log" and "My Weather Forecast for Today" the Examiner holds are in the nature of a blank form and a gameboard respectively. With respect to "Weather Log" a pictorial illustration is observed at the top of the sheet which the Board feels may be registered as a print or pictorial illustration; likewise, with respect to "My Weather Forecast for Today" the work is primarily a print or pictorial illustration and the presence of a metal arrow to be set arbitrarily by the person making the weather forecast for the day does not prevent registration in the Copyright Office. Enter both works as applied for.

3. Mutual Loan Company (82523)--Class A. "Introducing Pay-Day Loans" published December 5, 1941 in SIOUX CITY JOURNAL. This matter was before the Board on January 2, 1941 at which time the Board recommended that the additional material in one of the advertisements published on December 5, 1941 could be registered upon receipt of a complete copy of the periodical of that date containing the advertisement. It now appears that this particular advertisement of December 5, 1941 has already been registered. Accordingly, the Examiner is sustained as per her recommendation of December 26, 1941, referring simply to another advertisement published on December 16, 1941 which bore a defective notice of copyright and for that reason was not registrable.

4. Osborne Company, the (82673)--Class A. "The Homemakers' Calendar for 1943." The entire work as published bears two notices of copyright, one containing the year date 1941 appears at the bottom of the first page of the calendar pad bearing the title in accordance with the application for registration and the other inscribed under the calendar pad and upon the sheet which when folded bears a pictorial illustration and the title "The Osborne Company--Friendly Advertising." The Examiner would reject registration for "The Homemakers' Calendar for 1943" upon the ground that the misplaced notice of copyright, viz., under the calendar pad, contains a 1942 year date whereas publication took place in 1941. Mrs. Brady and Mr. Lasica support the Examiner in her recommendation for rejection. Mr. MacCarteney takes the view that a correct notice of copyright appears upon the title page of the calendar to be registered and that the 1942 notice of copyright being misplaced at the end of the calendar has because of this informality no bearing upon the question of registration. He would accordingly accept the application for "The Homemakers' Calendar for 1943." Appeal. *Enter. See Memo "Notice of Copyrights".*

MINORITY MEMORANDUM

January 6, 1942

Remitter: Osborne Company, The

Title: "The Homemakers' Calendar for 1943"

Question: Whether the presence of a notice of copyright bearing an advance year date which notice is incorrectly placed at the end, under a calendar pad would prevent the registration of the calendar which itself bears a correct notice of copyright on the title page.

The work in question is a calendar published by the Osborne Company. At the bottom of the title page of the calendar pad appears a correct notice of copyright containing the year date 1941, the date of publication according to the application. Under the calendar pad and hidden by it there is another notice of copyright containing the year date 1942. This notice is in connection with the sheet to which the calendar pad is attached and which does not bear the title of the work to be registered, i.e., "The Homemakers' Calendar for 1943." The majority holds that the presence of this second notice of copyright although it is misplaced vitiates the copyright in the calendar notwithstanding the calendar bears a correct notice. The undersigned, however, feels that the advance notice of copyright should not be considered for two reasons: (1) It is not inscribed in connection with "The Homemakers' Calendar for 1943," the title given in the application for registration; (2) Even were it to be considered as a notice referring to the work to be registered, it would have nullified itself by its placement at the end of the work to be registered (Section 19). The undersigned accordingly is for registration as applied for, based upon the presence of a correct notice of copyright on the title page of the work to be registered.

R. S. MacCartney

1. Register "Homemakers' Calendar for 1943" as applied for. A correct notice is in statutory position.
2. Request KK for "Jes' Swing It Natchel, Sonny" - a commercial print advertising "Chilean Nitrate of Soda".
3. Class K appropriate for "L'Atless" in the name of Fratelli Branca & Co. Inc. Do not request application on Form H.

Upon order of C. L. Bouvé. W.R.W. 1/8/42

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 7, 1942

The Revisory Board convened at 10:15 and adjourned at 11:05: Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer with Mrs. Rafter sitting as a voting member for one corrective entry.

Total time consumed, 50 mins.
Unanimous decisions, 12

Corrective Entry:

1. Boyer, Stewart R. (No Fee) Class J. "A 19th Century Study in Astrology." Claimant's attorney applies for corrective entries for two photographs which were registered in 1934 and 1935, using the diminutive of the claimant's Christian name; that is registration was made in the name of Doris Turner while her full name is Theodosia Turner. A corrective entry is not admissible to correct a registration made using the diminutive or nickname of the copyright proprietor's Christian name.

General Business:

1. Conroy, V. J. (83822)--Class ? "Merry Christmas...Look, Camera, Colliers." The work deposited is in the form of a Christmas greeting card which informs the recipient that he has received the gift of a subscription to one of a number of listed magazines. Refer to Print and Label Examiner for possible action under the classification of a commercial print.

2. Norlin, Minnie C. (77502)--Class A. "Spelling Helps in Written English for Primary Grades. A word list." This spelling booklet was prepared by a grade school teacher who because of limited facilities (including financial) was unable to have the work printed on a printing press. The copies deposited are partly typewritten and partly mimeographed with pages simply stapled together. In view of the form of deposit the Office questioned the fact of publication. Applicant advises that sixty copies were made and distributed to her pupils. Accept the application in hand, based upon an edition of sixty copies distributed to pupils.

3. Gordon, J.P. Co. (82707)--Class KK. "Gordon Art Fibre Seat Covers, Form 212-1." This work was before the Board on January 5, 1942 at which time it was referred to the Print and Label Examiner for possible action under Class KK. The Examiner returns the application to the Board with the recommendation that this work is not a commercial print for "it contains copyrightable matter on five or more separate sheets which are distributed as unit." The Board is of the opinion that the folder as deposited is a commercial print. True there are inserts but they do not destroy the fact that the print to be registered is a single sheet published in connection with the sale or

advertisement of an article of merchandise. The inserts are not bound or stapled or in any manner attached to the print and their presence and number in the view of the Board would be purely arbitrary. Return to Print and Label Examiner for further examination.

4. National Foreman's Institute, Inc. (285)--Class A. "Executives Labor Letter, December 30, 1941." The deposit consists of a white folder bearing a 1941 notice of copyright and a blue insert constituting a supplement to the white letter, such supplement having a 1942 notice of copyright inscribed. Examiner would reject both white and blue letters because of the advance year date on the latter. The Board overrules the Examiner, holding that since the white letter bears the correct 1941 notice of copyright (in agreement with the application) it may be considered separate from the blue supplement. Enter upon application giving the title of the white letter "Executives Labor Letter, December 30, 1941."

5. Rayner, Dalheim & Co., Inc. (No Fee)--Class A. "The Cross that Stands for Mercy." Held that a notice of copyright separated from the name of the claimant by the length of a two stanza poem is acceptable. Applicant, however, should be warned and the correct application and registration fee requested.

6. Knoller, Jacob. (80181)--Class D. "Esther." Held that registration may not be granted for changes made in the fifth act of a copyrighted opera upon deposit of an additional copy of the fifth act alone. If the changes in the fifth act are to be placed of record a copy of the entire work must be deposited.

7. McCullough, Florence Woodlock (84081)--Class A. "Living Authors of the Ozarks and their Literature." This work was originally denied registration upon the ground that the notice of copyright was defective, lacking the year date of publication. Applicant now files a copy of a better edition bearing a stamped notice of copyright with the explanation that only eight copies of the original work lacking the year date in the notice were ever distributed and all of those have been recalled. Enter upon the receipt of an additional copy bearing the stamped notice and a new application giving the correct date of publication. Appeal.

8. Oahu Publishing Co. (355)--Class A. "Circus Blues." This is a revised arrangement of a previously copyrighted musical composition. The copies bear notices of copyright for 1930, 1938 and 1940. The application gives as the date of publication of this revised arrangement, May 27, 1941. The Examiner would reject upon the ground that there is no notice of copyright for this present 1941 revised arrangement. Held that this is not a case of notice of assignment which might warrant rejection in the absence of a 1941 copyright notice. The copies of this publication do bear notices of copyright, the latest of which is 1940, and the work therefore acquires the same status as a revised edition of a previously copyrighted book which bears only the original year date of publication in the notice.

Such a work is definitely registrable. The same applies to this publication, the only presumable result being the loss of one year's copyright protection.

9. Wright, Johnnie and His Tennessee Hillbillies (81449)--Class E. "Gran' Dad He's Not Old," "Back Over the Mountains," and "He Is My Saviour" (7 others). These works were before the Board on December 24, 1941 at which time the Board recommended not questioning applicant's statement that these works were published within the meaning of the Statute. The Chief Examiner now brings to the attention of the Board the fact that new applications are presumably required giving a later date of publication than October 24, 1941, the date on the applications now in hand since copies received on October 30, 1941 had a defective notice of copyright lacking the year date. Presumably publication with correct notice of copyright would not have initiated until after October 30. Examiner sustained.

10.. Barthel & Bugbee (51727)--Class A. "Lest We Forget." Applicant's attorney advises the Office that copies of this work now on deposit bearing a notice of copyright written in pen and ink are the only ones he can obtain. He states, however, that all the remaining copies of the edition were distributed bearing a stamped notice of copyright. Accept copies deposited as representative of the best edition published since publication with notice, whether pen and ink or stamp, has been established.

12. Schirmer, G. Inc. (Deposit Account)--Class E. "The Magic Flute" (Libretto). The point at issue is whether an application on form E1 may express a claim not only for new music but for new text matter occurring in the publication. For the past two years such a practice was not permitted and whenever the Office received a music application which specifically stated the new copyright matter consisted of text as well as music, the applicant was advised that reference to text in the statement of new matter would have to be omitted since it did not constitute new music which alone could be made to appear in the music application in the space provided for a statement of the new matter. In view of this consistent policy as carried out by the Examining Section and affirmed by the Revisory Board with the understanding that the Section and the Board were carrying out the expressed orders of the Register of Copyrights, the Acting Chairman of the Board declined to bring before the Board this present application, claiming upon text and music with a view to reversing the Examiner. The Senior Attorney, however, consulted with the Register of Copyrights on January 5, 1942 concerning the question at issue and subsequently informed the Board of the Register's belief that the E1 application could refer to "prefatory note" as part of the new matter. Following receipt of this information the Board reopened the case to the extent that it requested the Senior Attorney to prepare a memorandum for the signature of the Register of Copyrights for the guidance of the Examining Section and the Revisory Board in future applications of this type.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 8, 1942

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

Total time consumed, 15 mins.
Unanimous decisions, 2
Divided opinions, 1

1. Levy, Henry (166)--Class G. "Baby face, mask--Smiling expression." The sculptor in this case is according to the application a declarant alien of original Italian citizenship. The copyright claimant is one Henry Levy whose address is given as 27 West 20th Street, New York, New York. Inquire as to when the proprietor acquired this copyright, whether before or since the beginning of hostilities. This is necessary in order to determine whether the application to be filed in the Enemy Alien file or whether it becomes a part of the general files with no special reference.
2. Neff, Lawrence W. (71193)--Class A. "Cloak of Wonder." The copies deposited bore a statement on the verso of the title page reading "Second Edition." Since application was filed upon form A1 the Office inquired as to whether form A2 would not be the proper form to use. Applicant replies that the statement appearing on the back of the title page was an error of the bindery and that actually the first edition was the one deposited. Examiner would question further but the Board believes the applicant's explanation sufficient to justify registration as applied for. The Board recommends, however, that a note be attached to the copies or sent to the Catalogue Division, quoting remitter's footnote regarding the error on the verso of the title page so that no mistake may be made in the cataloging of this work.
3. Wagman, Meyer (83115)--Class G. "Letter V superimposed by the first 2 bars of Beethoven's Fifth Symphony." The work in question is a drawing of the letter "V" in red upon which has been superimposed the two opening bars of Beethoven's Fifth Symphony, known as the "fate theme." Mrs. Brady and Mr. Pforzheimer hold that there is nothing copyrightable in this drawing as deposited, that it shows no originality that would justify registration. Mr. MacCarteney on the other hand while agreeing that any authorship present is meager nevertheless feels bound by the written directions of the Register of Copyrights in connection with the Quick

MINORITY MEMORANDUM

Drawing

January 8, 1942

Remitter: Meyer Wagman

Title: "Letter "v" - superimposed by the First 2 bars of Beethoven's Fifth Symphony."

Question: Whether a colored drawing of a letter "v" in red cut across by two bars of musical notation comprising the "fate theme" of the Beethoven Fifth Symphony is copy-rightable as a drawing.

The majority holds that there is no original authorship involved in this drawing since the two elements, i.e., the letter "v" and the musical notation are unquestionably in the public domain and all that has been done is to adopt one to the other. The undersigned constituting the minority, while admitting the work to be of no great merit, finds it as a whole a work of pleasing composition and balance, evidencing at least a small degree of artistic merit.

The undersigned is further persuaded to accept this work for registration as a drawing by the Register's written direction in the Quick Print case, involving the print entitled "Serving You." The Register directed that "The Board as well as the Examining Section must always bear in mind that in cases such as this particularly the entire production matter as a whole constitutes a writing--which includes every phase of pictorial or written matter--every line in its relation to the whole." It is therefore the opinion of the undersigned that registration may be granted for the drawing as such upon receipt of an application on form G2, describing it as a drawing in line (1).



R. S. MacCartney

Register as a drawing on form G2, describing it as such.

W. H. Wise, January 12, 1942.

Print Case involving the print entitled "Serving You" and accordingly would accept the work for registration as a drawing upon form G2, describing it as such. Appeal. Register as a drawing on form G2, describing it as such. See memo "Drawing".

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 9, 1942

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

Total time consumed, 45 mins.
Unanimous decisions, 5
Divided opinions, 2

Corrective entry:

1. Percy, Lulu F. (No Fee)--Class E. "Another Dawn." The copyright proprietor advises the Office that the printer of her musical composition made quite a number of musical errors in printing the work and she desires to have these errors corrected by submitting new corrective copies. Advise corrective entry may be made.

General Business:

1. Kugel, Frederick Co. (61587)--Class B. "May Co. Review of Recorded Music. Sept. 1941." This matter was before the Board on November 28, 1941 at which time the board sustained the Examiner in considering the publication in question as a periodical rather than as a commercial print and requiring the registration of each different work as distributed or published by the subscribers to the service. It subsequently transpires that the contents of its review are exactly the same with the exception of the titles and the one advertisement appearing on the back page. Since Frederick Kugel Co. would have no interest or claim in the advertisement it will be permissible to copyright only one issue each month; namely, the one that is first published. If a number are distributed to different clients on the same day, then applicant may make a choice.

2. Philadelphia Organic Laboratories. (1110)--Class A. "To the Physician:-After fifteen years spent in study and in dispensing of specialized Medicines, etc." The deposit is a single sheet of text with the name Philadelphia Organic Laboratories appearing at the top and at the bottom, the copyright notice reading: "Copyright Dec. 1941." Provided the Philadelphia Organic Laboratories is the copyright claimant, registration may be made. Write for application, Form A1.

3. Street & Smith Publications, Inc. (Deposit Acc't)--Class J. "Charm Business Girl Mannekins." The work deposited is a photograph of two un-

finished mannekins. Applicant applies for registration of the female figures themselves. Examiner sustained in holding mannekins are not registrable since a mannekin is an article of utility. Applicant, however, may register the photograph as such if he so desires.

4. Giles, Eugene M. (78289)--Class A. "Synopsis: The Will of the People." The fact of publication in the form deposited was questioned because the copies deposited were typewritten. In reply, applicant's attorney states, "The applicant distributed his composition to various persons and has copies of it available for other persons who might be interested." Accept work as published in view of this specific statement.

5. Ackermann, Arthur & Son, Ltd. (41423)--Class H-For. "Grelags Rounding Up to Settle" by Peter Scott, pub. March 15, 1941. The Copyright Office is informed by the firm of Ackermann & Son Ltd., dealers in works of art at London, England, that they dispatched to this Office several months ago a copy of a published reproduction of a work of art. The Office never received this copy and it may have been lost in transit. In the meantime, the premises of the applicant were completely destroyed by enemy action and among the works destroyed were a very large number of these prints. Applicant regrets that he cannot furnish a copy as published but submits a small proof copy with the request that the Register of Copyrights accept this in lieu of the actual publication. The Board divides on the admissibility of this action. Mr. MacCarteney and Mr. Lasica are against acceptance since the deposit is admittedly a proof copy and lacks the copyright notice. Mrs. Brady, on the other hand, would accept the proof copy in view of the correspondence and the fact that previous deposits from this claimant always bore notice of copyright. Appeal. *Admittedly a proof copy. Cannot register. See Memo "Notice of Copyright".*

6. Powers Company, The (76764)-Class A. "Student Navigational Computer." The Copyright Office requested a new application in this case limiting the claim to the text matter and disavowing any copyright to the mechanical feature which is a part of the publication. Applicant complies with this request but the Examiner now raises a question as to the acceptability of the copyright notice. The notice appears on the copies as follows:

Copyright 1941
Designed by
William J. Catlett, Jr.

Produced By
The Powers Company
Mobile, Alabama

Mr. MacCarteney and Mr. Lasica would accept the work for registration inasmuch as the claimant's name, i.e., The Powers Company is present, notwithstanding the statement "Designed by William J. Catlett, Jr." which appears under the copyright notice. Mrs. Brady on the other hand holds that the name is not in the notice and votes for rejection. Appeal.

*Register as applied for.
See Memo - "Notice of Copyright"*

Notice of Copyright

MINORITY MEMORANDUM

January 9, 1942

Remitter: Ackermann, Arthur & Son, Ltd. (41423)

Title: "Greylags Rounding Up to Settle" by Peter Scott

Question: Should a "small illustration" of an English print, published in England with the notice required by the U. S. statute, be accepted as a deposit in view of the loss in transit of the actual print and destruction of the remainder of the edition by "enemy action"?

The undersigned approves of the acceptance of the deposit received December 31, 1941, in view of the statement made by remitter in letter of November 25, 1941 and received December 31, 1941. This letter written by a London firm from which the Copyright Office has received in the past three years a number of prints of exceptional value, each bearing the notice of copyright required by the U. S. statute, sets forth the ^{frankly} unfortunate circumstances which have made it impossible to deposit copies of the best edition. The letter states:

"The copy of 'Greylags Rounding Up To Settle,' by Peter Scott was despatched to you at the end of April last and we are afraid that it must have been lost in transit. In the meantime our premises were completely destroyed by enemy action and we lost a very large number of these prints. We regret therefore that we have not a copy which we can forward for registration of copyright. We enclose a small illustration of the subject and should be glad if under the circumstances the Register of Copyrights would accept this."

In the opinion of the undersigned, the filing of this letter with the deposit, with possibly a reference to the letter on the index card, would permit the registration of this claim to be made. In other instances, this Office has been constrained to make registrations of unquestionably doubtful copies because of specious statements made by the remitters responsible for their deposit. In such cases the registration "has been made for what it is worth". Therefore, the undersigned thinks that such action should be taken in the case under consideration, and the remitter should be so informed.

M. C. BRADY

Deposit is admittedly a proof copy and lacks copyright notice. Regrettably we cannot register notwithstanding difficulty of obtaining copy. If the work was published with notice, copyright has been secured and registration may be made any time during 28 yr. period.

W. H. Wise, Jan. 14, 1942

Notice of Copyright

MINORITY MEMORANDUM

January 9, 1942

Resmitter: The Powers Company (76764)

Title: Student Navigational Computer

Question: Whether this registration should be made in the name of the author, Wm. J. Catlett, Jr., as given in the notice of copyright and in the original application I-1 filed Nov. 27, 1941, or in the name of the printers, J. J. McMahon, doing business as The Powers Co., as found in the A-1 application filed Dec. 24, 1941.

This Company, The Powers Co., is listed in the Mobile, Ala., directory as follows: Powers Co., The (John J. McMahon) printers, 106-108 St. Michael.

This deposit was originally applied for in Class I as a published drawing of a scientific or technical character, by Wm. J. Catlett, whose name, in the opinion of the undersigned, is found in the notice of copyright on the deposit. The application I-1 was rejected as pertaining to a Computing Device, which would not be subject matter of copyright. This recommendation by the Examiner was overruled by the Revisory Board on December 9, 1941, in favor of a registration as "book," upon the receipt of an A-1 application giving after the title in line (6) the disclaimer: Copyright not claimed in the device features. Such application was requested and received on Dec. 24, 1941, but not giving the copyright owner as in the original I-1 application. The new application gave as owner, J. J. McMahon doing business as The Powers Co. The undersigned is in disagreement with the two other members of the Revisory Board, Mr. MacCartney and Mr. Lesica, who are in favor of accepting this second application without question. The undersigned points out that the name of the copyright owner as given in this second application, A-1, not only is at variance with the statement of ownership in the original application I-1, but is also at variance with the notice found on the lower left hand corner of that page of the deposit declared to be copyrighted as a "book". This legend appears as follows:

Copyright 1941
Designed by
Wm. J. Catlett, Jr.

It contains it is true a statement of authorship, as well as of ownership, but it would certainly convey to the public that both the authorship and ownership were vested in Wm. J. Catlett, Jr. The statement on the lower right corner of the deposit, not printed in conjunction with the Copyright 1941, and reading: "Produced by The Powers Co., Mobile, Ala., is in the nature of an imprint and refers entirely to the reproduction

of the copies, The Powers Co. being as before stated a printing company located at Mobile, Ala.

The undersigned is therefore in favor of further correspondence explaining to these remitters the requirement for registration in the name of the copyright owner as given to the public through the notice of copyright.

M. C. BRADY

Register as applied for. W. H. Wise, Jan. 14, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 9, 1942

A special meeting of the Revisory Board was held at 2:30 P.M. and adjourned at 2:45 P.M. The meeting was held to consider the application of Oxford University Press for registration of their claim to ad interim copyright for the work entitled "The War: Second Year." The Office of Production Management having need for this publication, it was deemed advisable by the Acting Chairman to act with as much celerity as possible. For that reason, Mrs. Brady not being available, Mr. Walter Pforzheimer sat to provide the quorum.

Total time consumed, 15 mins.
Unanimous decisions, 1

Oxford University Press (78307)--Class A4. "The War: Second Year." This work was originally published in four separate parts as The Oxford Periodical History of the War. The present bound book publication of the four parts took place, according to the original application filed, on December 1, 1941. The Office wrote informing the Oxford University Press that unless the deposit of the book as published on December 1, 1941 was effected within 60 days of the publications constituting the four separate parts, that the only copyright that could be claimed with respect to the ad interim application would apply to such new matter not appearing in the original four part publications but which may have been incorporated in the complete bound book publication.

The applicant replies stating that of the four original part publications, Volume 9 (the fourth part) alone was published within sixty days of the deposit of the bound book on December 6, 1941. The applicant further points out, however, that while it might be necessary to copyright Volume 9 separately, the time limit would now have expired as regards the deposit of an additional copy.

The Examiner primarily questions the acceptability of the bound book in lieu of the original periodical publication. Overruling the Examiner, the Board recommends the making of two registrations. The first would be for Volume 9 (Section 4 of the bound book publication), using the copy now in hand which was received on December 6, 1941, within the statutory limit. Applicant should file an application for Volume 9 (Section 4 of the bound book publication) giving the date of publication as October 27, 1941. As stated, the registration will be made, based upon the copy now in hand. However, ask for a copy of the original publication of Volume 9 in order that all of the requirements may have been met in the event of a proclamation by the President

under Public Law No. 258, 77th Congress. The second registration would be for the new material contained in the bound book publication of December 1, 1941. An additional copy should, therefore, be filed together with the new application limiting the claim to "new matter in Sections 1-3," and an additional remittance of two dollars.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 12, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:50 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer with Mrs. Rafter sitting as a voting member for one corrective entry.

Total time consumed, 50 mins.
Unanimous decisions, 8
Divided opinions, 2

Corrective entry:

1. Fawcett Publications, Inc. (AA 382520)--Class A. "Exciting True Adventures of Pocahontas." Where a wrong statement of authorship has been given in an application passed for registration and a certificate thereof issued, permit a corrective entry upon return of original certificate with additional copies, application and registration fee.

General Business:

1. Gundlach, E.T. (83550)--Class A. "Escuela Americana," Lessons 1--45 incl. in 14 separate groups. The only point at issue here is whether this Office should require the filing of separate title pages for a group of mimeographed language lessons which were apparently published without title pages. The Examiner would request the filing of such pages and this Office did make one request for their deposit. Applicant, however, ignores the request and it is the opinion of the Revisory Board that since publication took place without title pages this Office has no right to demand the filing of same.

2. Nelson, Florence (79900)--Class E. "Close Ranks!" This is a question of republication of a song to which new music has been supplied. The original version (published and registered) was deemed unsatisfactory by the author of the lyric who upon release of the lyric by the copyright claimant, United States Music, Inc. hired another composer to set a new musical version to the lyric. Since this new version is essentially different musically from the original, registration for the new version is permissible upon the filing of a new application correcting a present variance in claim.

3. Ryerson, Daniel, Inc. (81562)--Class A. "Thinking American." The book in question bears a 1941 notice of copyright and the Office was informed that a few copies were sold during 1940 constituting "advance"

orders made on December 30, 1940." Applicant further explains that inasmuch as all of these orders had been received from the mid-west, none of the books ordered in advance of the formal date of publication were actually delivered until after January 1, 1941. Accept this explanation concerning publication but request a new application giving the formal date of publication in 1941 to agree with the year date in the notice of copyright.

4. LaRue, Charles M. (Dr.)-(81087)--Class A. "LaRue Professional Appointment and Business Record Book, 1942." Applicant has deposited copies bearing a notice of copyright in which the last year date of publication has been changed by pen and ink to read "1942." This presents an advance year date of publication as compared with the application giving October 15, 1941 as the date. Examiner would reject because of the advance notice. The Board, however, would first write and inquire whether copies were actually published with a 1942 notice. It would seem as though the printed year date was actually 1941 and the applicant changed it to 1942, presumably thinking that copyright was secured in 1942, the year in which copies were deposited here. If this book was published with the correct printed 1941 notice, two correct copies may be deposited.

5. O'Brien, Clarence A. (Deposit Acc't)--Class K. "Hang Hitler". The deposit is a cardboard likeness of Adolf Hitler with a bent neck indicating that he has been hung and to which a string has been attached. The Examiner would reject, stating that the work bears no notice of copyright. There is, however, a full notice of copyright on the back of the print where there is a duplication of the pictorial illustration. In any event, the notice would be visible were the print hung or attached from any object. Request application form K.

6. Conroy, V.J. (83822)--Class A. "Merry Christmas...Look, Camera, Colliers" and 2 others. This matter was before the Board on January 7, 1942 at which time the application was referred to the Print and Label Examiner for possible action under that classification. The Print and Label Examiner returns the application to the Board with a recommendation that the material is not a commercial print, in that no article of merchandise is advertised or offered for sale. A subscription to a periodical, the Examiner holds, would not be an article of merchandise. The Revisory Board concurs with the Print and Label Examiner and recommends the following of the original recommendation of January 2, 1942 made by the examiner, Mrs. Halliburton.

7. Scribner's Charles Sons (Deposit Acc't)--Class A. "The Works of J. M. Barrie, Vols. 17 and 18." These deposits constitute Vols. 17 and 18 of the republished works of the late J. M. Barrie. On the copyright page of each volume is a collective notice of copyright. The applications have been filed upon form A2 claiming upon certain plays occurring in the volumes that are now apparently published for the first time. The Examiner would reject the applications inasmuch as

the new plays do not bear separate notices of copyright and the combining of a few plays would not, she feels, constitute a copyrightable compilation. The Board overrules the Examiner, having in mind Section 19 of the Statute which provides that a single notice of copyright shall suffice for one volume where a specific and limiting claim is made. Enter as applied for.

8. Todd, Ralph B. (81408)--Class E-For. "Metodo Festa." Applicant filed application on form E-For. for a book of musical exercises entitled "Metodo Festa." The notice of copyright appears upon what is the first page of music, the page preceding constituting a continuation of the explanation of the method in addition to some musical examples. The Board divides upon the acceptance of the notice of copyright. Mr. MacCarteney and Mr. Pforzheimer hold that the notice as placed is acceptable in that it is inscribed on the first page of the main body of music. Mrs. Brady dissents, holding that the notice does not appear either upon the title page (6 pages removed from the first page of music) or upon the first page of which music actually occurs. Appeal.

Notice acceptable for book of music, Class E-for. See Memo "Notice of copyright"

9. Shuron Optical Co., Inc. (597)--Class A. "Shuron Shopman Optical Prescription Standards." Division of opinion where the notice of copyright occurs at the bottom of a sheet constituting the copy and is separated from the year date of publication by the length of the sheet. Mr. MacCarteney and Mr. Pforzheimer hold that the presence of the year date occurring in the statement "Revised 1941 through answers received from questionnaire submitted to subscribers" may be read into the notice of copyright occurring at the bottom of the sheet. Mrs. Brady holds that the notice is fatally defective, lacking the year date of publication as an integral part thereof. Appeal.

No year date.

Notice of Copyright

MINORITY MEMORANDUM

January 11, 1942

Remitter: Sharon Optical Co., Inc. (579)

Title: Sharon Shopman Optical Prescription Standards

Question: Validity of copyright notice.

The deposit under consideration is a chart containing text and illustrations, and entitled "Sharon Shopman Optical Prescription Standards." This title is at the head of the chart, which is 28 inches long. At the foot of this chart is found the statement "Copyright by Sharon Optical Company, Inc., Geneva, N. Y." The title appears at the head of the chart as follows: "Sharon Shopman Optical Prescription Standards." Under this: "Originally established in 1931 - Revised 1941 through answers received from questionnaire submitted to subscribers." The undersigned is not in agreement with Mr. MacCartney and Mr. Lasica that this date of revision may be read into the defective notice at the foot of the chart and create a valid copyright in this work. It is purely a statement of a new edition, and an edition in which no copyright can exist because of fatally defective notice. The Copyright Statute, in my opinion, makes no provision for a patchwork notice of copyright, as its terms are "accompanied by" with reference to the name of the copyright proprietor, and "shall include," with reference to the year in which copyright was secured by publication.

The undersigned is, therefore, in favor of rejecting this deposit because of the publication, if publication has taken place, with a totally defective notice.

M. C. BRADY

No year date. W. H. Wise, Jan. 14, 1942.

MINORITY MEMORANDUM

Notice of Copyright

January 11, 1942

Remitter: Todd, Ralph B. (81408)

Title: Metodo Festa

Question: Is copyright secured and may registration be made in the Copyright Office when the notice of copyright does not meet the provisions of Section 19 of the Statute, that "the notice of copyright shall be applied in the case of ... a musical work either upon its title page or the first page of music ..."?

In the deposit under consideration the notice of copyright is found on page 3 of the music. The page itself bears the number 3, and musical escritura are found on pages 1 and 2. The notice of copyright does not therefore meet the requirement of the Act and no copyright is secured. In the opinion of the undersigned no claim can be recorded in the Copyright Office.

M. C. BRADY

Notice acceptable for book of music, Class B-for.

W. H. Wise, Jan. 14, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 13, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:25 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 25 mins.
Unanimous decisions, 3
Divided opinions, 1

1. Weinberg, Charles (83518)--Class E. "It'll Be Over (Before We Begin)." Held that the presence of a 1942 notice of copyright upon a sheet of manuscript music received in this Office for registration in December, 1941 is no bar to acceptance of the copy deposited. Register as applied for.

2. Individual Psychology Ass'n. (1140)--Class A. "Individual Psychology News," Vol. 1, Nos. 8-9-10, and "Individual Psychology Bulletin Vol. 2, No. 1. The question here is one of classification. The Examiner has pointed out certain existing informalities, notably that two publications have been applied for upon one application, and also the citizenship of the authors has not been given on the application. The Examiner would, however, continue the classification designated by the applicant in filing application forms A1. The Board holds, however, that these publications are unquestionably periodicals since they bear volume and number; are admittedly published at regular intervals; and contain a variety of articles by different authors. The Board accordingly suggests that three separate registrations be requested under the classification of periodical.

3. Willson, H.B. & Co. (Deposit Acc't)--Class 2. "Remember Pearl Harbor - 7-11." This work is in the nature of a sticker. It is shield-shaped in form and on one side bears the representation of the United States shield with the motto "Remember Pearl Harbor" in the blue and the numerals "7-11" beneath. On the back is a printed statement reciting the dates on which hostilities between Japan, Germany and the United States commenced. Examiner overruled in suggesting that an A1 registration be made for this work. There is insufficient text matter to support application for such a registration. The print likewise presents nothing of a copyrightable nature. Reject.

4. Field Museum of Natural History. (2093)--Class A. "Prehistoric Man." One of the two copies deposited is imperfect in that pages 5 and 6 are missing. The other copy bears a notice of copyright on page 5 which is the first page of text. The Board divides upon the acceptability of this notice. Mrs. Brady and Mr. Lasica hold that it is misplaced and

and furthermore does not identify the work to be copyrighted. Mr. MacCarteney, on the other hand, holds that the notice is acceptable, both as to position and as to identification. Appeal.

Notice of copyright
on page 5 under title "Section 31" acceptable. See *Notice*
"Notice of Copyright."

MINORITY MEMORANDUM

Notice of Copyright

January 13, 1942

Remitter: Field Museum of Natural History

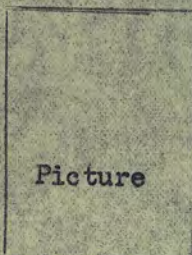
Title: "Prehistoric Man"

Question: The acceptability of the notice of copyright.

The outside cover of this brochure has the following set-ups:

PREHISTORIC MAN
HALL OF THE STONE AGE OF THE OLD WORLD

by
Henry Field
Formerly Curator of Physical Anthropology



Anthropology
Leaflet 31

Third Edition

FIELD MUSEUM OF NATURAL HISTORY
Chicago, U. S. A.
1941

There is no other page given over wholly to the title but on page 5, which constitutes the first page of the text, at the top of the page appears the following heading:

FIELD MUSEUM OF NATURAL HISTORY
Department of Anthropology
Chicago, 1941

Leaflet Number 31
Copyright 1941 by Field Museum of Natural History

The title of the work given in the application is "Prehistoric Man."

Mrs. Brady and Mr. Lesica hold primarily that the outside cover constitutes the title page and, therefore, the notice of copyright appearing upon page 5 is misplaced under Section 19 of the Act. They further hold that the title does not appear upon page 5 and that the designation "Leaflet Number 31" does not identify this publication and could not be considered as the title.

Constituting the minority opinion, Mr. MacCartney is of the belief that the heading on the first page of text at the top of the page can justifiably be considered as a title page and that in so far as the position of the notice is concerned, the requirements of Section 19 of the Act have been met in this case. With respect to there being no title on page 5 in connection with the notice, the undersigned points out that nothing could be more identifying than the statement "Leaflet Number 31" directly above the notice of copyright. This publication is leaflet number 31 of a series and is so stated to be on the outside cover under the particularized title "Prehistoric Man."

It is the minority opinion, therefore, that no bar exists to registration. There is a notice of copyright; it is inscribed on what may justifiably be termed a title page and there is definite identification of the material copyrighted in the form of the title "Leaflet Number 31." Accordingly the registration should be granted upon receipt of an additional complete copy and an application on form A2 since this is apparently a "third edition." This application may, if desired, include the further identification "Prehistoric Man" as a sub-title in line (6).

R. S. MacCartney

Notice of copyright on page 5 under title "Leaflet 31" acceptable.
Request A2 application giving title as "Leaflet 31." Could give
"Prehistoric Man" as sub-title.

W. H. Wise, Jan. 14, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 14, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:50 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 50 mins.
Unanimous decisions, 10

1. Newfield, Arthur A. (2337)--Class A. "Financial Time Table." This deposit is a sheet consisting of seven columns divided into lines to represent the years 1822 to 1952. It purports to show a periodic rise and fall of investment stocks. The application states that the source is unknown but the copies state that it was originally prepared October 25, 1909. There is apparently no basis for claim to copyright in the original work and it is extremely doubtful as to new authorship in the last two columns representing the years since 1909, since the last two columns are substantially the same as the preceding ones. This opinion differs from the Examiner's recommendation in that the Examiner would reject simply because it would not seem possible to furnish the citizenship of the originator of the work. It is not a question of citizenship. Request further explanation in support of claim.
2. Meade, Wm. J. (1332)--Class G. "New Service War Banner for Men in Service." Applicant applies for registration of a "Service War Banner." The square part is to be in red; a portion representing the map of the United States is to be in blue; while a white star is to appear in the center. Banners and flags are, of course, not copyrightable. Applicant, however, may apply for registration of the drawing if he will submit an identifying reproduction in color.
3. Rossini, Vincenzo (81256)--Class K. "Observe Bill of Rights Day - December 15, 1941, Viribus Unitis." The proof of this print bears a notice of copyright that while small is completely legible. When, however, the print was reduced in connection with its appearance in the publication entitled UNITED FOR AMERICA the corresponding reduction in the size of the copyright notice was such as to render the decipherment difficult. Examiner would reject. The Board holds, however, that the notice should be accepted, leaving it to the courts to determine whether or not it is sufficiently legible to sustain a claim of copyright. Accept but write warning letter as to legibility.
4. Von Hoffman Press (2336)--Class A. "Beamer Poultry Equipment Catalog No. 53" and two others. Where three books in the nature of telephone directories contain identical contents with the exception of a different

sequence of text governing the three towns represented, a single registration is all that is sufficient. Applicant need not file separate applications simply because the sequence of the towns represented differ in accordance with the location in which they will be used. Examiner otherwise sustained as to further recommendation.

5. Gale, Hoyt Rodney (2247)--Class A. "Basic Principles of Economics." There are a number of informalities which require correspondence. The only question before the Board, however, is with respect to the acceptability of the copies deposited. These copies have been bound in leather and it is indicated in the affidavit that they were so bound for the Library of Congress. It is understood that the remainder of the edition was issued in the form of unbound folders. The Examiner would request the filing of new copies in folder form. The Board holds, however, that the leather bound copies submitted should be accepted as constituting the best copies required under Section 12.

6. Watkins, Ann, Inc. (1854)--Class D-For. "Distant Point. Play by Afinogenev." The notice of copyright on this publication reads "Copyright 1941 All Rights Reserved." Beneath is a further statement to the effect that this play is fully protected with the direction that all inquiries be addressed to John Rodker, Pushkin Press, 6 Fitzroy Square, W. 1. The name of the claimant in the application is The Pushkin Press. The notice is deemed acceptable but a warning letter should be written.

7. Whitford, Robt. Publications. (80647)--Class E. "Modern Piano Studies [in var. keys] Rhythm Interlude" and 24 others. Examiner sustained in her recommendation that these musical compositions should be accepted for registration based upon "reharmonization of melody." The original tunes themselves are old but the applicant has by chord indications remodeled or changed the conventional harmonies to a point where the reharmonizations can be considered as new works under Section 6 of the Act.

8. Weinstein, Reuben (2310)--Class I. "Save for a Share in America." Applicant has applied for registration of a design for a savings bank, filing application form I2 and describing the work as a "drawing." While registration may be had for the drawing as such, it should be explained that designs for articles of manufacture can only be protected under the design patent laws. Request a new I2 form, referring to the work throughout as "drawing" and not as a design.

9. Terre Haute (79403)--Class A. "Presenting the Gettysburg Lincoln." Examiner sustained in pointing out that if this folder is distributed in connection with the sale or advertisement of reproduction of wood carving or the folders themselves as prints as seems indicated by a statement upon the copies, that application should be made as a commercial print.

10. Cooper, Edward W. (77291)--Class A. "Transcript of Stenographic Report of the Testimony taken on behalf of the Plaintiff in the matter in the U.S. District Court for the District of New Jersey in which Quemos Theatre Co., Inc., a corporation is plaintiff and Warner Bros. Pictures and others are defendants," Vol. 1. This matter was previously before the Board on November 5, 1941 at which time the Board requested further information as to the applicant's basis of claim in this work. The deposits appeared to be transcribed stenographic reports of depositions taken on behalf of the plaintiff in the United States District Court, District of New Jersey. The applicant, Mr. Cooper, subsequently appeared, before the Board and set forth orally his reasons for considering he had justifiable claim of copyright in the material in question. It is the opinion of the Board after careful consideration of both the oral arguments presented before it by Mr. Cooper and his supporting letters that this transcription does not represent a work of original authorship which is subject to copyright registration. The English cases cited by Mr. Cooper are not controlling. The American case in point is that of Davis v. Bowes 209 Fed. 53 (Bull. 17, p. 72). The transcription of depositions taken in court is not an item of original authorship nor would be the clarification of garbled testimony. This transcription is purported to be fact and verbatim fact at that. Applicant's admission that in many instances the exact wording of the witnesses depositions have been changed for purposes of clarification or interpretation of what the witness meant to say (in the transcriber's mind) would not entitle the transcriber to a copyright. Where a publisher pretended that a copyrighted work was a translation from a well-known foreign writer whereas it was on the contrary an original production by a native, it was held that such pretense forfeited the copyright, Wright v. Tullis, 1 C.B. 873. Reject.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 15, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:50 A.M. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 50 mins.
Unanimous decisions, 7
Divided opinions, 1

1. Linvingston, Callard (No Fee)--Class ? "The Thompson Self Routing System." This work consists of a sheet of cardboard, at the upper right hand of which is a drawing in various colors indicating a system of general travel direction on highways. Across from the drawing is a correlated table and beneath and comprising a large portion of the sheet is a textual explanation of the working of the system. Applicant applied for registration of the entire work as an unpublished technical drawing. He was advised that only the chart comprising the actual drawing was registrable in advance of publication---that the entire work could only be classified as a book. Applicant's attorney requests reconsideration upon the grounds that the entire work is so correlated as to render impossible any separation of any of the three parts. In the view of the Board his explanation but strengthens the Office case that the work as a whole is a book and can only be registered as such following publication with notice.
2. Keller-Crescent Co. (2403)--Class K. "Service Man, My Friend." There are several items involved in this remittance but the only one that concerns the Board is a circular sticker colored in the national colors and bearing the inscription "Service Man, My Friend." Examiner is of the opinion that there is no copyrightable matter present. The Board, however, taking the work as a whole considers it registrable as a print or pictorial illustration in accordance with the Register's advice with respect to a previous similar case. Request a new application on form K.
3. Deacy, Wm. Henry. (1995)--Class G. "Victory Game Board." This work is a drawing of a gameboard, but since it reproduces primarily the conventional figure of a hexagon with connecting lines from the angles and the applicant applies moreover under the title "Victory Gameboard," reject as such.
4. Tucker, R. (2254)--Class E. "Symphony for the Reich." The Office has had considerable correspondence with respect to this applicant's attempts to register his musical composition and dramatic sketch. The latest applications received give his citizenship as "British subject residing in Canada." This is not acceptable to the Examiner who wants a specific statement as to whether he is a citizen of Canada or a subject of Great Britain. She likewise questions the classification for the sketch, deeming Class C more applicable than Class D2, the latter being the classification chosen by the applicant himself. The Board is of the belief that these expressed informalities

are unimportant and directs entry without further correspondence, using the applications received on January 2, 1942.

5. Enterprise Novelty Co. (79448)--Class A. "Rotation and Chess Characters." The deposit in question is a gummed sheet consisting of explanatory text and circular perforations containing numerals and representations of chess figures which perforations are presumably intended to be punched out ultimately and used in connection with the playing of a game. Accept an application upon form A1, there being both pictorial and textual matter that would be subject to registration, requesting, however, the filing of a new application, giving the title as it appears on the copies, i.e., "Follow instructions Carefully--to play rotation--to play chess."

6. Empire Publication (No Fee)--Class E. "The Phony Little Man with the Trick Moustache." The applicant who is a United States citizen had his musical composition accepted by the British Broadcasting Company in England where it became a "smash hit." Copies of the foreign publication were sent to this Office by the applicant, who is the composer, bearing an insufficient notice of copyright. The application was rejected. Subsequently the Office received two copies of a new publication bearing the statutory notice. The question is whether the composer, being a citizen of the United States, can claim the privilege afforded foreign authors and composers where publication has originally taken place without notice of copyright, the privilege being that of republication with proper notice and the subsequent re-application for registration. The Examiner holds that there can be no republication and that the copyright is irretrievably lost. The Board, however, is of the opinion that to adopt such a policy would *mitigate* against American authors and composers to the unfair advantage of foreign composers. It recommends, therefore, that provided no copies of the first foreign edition which bore an insufficient notice of copyright were ~~not~~ published in this country that the applicant can republish with proper notice and subsequently apply for registration (which he has already done).

7. Aatell & Jones, Inc. (No Fee)--Class 1. "Place Mat. Wayside Inn." The work in question is admittedly a paper doily upon which has been printed a pictorial illustration which bears notice of copyright. Applicant while admitting the doily is an article of use and therefore not subject to copyright privileges, nevertheless requests registration under the copyright law for a print due to the lesser cost as compared to design patent. Examiner sustained. Reject the application as not acceptable under the Copyright Act.

8. Shlivek & Brin (1919)--Class I. "Identification Bag 1942". Applicant files an application on form I2 for a drawing of a woman's handbag. The Board divides upon the point of classification. Mr. MacCarteney and Mr. Lasica hold that the work is as much a technical drawing as it is an artistic drawing, and applicant having applied under the former classification, application should be honored and the registration made as applied for. Mrs. Brady upholds the Examiner in holding that the work is an artistic drawing rather than a technical drawing and can only be registered as such. She would require an application on form G2. Appeal. Do not suggest change

*from classification chosen by the applicant.
See memo "Classification".*

Classification

MINORITY MEMORANDUM

January 15, 1942

Remitter: Shlivek & Brin (1919)

Title: Identification Bag - 1942.

Question: Is the deposit under consideration registrable in this Office as a drawing of a Scientific or Technical Character?

The undersigned disagrees with the other members of the Revisory Board in their holding that this deposit is registrable upon the application I-2 filed on January 8. And as further correspondence must ensue (see Examiner's recommendation) it seems advisable to suggest the correct classification for the drawing under consideration.

The deposit is a quarto sheet of manilla paper on which is found a neatly executed sketch of a lady's handbag, with an ordinary chain attachment for a handle. This handle is equipped with a name plate, inscribed "Mary Jones." A title appears under this sketch, as follows:

"The Identification Bag"
- 1942 -

The drawing is an essentially pictorial presentation of the bag as it might appear when manufactured. There are no specifications for its construction, and no technical presentation of its several parts, such as would be required in its construction. There is in fact only a picturization of a lady's handbag such as might appear in a newspaper advertisement of the finished product. The undersigned would therefore recommend application by means of form G-2.



M. C. BRADY

Do not suggest change from classification chosen by the applicant.
W. H. Wise, Jan. 19, 1942.

COPY

1104A

MEMORANDUM

MUSIC A' or E'?

January 15, 1942

Referring to statement of new matter in E1 applications.

Where a musical composition in the public domain is reprinted and the only new matter with such music is a page or two of text matter, an application on form E1 (for a republished musical composition) with the statement of new matter as "text matter" cannot be accepted. The text matter may be subject matter of copyright if a notice of copyright is printed in connection therewith and an application on form A1 to cover such text matter can be accepted; but where a notice of copyright in such case is placed in the statutory position for a musical composition, no application can be accepted. Such a notice advises the public that a claim of copyright exists in music which is in the public domain.

Where an application is filed on form E1 for a republished musical composition with new copyright matter and there is new musical composition upon which the claim of copyright is based, the application should not be made the subject of correspondence merely because in space 7 provided for a statement of new matter there is listed in addition to the musical composition a statement with respect to prefatory text, instructions, etc. A notice of copyright placed in a statutory position for the music and also a notice placed in a position applicable to the text does not make two registrations obligatory; a separate registration may be made for the text if the applicant so desires and files appropriate application (A1).

(W. H. Wise)

Assistant Register of Copyrights

Approved:

(C. L. Bouvé)

Register of Copyrights

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 16, 1942

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

Total time consumed, 70 mins.
Unanimous decisions, 13
Divided opinions, 1

Corrective Entry:

1. Sweet, Milo (2823)--Class E. "Fight for Wyoming." The application originally received for registration included the name of Thornton W. Allen as a co-composer of the music. The claimant, Milo Sweet, now asks for a corrective entry, omitting Thornton W. Allen's name. Before such action can be taken the claimant must submit a statement coming from Thornton W. Allen agreeing to the denial of his authorship.
2. Music Publishers Holding Corp. (Trust)--Class E. "Poor Butterfly." Registration was originally made for this song in 1916 at which time the name of R. H. Burnside was omitted from the copies as one of the authors of the lyric and his name did not appear on the copyright application filed. In 1939 Music Publishers Holding Corp. applied for a corrective entry to include the name of R. H. Burnside as one of the authors of the lyric. Now comes a letter on December 17, 1941, stating that the corrective entry was actually wrong, the original entry omitting Burnside's name correct, and they wish a reversion to the original status of the rights. Such recorrective entry cannot be made in the absence of authority from the person whose rights are affected, or his heirs, administrators or assigns.

General Business:

1. Baldwin, Garriott T. (No Fee)--Class A. "For Sale: The Right to Use the Dialog - Contain-O-Gram..." Applicant's attorney applies for registration of a contribution to a periodical consisting of an advertisement of the right to use "the Dialog - Contain-O-Gram." This dialogue-contain-o-gram actually is nothing more than the drawing of a line or lines around a speech blurb of a cartoon such as has been in use practically ever since the inception of the newspaper cartoon. Reject as a preposterously excessive claim and refer to the senior attorney for a letter and possible reference to the Federal Trade Commission regarding "truth in advertising."

2. Howson and Howson (2062)--Class A. "The Bee Line Auto-Way Charts." Examiner sustained in holding that the work is essentially a device and without the scope of the amended rule expressed in Section 201.4, paragraph (1) of the Code of Federal Regulations of Copyright Office.
3. Lo Cicero, Anthony (2841)--Class C. "The Vocal Mailbag Program." Examiner merely questions the identification of the work as expressed in the title on the application and recommends the detachment of certain pages of explanatory material as a part of the actual broadcast. The Board goes further and questions whether the script deposited is complete. It advises inquiry and the filing of one complete copy as actually to be given over the air, without, however, the phonograph recordings.
4. Cincinnati Enquirer (2896)--Class A. "The Enquirer's 1941 Consensus 10 Best Stories" in THE CINCINNATI ENQUIRER, December 28, 1941. The claimant in this case is the Cincinnati Enquirer according to the application. The notice of copyright simply reads "Copyright 1941" with the statement "The Enquirer's 1941 Consensus 10 Best Stories" which is the title appearing above the notice. Examiner sustained in rejecting the notice as lacking the name of the copyright owner.
5. Portugal, Eugene J. (No Fee)--Class I. "Avigo No. 1 Avigation protractor, Parallel Rulers containing Navigational Scales." This matter was before the Board previously on November 24, 1941 at which time the Board ruled that while the applicant's drawing of certain mechanical instruments could be copyrighted, the manufactured articles themselves were not subject to copyright protection. Applicant now requests reconsideration and in support of such action he cites two alleged cases wherein this Office granted registration for mechanical devices. The Board reaffirms its earlier position in that registration for the manufactured articles cannot be made. Incidentally, no entries eventuated in the two cases advanced by the application in support of his case. So advise.
6. Munson, Grace (40212)--Class A. "Individualized Lessons in Beginning Reading." This matter was before the Board previously on September 22, 1941 upon the question of publication with proper notice of copyright. Following a reading of the explanation offered by the applicant's attorney, the Board upheld the Examiner in her recommendation for the registration of certain of the texts and an inquiry with respect to certain other texts. Two registrations would seem to be in order.
7. Le Neil, R.N. (2203)--Class ? "Glacial Surface Feature Symbols." Applicant applies for registration of a cardboard sheet on which have been painted a number of symbols pertaining to glacial surface feature symbols and shore lines and beaches of glacial lakes. The Board upholds the Examiner in holding that symbols as such are not copyrightable to protect the application of the drawings to a particular meaning. The work deposited is a chart, i.e., an unpublished book, and

may be so registered following publication with notice on form A1 or as included in a map on form F.

8. Schiffmann, Leon (79301)--Class E. "Romance." The Office questioned the original application of this applicant in which his citizenship was given as "stateless." It is now established that the U. S. State Department considers him as such. Enter upon original application giving the citizenship as "stateless." See the case of Houghton Mifflin Co. v. Stackpole, Bull. 22.

9. Galbreath, R. H. (3039)--Class ? "Japanese Hunting License." This card is one of a new popular so-called "Jap hunting license." There is an advertisement on the back, however, pertaining to "When low in spirits... Economy Liquors, Inc." Refer to Print and Label Examiner for possible action under that classification.

10. Hickey, Edward Joseph (82808)--Class A. "Win \$1,000 U.S. Savings Bond for a Dime U. S. Savings Stamp." This work is a mimeographed sheet advertising a chain letter system for winning a \$1,000 U. S. Savings Bond. Examiner sustained in her recommendation that the acceptance of such material is questionable. Refer to Senior Attorney for letter of inquiry to the Post Office Department.

11. Bancroft, Bessie Alice (2673)--Class A. "Utah Education Review" December, 1941. Applicant has deposited a manuscript of an article together with a copy of the December, 1941 issue of the "Utah Educational Review" in which this article has been printed, apparently in toto without the copyright notice. Reject and refund.

12. Brylawski, Fulton (Deposit Acc't)--Class A. "Donald Duck" Nov. 23, 1941 and 24 others. Examiner sustained in questioning an apparent variance in authorship as between the Donald Duck cartoons and Mickey Mouse cartoons, the former giving Walt Disney as author and the latter Walt Disney Productions as the author. The Board overrules the Examiner in her further recommendation as to a questionable date of publication; the date given in the application is the date of the syndication and in view of the decision in the Twentieth Century Fox case cannot be questioned.

13. American-Polish National Council (W.R. 40016)--Class F. "Geo.-Political Map of Poland." This is a question of copyright notice. The deposit is a pictorial card entitled "Geo-Political Map of Poland which bears the following superscription in the lefthand lower corner: "Copyright GEO-POLITICAL MAP OF POLAND." Above, occurring as the signature in a scroll printed in very small type in polish is the name "L. A. Kupferwasser." No application accompanied the original deposit and the registration was denied on the ground that no name appeared in the notice of copyright. Applicant now replies, submitting a marked copy of a map showing that the name forming the signature in the scroll is supposed to be the copyright claimant. Incidentally, the year date occurs under the signature. The Board divides--Mr. MacCarteney and Mrs. Brady sustaining the Examiner in her position that this is an incomplete notice in that neither the name nor the date is an integral part of the notice of copyright. Mr. Pforzheimer on the other hand

holds that all of the elements of the notice are present and votes for entry upon receipt of an appropriate application. Appeal.

Notice Acceptance
See Memo "Notice of Copyright"

MINORITY MEMORANDUM

Notice of Copyright

January 17, 1942

Remitter: American-Polish National Council

Title: "Geo-Political Map of Poland"

Question: The Acceptability of the Notice of Copyright

The work in question consists of a postcard, the pictorial matter consisting of a geo-political map of Poland. In the lower left-hand corner of the postcard appears a scroll, written in Polish, the top line of which reads, translated, "Geo-Political Map of Poland." There follow twelve small lines of Polish text. At the end of the text appears the name L. A. Kupferwasser and under his name the words "Chicago, Ill. 1-1X-41." Under the scroll appears the word "Copyright," and under the word "Copyright" the phrase "Geo-Political Map of Poland."

L. A. Kupferwasser is the copyright owner. His name appears directly under the year date, 1-1X-41, and this year date is approximately 1/2 inch from the word "Copyright." The majority contend that this is not a valid notice of copyright. The minority's position is that the name of the copyright owner and the year date of publication are so close to the word "Copyright" that it can truly be said that the word "Copyright" is "accompanied by" the year date of publication and the name of the copyright owner. Were the text of this scroll in English, the minority has no doubt that the Board would have ruled this a valid notice, as it has done in many similar cases. The Board now accepts the notices where the name of the copyright owner is included in descriptive material upon the copyright page.

The minority therefore submits that this is a valid notice within the more recent rulings of the Board and should be accepted.

W. L. PFORZHEIMER
Member of the Board

Notice acceptable.

W. H. Wise, Jan. 19, 1942

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 19, 1942

The Revisory Board convened at 11:00 A.M. and adjourned at 11:30 A.M. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Smith sitting in place of Mr. Pforzheimer who was absent from the Office.

Total time consumed, 30 mins.
Unanimous decisions, 6

1. American Unitarian Ass'n (3459)--Class E. "Pange Lingua" and "Easter Song." These works were originally rejected because of defective notice of copyright, lacking the year date of publication. Applicant now re-applies, filing new copies bearing a correct notice of copyright with the explanation that the song sheets were printed in anticipation of Easter week, 1942, and for a meeting which is to be held in May 1942. "Thus," he states, "only a limited number of copies have been sold and these definitely by mistake." The Examiner would reject and refund according to her recommendation. The Board holds, however, that the applicant should first be written to for information as to the number of copies constituting the "limited number" distributed.
2. Williams, Carola Bell (82993)--Class D. "No Bowl of Cherries." The Office questioned the acceptance upon a single D2 application of what were apparently six separate and distinct dramatic monologues. Applicant advises that six monologues are "played as a whole unit." Examiner sustained in her recommendation that unless the applicant can show clearly that there is a central theme running through all six monologues and that they are definitely a unit, six separate registrations will have to be made.
3. Republic Music Corp. (Deposit Acc't)--Class E. "Twice in a Lifetime." Copies bearing notice of copyright for 1941 in the name of Republic Music Corporation received. Beneath this notice is a second notice reading "Copyright Assigned 1942 to World Music, Inc." The application now filed is in the name of the latter claimant and the date of publication is given as January 12, 1942. In the absence of any record of an unpublished registration inquire with respect to the 1941 notice and the notice of assignment.
4. Pocket Books, Inc. (No Fee)--Class A. "The Pocket History of the World." The copies of this publication originally deposited bore a single notice of copyright for 1941 in the name of Pocket Books Inc. Two applications were received, one in the name of Macmillan & Company and the other in the name of

H. G. Wells. Since it appears that the only copyright now being claimed is in the chapter numbered 69 at the end of the book and applications were filed in the names of the claimants presumably involved in the book as a whole, the applications, following lengthy correspondence, were filed without action. Applicant now files new copies bearing two notices of copyright, one for 1922 in the name of H. G. Wells and the other for 1941 in the name of Pocket Books, Inc. The Board is of the belief that registration can be made for Chapter No. 69 upon receipt of a new form A2, limiting the claim to the proper material.

5. Cloister Print Shop (No Fee)--Class K. "Hangers for Defense!" This work is in the nature of a card sent out by cleaners and apparently attached to the metal hangers upon which clothes and dresses are hung, urging the return of excess hangers to the cleaners. There is a pictorial representation of Uncle Sam in addition to the text matter enclosed within red, white and blue borders. The Examiner would reject because the symbol "C" in a circle has been used instead of the word "Copyright" or its abbreviation "Copr." and there is no year date in the notice of copyright. The Board, however, notes the presence of pictorial elements as just stated. It would, therefore, first refer the work to the Print and Label Section and if it is not adjudged a commercial print, the Board recommends the suggestion of registration upon form K.

6. Wottage, Frank Jr. (2225)--Class E. "The Jolly Cowboy." The application filed has been amended to read "name of composer of special arrangement" in line (3) and lines (4) and (5) have likewise been changed to read "arranger" instead of "composer." The copy itself bears the statement "Arranged by Stephan Albrecht." The Board does not see that there has been any claim made to "revision" merely because the word "Revised" appears on the copy in connection with another person who apparently does not figure in the claim. Ask E3 application, giving a statement of what the new music covers, such as "new arrangement."

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 20, 1942

The Revisory Board convened at 11:00 A.M. and adjourned at 11:50. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Pforzheimer with Mrs. Steagall sitting as a voting member in the case of one corrective entry.

Total time consumed, 50 mins.
Unanimous decisions, 15

Corrective Entry:

1. Donnelley, R.R. & Sons Co. (A-159372). "Voyages to Vinland." This matter was before the Board on December 27, 1941 at which time it recommended the granting of a corrective entry to place of record the true printer of this publication. The Office is now advised that it will be impossible to deposit additional copies since the entire edition is now out of print. In view of the occasional practice of the Office in using original copies for a corrective entry, this corrective entry may be made following the recall of the original copies from the Library of Congress.

General Business:

1. Long-Bell Lumber Co. (Deposit Acc't)--Class B. "Log of Long-Bell, March 1940." Held that a notice of copyright inscribed in connection with the title of a periodical but lacking the actual name of the publisher is acceptable where the claimant's full name appears prominently under the title on the page across from the notice of copyright.
2. James and Franklin (3574)--Class ? "Female Figure." The deposit is a cardboard outline of a female figure colored a solid color with indenting lines following the outlines of various parts of the body. The Examiner is sustained in questioning this work primarily as a possible article of utility. If, however, the right to register is established, it would be as a published work of art rather than as a print as recommended by the Examiner.
3. Walters, Fred L. (No Fee)--Class I. "The Interceptor Method with Enumerated Designs," etc. The only point at issue here is the number of registrations to be made for the material deposited. Examiner considers a single registration as sufficient. The Board, however, finds three separate technical drawings involved and accordingly recommends the filing of three separate applications on form I2.
4. Standidge, Harry W. (2969)--Class A. "War." This work is in the nature of a published gameboard somewhat on the order of Chinese checkers. Regis-

tration was denied upon this ground and the applicant now reapplies, insisting that the deposit can rightfully be termed a "book." Reject again as a published gameboard. In view of applicant's denial of statement of title as given in line (6) of the application, have a photostat made of the application and send it with the Office letter rejecting the work. According to a notice appearing upon the copy this game was patented in 1935.

5. Vené, Ruggero (84014)--Class E. "Second Piano to the Fifteen Inventions." The work for which registration is desired is a new second piano to the fifteen inventions of Johann Sebastian Bach. The Examiner would require fifteen separate registrations, one for each of the inventions. The Board, however, is of the opinion that since the two part and three part inventions of Bach are well established in musical literature as a single work, a single entry for the Second Piano to the Fifteen Inventions could justifiably be made. Enter upon the single application and fee in hand.

6. Sale-Harrison, Leonard (82290)--Class C. "The Remarkable Prophecies of Zechariah and Malachi." The Office previously questioned this deposit as constituting a bona fide lecture prepared for oral delivery. Applicant replies that the manuscript "contains contents of a number of lectures." The Examiner seems willing to accept the material as constituting lecture material but recommends separate registrations, one for each lecture. Upon examination by the Board, however, the deposit appears to be nothing more than a list of Biblical quotations and the Board is unable to accept the deposit as a bona fide lecture. Request the filing of complete copy of the lecture as delivered orally.

7. Applegate, Les (3560)--Class E. "We'll Nip the Nipponese." Held that a notice of copyright reading "Copyright applied for Dec. 12, 1941" is acceptable where the name of the claimants (according to the application) appear upon the same page as the notice.

8. Kingsland, Rogers & Ezell (3454)--Class ? "Keep-On Keepin' On." This deposit is a sheet of text in the center of which is inscribed the letter "V" and between the arms of the V, the slogan "Keep-On Keepin' On." The application specifically limits the claim to the letter "V" and the slogan. In view of this limitation no registration is possible since there is nothing copyrightable either in the letter "V" or the slogan or both together. Reject upon the basis of applicant's own denial of copyright in the accompanying text.

9. La Velle, William (1886)--Class A. "The Streamliner Weekly Expense Record." Examiner simply questions the fact of publication of this booklet inasmuch as the notice of copyright has been typewritten on each successive page. The Board, however, finds the work to be nothing more than a book of blank forms and directs rejection accordingly.

10. Fuller and Kaufman (74002)--Class I. Eighteen pictures composed of block designs. The deposit is a blue print containing pictures of eighteen

blocks to be used in connection with testing the creative abilities in children. There is also a drawing of a rack to hold the blocks and a legend is included at the bottom of the sheet. Examiner would not accept as one drawing in view of the multiplicity of blocks. The Board is of the belief, however, that a single registration can be made in view of the fact that the drawings are all connected and the sheet constitutes in effect a single drawing of a scientific or technical character. Enter as such upon form I2.

11. Catholic Book Publishing Co. (935)--Class A. "I Pray the Mass 'Sunday Missal'." The Catholic Book Publishing Company states that the work in question which is a Sunday Missal is "an entirely new book, edited by the author and arranged by the author * * * also the arrangement of text is original." In view of the action of the Register of Copyrights in accepting applications filed by Benziger Bros, the religious publishers, for registration of a Roman Breviary and also a missa defunctorm as books now first published, accept the application on form A1 in this case.

12. Sponsored Radio Programs Inc. (3940)--Class A. "The Dial Twister." The Examiner of books questions the Print and Label Examiner's decision that this work is not a commercial print. The Examiner of books feels that articles of merchandise are at least advertised indirectly. The Board sustains the Print and Label Examiner in holding that classification KK is not proper for this work. Enter as applied for on form A1. The sheet advertises a service and may well be published in the form deposited.

13. Graziano, Louis (3762)--Class KK. "Bacon Brings Home the Profits Tenderlean Brand." The Print and Label Examiner does not consider this work as constituting an advertising print, Examiner feeling that the sheet advertises a "franchise for a name" rather than an article of merchandise. Following examination, however, the Board is of the belief that the deposit is used in the sale or advertising of an article of merchandise in the form of a "bacon wrapper" of the title "Tenderlean Brand." Register under Class KK.

14. Littlefield, H. Breckon (3801)--Class A. "General Design-Bolt Braced Bldgs." The publications consist of two sheets upon each of which four photographs illustrating method of building construction are reproduced together with descriptive text. The Examiner doubts that these two sheets are a unit publication and in the event this doubt is substantiated would require the filing of two K applications classifying each as a print or pictorial illustration. The Board agrees with the Examiner in questioning the publication of the two sheets as a unit. It considers, however, the proper classification to be that of "book" and the registration or registrations should be made accordingly.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 21, 1942

The Revisory Board convened at 10:30 and adjourned at 11:00.
Those present were: Mr. MacCarteney, Mr. Pforzheimer and Mr. Lasica.

Total time consumed, 30 mins.
Unanimous decisions, 6

1. Kimmell & Crowell (3871)--Class I. "Drawing of a lapel button entitled 'Remember Pearl Harbor'." The deposit is a drawing of a lapel button consisting of a full-face view and an end or side view. The full-face view presents nothing copyrightable since it is simply a blue circle with the familiar slogan "Remember Pearl Harbor" and the date inscribed therein. The entire drawing was first rejected as not copyrightable. However, in view of the fact that the end or side drawing does show some technical expression of the details of the pin, registration may be applied for upon form I2 if desired. Three registrations are not in order inasmuch as the only difference between the three copies deposited is as to the slogan which is not copyrightable.
2. Smith Lamson B. (No Fee)--Class A. "Now and Then and Long Ago in Rockland County New York." The copyright page of this book bears the notice of copyright reading "Copyright December, 1941." Below the name Ramapo Valley Independent appears in connection with the statement of printing. The author's name, Cornelia F. Bedell, is confined to the title page. The Office advised the printers, who are the remitters, that if the copyright was claimed by the Ramapo Valley Independent, registration could be made. The press replies that it was intended that the copyright be in the author's name. However, the Ramapo Valley Independent will take out the copyright and subsequently assign it to the true claimant who is the author. Examiner would reject upon the ground that the claimant's name is not in the notice. There is quite a doubt, however, as to whether this work has actually been published as yet, no date of publication having been sworn to. Inquire first as to whether the work has been published, explaining publication. If not, then the author's name may be added to the notice of copyright and the registration subsequently made in the name of the true copyright owner. If publication has taken place then follow the decision in the case of Bisel v. Ladner permitting copyright to be taken out and held in trust for the true copyright owner.
3. Adcraft Club of Detroit (83184)--Class B. "The Adcrafter," Vol. 19, No. 50, December, 1941. Applicant wishes to secure copyright protection for the cover of this issue of the magazine alone. Examiner recommends

application form A5 and registration under that classification. The Board holds that the cover is not a contribution to a periodical but is a print and should be registered as such on application form K.

4. Kennerly Press (1577) Class A. "Dot Leetle Fur Cap". Application for registration of this poem was previously submitted by the Stone Stable Press referred to in the colophon of the Kennerly publication. The Stone Stable Press publication was not granted registration in the absence of demonstrable new copyright matter, the poem itself apparently being in the public domain. This new publication issued by the Kennerly Press, however, has illustrations. Advise that new application on form A2 may be filed claiming upon the illustrations and giving the artist as the author of the new copyright matter together with his citizenship.
5. Turner, H.D. (83780)--Class A. "Farmers' Business Guide." Applicant states that five copies of this typewritten and penned material were sent to different firms "offering to sell it to them on a royalty basis." Examiner would apparently accept this as statutory publication. The Board feels, however, that the sending of five copies to different firms would in reality be only the first step in the issuance of a published edition and that what the author had in mind was to secure the publication of his work by selling the right of publication to a publisher. Public availability is the essence of publication and there is no indication that copies of this material are available to the public. Reject and refund.
6. Oahu Publishing Co. (355)--Class A. "Circus Blues." The only point at issue here is the acceptability of a statement of new matter in the case of the musical composition entitled "Circus Blues," recited in the application as "Revised arrangement (Bars 3, 4, 11, 12, 31 and 32)." Examiner objects to the use of the word "revised." The Board holds the statement acceptable and directs registration as applied for.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 23, 1942

The Revisory Board met at 10:00 A.M. and adjourned at 10:50 A.M. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Pforzheimer, Mrs. Rafter sitting as a voting member in the case of one corrective entry.

Total time consumed, 50 mins.
Unanimous decisions, 10

Corrective entry--

1. Musette Publishers, Inc. (No Fee)--Class E. "Sing A Song of Americans." The publishers wish to have a corrective entry made based upon an erratum stamp, notifying the public of the source of the poems included in the volume by Rosemary and Stephen Vincent Benét. Examiner sustained in that no corrective entry is in order since the information would not appear anywhere in the record or on the certificate of registration. Inform the publishers, however, that we will transfer the copies bearing the erratum stamp to the Library of Congress to become part of its permanent collection.

Regular business--

2. Western Business Papers, Inc. (3873)--Class B. "Gas" Vol. XVIII, No. 1, January 1942. Held that a notice of copyright under the title heading of a periodical which is separated from the name of the claimant by a listing of the names of the officers of the publishing company is acceptable. Write warning letter.

3. Ohio State University Assn. (22547)--Class E. "Carmen Ohio." Applicant deposited this song in the form of sheets torn from a collection published in 1916, in which the work originally appeared. The Office accordingly requested the filing of complete copies of the collection as published in 1916. Applicant now informs the Office that it is impossible to obtain copies of the 1916 publication and deposits in lieu thereof copies of a revised 1923 edition in which the song in question appears. Held that the Office may accept the copies of the song in sheet form as representative of the "best edition".

4. Gilchrist, Grace G. (83771-refunded)--Class D (?). "The Star Spangled Banner". Applicant originally filed an application for regis-

tration of this work on form D-2 following a personal interview with the Senior Attorney. While not agreeing as to the classification under which the application was filed, the Senior Attorney nevertheless agreed to pass the application to the Examining Section. The Examiner rejected Class D-2 as being permissible but indicated that an application on form C would be acceptable. The applicant again appeared in person at the Office and insisted that the registration be made as originally applied for, i.e., as a dramatic composition. The case being referred to the Revisory Board upon reconsideration at the applicant's request, the decision was reached that this material is adjudged to be an incipient dramatic composition and nothing else. Registration in Class D would be in order if and when a copy is deposited fully worked out in dramatic form. The Board finds that registration in the form deposited is not in order.

5. Kenyon & Kenyon (Deposit Acct.)--Class A (?). "Day by Date Calendar 1942." This work is simply a year's calendar presented upon a single sheet. It was originally rejected as not being subject matter of copyright. Applicant protests the rejection pointing out that the Office granted registration for a similar calendar for the year 1940. Upon further consideration, the Board recommends referring the application to the Print and Label Examiner for a possible registration under that classification, since articles of merchandise, namely, Seamlex all metal hose and fittings and copper tubing are advertised, and there is at least a red border and blue lettering to give the sheet the aspect of a print.

6. Earing, Harvey M. (81810)--Class A(?). "Suggests?" The deposit, a single proof sheet, consists of three brief directional statements--

"Do not destroy or throw this wrapper away ...

"It is of value to you ... Present it with your next purchase and a proportionate discount will be allowed."

Held that this is not subject matter for copyright, there being insufficient text to justify it being considered as an original work of authorship. Reject.

7. Southern Music Pub. Co., Inc. (Deposit Acct.)--Class E. "Maraca Raya," "Carida No Ta Vini," & 3 others. The Examiner would question the deposit as constituting copies of the best edition published, the deposits being reproduced by some offset process or by mimeographing. The Board does not feel that there is any need to question the form of deposit and directs entry as applied for.

8. Humm, Doncaster G. (3872)--Class A. "Humm-Wadsworth Temperament Scale Profile Nomograph." The only question here is one of classification. Applicant files an application on form A-1 for this work, and the Examiner requests an application on form I-1 for the same work. The Board

directs acceptance of the application as filed, namely, on form A-1. The work is a chart and within the meaning of sub-section (a) of Sec. 5.

9. Grammes, L. F. & Sons, Inc. (No Fee)--Class K. "Remember Pearl Harbor" (Airplane) & "Buy Defense Bonds" (Shield design). Two stickers have been deposited, one a pictorial shield reminiscent of the United States shield but containing differences sufficient to result in a copyrightable print. The other sticker is simply an outline of an airplane with the slogan "Remember Pearl Harbor". No copyright is possible for the airplane design since it is not a print, containing no pictorial element or combination of colors. The shield, as stated above, could be registered as a print following the addition of a copyright notice and publication, provided publication has not yet taken place.

10. Ransdell, Inc. (4301)--Class A. "The Federal Excess Profits Tax." Publication in this instance was predicated upon the sale of two copies to a John W. Cutler, who is understood to be the collaborator of the book. Incidentally, the notice of copyright was defective, lacking the year date of publication. Applicant now reapplies, filing two new copies with the notice amended. Held that the distribution of two copies to the collaborator of the work does not constitute statutory publication. Applicant should be advised and directed first to publish the book within the copyright meaning of the term and subsequently to file a new application giving the correct date of publication.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 26, 1942

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

Total time consumed, 60 mins.
Unanimous opinions, 10
Divided opinions, 1

Corrective Entry:

1. Llewellyn, E. Mae (E unp. 279608). "Kiss Your Daddy Goodbye." Held that where registration was made in the name of Mae Llewellyn whereas it should have been E. Mae Llewellyn although the application was not so filed, that a corrective entry is not in order. If and when publication takes place the added initial of the claimant may be placed of record.

General Business:

1. Halker Displays (4417)--Class K. "Set Your Trap for a Jap." Examiner would reject holding that the notice of copyright appears upon the back of the print. As placed on sale, i.e., published, however, the notice appears upon the face of the print. This being a decalcomania, only when it is transferred does the notice appear upon the back of the picture. Nor is the notice of copyright written in pen and ink as examiner stated. Test was made with ink eradicator.

2. Lockheed Aircraft Corporation (4308)--Class K. "Time is Short! Are you on the Beam?" Sticker consisting of a border with red and blue stars with two short sentences "Time is Short! Are you on the Beam?" and the Lockheed Corporation insignia held registrable as a print.

3. Institute of Distribution Inc. (3137)--Class A. "Executives Digest of Retailers Manual of Taxes and Regulations 1941--1942 Edition." Examiner would reject holding that the work as presented is simply a reprint of a larger manual "Retailers Manual of Taxes and Regulations". Upon examination of the copy, however, the Board finds that the larger manual contains data only up to October 15, 1940. The present "Executives Digest" brings the data up to date. It, therefore would seem to be registrable both as a compilation and for the additional matter.

4. Valentine, Margaret B. (4790)--Class A. "Our Favorite Recipes." Held that notice of copyright separated from the name of the copyright claimant by a dedicatory statement to the memory of another person is an acceptable notice. Register.

5. McClaran, Olive Hanson (4995)--Class ?. "America for Me" [and others]. This deposit consists of three song poems which are admittedly not registrable

and two brief texts which the applicant describes as "readings." Examiner sustained with respect to song poems. Before rejecting the "readings", however, inquire whether they are intended for oral delivery as dramatic monologues as seems possible from their structure.

6. Bilyeu, Thomas (82645)--Class A. "One Pad of 5000 Legal Green Stamps" [and] "Free United States Defense Bonds and Stamps." The work in question is "One Pad of 5000 Legal Green Stamps." The deposit is a book of 5000 legal green stamps which do not bear notice of copyright. Reject in view of the decision in the case of Dejonge and Co. v. Breuker and Kessler Co. wherein the Supreme Court held that every reproduction of a copyrighted work must bear the statutory notice. There is no additional text matter present which justifiably could support a claim of copyright as a book.

7. Wickes, Riddell, Bloomer, Jacobi and McGuire. (4482)--Class D. "Hobo of the Hills" [or] "The Duke of Sacramento." Applicant describes this deposit as a libretto for a ballet and the Examiner seems to concur with certain reservations as to references to conversation. The Board is unable to view the deposit as a dramatic composition within the meaning of the Act. It seems simply to constitute an outline and an idea of a ballet with no indications as to the type of dances to be performed.

8. Waverly Press, Inc. (No Fee) Class A. "Diabetes Mellitus." This work was originally rejected because of an advance year date of publication in the notice of copyright. Examiner would again reject upon reapplication by the publisher, stating that only a few copies were sent out to or at the behest of the author and some friends of his, with the further statement that the work did not go on sale until 1942, the date in the notice of copyright. The Board holds that the distribution of a few copies to friends was not publication. Publication did not take place until the work was officially made available to the public. Request a new application giving such date of publication in 1942.

9. Pickett, Oren Gordon (4253)--Class A. "Gregorian Perpetual Calendar". This work was originally rejected in January of 1941 upon the ground that it was a mechanical device. Applicant now reapplies, filing copies with the device feature frozen in print as in the case of the "Vita-Guide" deposit. Examiner would request A2 provided there was any new matter. Under the device rule as amended, however, the original publication would have been registrable to the extent of the copyrightable text matter. The Board accordingly directs that applicant be advised that the rule regarding devices has been amended and if he will submit two copies of the work as actually first published, his application will be afforded reconsideration. He must, of course, deny claim to the device feature.

10. Breth, R.C. Inc. (4111)--Class K. "Thank you- Bowl Again." The deposit is a bowling score sheet at the top of which appears the title reading "Thank You BOWL AGAIN." The first two words are in script. For the letter "O" in bowl a picture of a bowling ball has been substituted. The notice of copyright appears directly under the heading and applicant files an application on form K. The Board divides upon the registrability of this deposit. Mr. Pforzheimer and Mrs. Brady hold that the work is not a print and that no copyright is in the slogan. They sustain the Examiner in rejecting the application. Mr. MacCarteney

feels that there is pictorial matter in the form of the bowling ball and that the first two words printed in script likewise add to the pictorial effect of the heading taken as a whole. Since the notice of copyright is placed in direct connection with the pictorial heading, thereby obviating any claim in the blank form, he would enter as applied for upon the basis that there is indubitably an item of pictorial matter in the form of the bowling ball and the work as a whole presents originality of concept and design.

*Reject as blank form. See memo
"Blank Forms".*

Blank Forms
JAN 28 1942

MINORITY MEMORANDUM

January 26, 1942

Remitter: Breth, R. C. Inc.

Title: "Thank You - Bowl Again"

Question: Whether there is sufficient originality in the concept and design of a title heading including script, block print and a picture of a bowling ball to justify registration as a print.

The deposit is a bowling score sheet at the top of which appears the title reading "Thank You BOWL AGAIN." The first two words are in script. For the letter "O" in bowl, a picture of a bowling ball has been substituted. The notice of copyright appears directly under the heading and applicant files an application on form K. The Board divides upon the registrability of this deposit. Mr. Pforzheimer and Mrs. Brady hold that the work is not a print and that no copyright is in the slogan. They sustain the Examiner in rejecting the application. The undersigned feels that there is pictorial matter in the form of the bowling ball and that the first two words printed in script likewise add to the pictorial effect of the heading taken as a whole. Since the notice of copyright is placed in direct connection with the pictorial heading, thereby obviating any claim in the blank form, he would enter as applied for upon the basis that there is indubitably an item of pictorial matter in the form of the bowling ball and the work as a whole presents originality of concept and design.



R. S. MacCarteney

Reject as blank form. Use Cir. 32. If any case is presented in support of application it may be considered. W. H. Wise, Jan. 27, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 27, 1942

The Revisory Board convened at 10:25 and adjourned at 10:55. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Pforzheimer.

Total time consumed, 30 mins.
Unanimous decisions, 5
Divided opinions, 1

1. Little Brown & Co. (83387)--Class F. "The Third Voyage of Columbus" and five others. This material consists of a series of maps depicting the route followed by the third voyage of Columbus. The Office questioned the deposits as representative of the best edition. Applicant replies that while they are to be used later in a book to be published, the copies deposited are from the best edition available at the time. Enter upon this explanation and the applications in hand giving a date of publication.
2. Waller, Casper D. (4411)--Class I. "Business Remail Envelope." Applicant deposits a drawing of a so-called "re-mailing envelope" designed to save paper. Examiner would reject upon the ground that the work for which registration is sought is a design for an article of manufacture. The Board overrules the Examiner in holding that the drawing may be registered as such upon receipt of an application on form I2. Applicant, of course, should be warned that he secures no copyright in the article of manufacture or in the words and phrases appearing upon the drawing.
3. Rankin, R.C. (4664)--Class A. "Flue Cured (Bright Leaf) Tobacco--Producers' and Total Sales." Examiner would question the 1940 notice of copyright appearing in connection with an application giving the date of publication as January 17, 1942. She also would have an explanation of a slot appearing in the front cover of the copies. The Board upon examination finds that the affidavit of manufacture is apparently incorrect in giving the date of completion of the printing as March 16, 1940 while the figures included in the publication deal with prices through the year 1941. The Board would also inquire with respect to the 1940 notice of copyright on the copies. The slot in the cover observed by the Examiner is readily explained by glancing at the page beneath. The slot is over a line provided for the name of the owner of the copy.
4. Kohn, Milton (5138)--Class G. "Faceless Sculptured Statuette." These works are three small statues, the feature of which is a faceless head "to receive different faces to be pressed thereon and to removably adhere thereto." Examiner sustained in that the works are statues and as such subject to copyright registration if published with the notice of copyright. Examiner overruled in holding that only one registration is necessary since two appear to be the same sculpture but with different colored uniforms painted on. A difference in surface ornamentation creates a new work. Three registrations are therefore necessary.

5. Peplinski, Frank (78447)-- Class G. "United We Stand for --V." [Heart-shaped plaque]. Copies of this plaque were originally received which bore notice of copyright only on the back. The Office in two letters pointed out its position to the effect that a notice somewhere upon the face of the work was required under the provisions of the Act. Applicant while still of the opinion that this was unnecessary, nevertheless files two additional copies with the abbreviated form of notice on the lower rim, i.e., upon the face of the work. The Board directs registration upon the copies so received bearing correct notice without further question.

6. Hamilton Manufacturing Co. (77783)--Class ? "20 Punch Board Bond Dispensers." This matter was before the Board on December 23, 1941 upon a question of acceptability of the copies deposited. They appeared to be proofs of a punch board with pictorial matter. The Board divided and the Register subsequently decided that the works were registrable as prints. The Office wrote requesting the deposit of copies of the best published edition. In response, on January 19, two complete copies of one of the punch boards were received. The Revisory Board again divides. Mr. Pforzheimer and Mr. Lasica hold that in view of the previous Board ruling and approval of the Register of Copyrights, this material should be entered on the published copies, limiting the claim to the print material. Mr. MacCarteney, on the other hand, holds that the new copies received January 19 are admittedly articles of manufacture in the nature of complete game boards and as such are not registrable. He would reject, further holding that this material is not that upon which the Register based his decision permitting registration. Only proof prints were before the Register on that occasion. As a final reason for rejection the Minority member points out that these punch boards are in the nature of a lottery and registering the same would be against public policy. Appeal. *Reject - See memo - Copyrightability*

Upon reconsideration Mr. Pforzheimer joins Mr. MacCarteney in the view that the material should be rejected, not, however, upon the ground that it constitutes an article of manufacture but because of the decision in the case of ex parte Allen & Co., Bulletin 18, pg. 1 with respect to federal protection of lotteries being against public policy. Mr. Lasica adheres to his original position that in view of the previous Board ruling and the approval of the Register of Copyrights with respect to the original proof deposits, this material should be entered on the published copies, limiting the claim to the print material.

*See min. memo.
of Dec 23/41
and minutes
of Dec 23, p. 1067*

January 28, 1942

Remitter: Hamilton Manufacturing Co.

Title: 20 Punch Board Dispensers
5 Dividend Bond Tickets

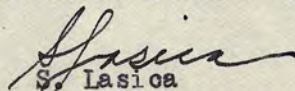
Question: Is a published print registrable which appears on a board containing a series of punch holes for use in connection with a sales promotion campaign, the applicant limiting his claim to the pictorial matter involved?

When the proofs or tops of the deposits were first received in the Office, it is understood that the Register ruled for registration of the prints with the claim limited to the pictorial matter. The only difference between the copies of the best edition now received and the proofs is that the tops are superimposed upon a punch board with the holes drilled through the board and sealed, apparently to conceal some numbers. The applicant disclaims copyright in the functions of the punch board and the scheme for which it is intended (see paragraph six of the letter received January 19).

The majority opinion (Mr. MacCarteney and Mr. Pforzheimer) is that the Office should reject registration on the ground that the work is a lottery. The minority opinion (Mr. Lasica) is that the prints are registrable, if the claim is properly limited to cover them only. It is felt that the Office is not warranted to refuse registration now merely because the prints are distributed as a part of the punch boards. The claimant is not seeking copyright on the punch board or the idea involved. The prints are wholly disassociated from the punch boards, and do not form an integral part of them. Registration would hardly be refused if the prints were distributed separate and apart from the boards. It is not seen upon what principle the claimant's right to copyright should be vitiated merely because he distributes the prints in connection with other articles, especially when such articles are not subject to copyright. A device as such is not copyrightable, but if there is copyrightable subject matter on such device, which is not an integral part of it and is not required to manipulate it, registration is in order. The same is true in the case of blank forms accompanied by text or pictorial matter. The minority feels, particularly in view of the Register's ruling in connection with the proofs, that the Office is not warranted to refuse registration for these points, since no copyright is claimed in the alleged scheme or lottery features. Incidentally, these boards are probably not lotteries at all, but mere trade promoters.

With respect to the case cited in support of the majority opinion, it is not believed that this case is imperative authority for the contention. The claim in that case covered not only the print but also the lottery feature. In this case the lottery feature, if any, will be expressly excluded by the applicant. Registration was refused not solely because of a lottery feature, but also because the print was not used in connection with another article of manufacture and did not pertain to or describe or advertise same. Lastly, the case was decided by the Commissioner of Patents and not by a court. It is not imperatively binding upon the Register of Copyrights as a precedent.

For the reasons set forth, Mr. Lasica is of the opinion that registration should be made upon receipt of an application limiting claim to the pictorial matter.



S. Lasica

Member of the Revisory Board

Reject--on ground of lottery and also article of manufacture--punch game board.

W. H. Wise, Jan. 30, 1942

MAJORITY MEMORANDUM

January 28, 1942

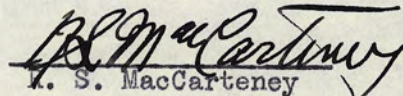
Remitter: Hamilton Manufacturing Co. (77783)

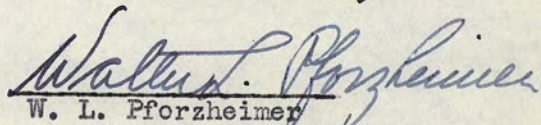
Title: 20 Punch Board Bond Dispensers

Question: Whether copies of an admitted article of manufacture in the nature of a ten pound punch board but which includes pictorial illustrations can be accepted for registration in the Copyright Office, limiting the claim to the print material.

The copies upon which the Revisory Board passed are called by the applicant "Customer Bond Dispensers." They constitute a punch board of great bulk. Previously the Board acted upon proof copies of the pictorial tops later to be affixed to the boards. The Register of Copyrights with only the proofs before him held that there was print material subject to copyright registration. Now, however, we have for deposit an admitted article of manufacture in the nature of a game board which also has the added feature of a lottery. The Majority of the Board consisting of Mr. MacCarteney and Mr. Pforzheimer agree that the works should be rejected but upon differing grounds. Mr. MacCarteney holds that the published material, i.e., the game board, is not the material upon which the Register of Copyrights based his decisions, permitting registration. It is his opinion that the Copyright Office cannot accept for registration articles of manufacture for use in themselves. Moreover, the courts have consistently held that patents for lottery devices are invalid. If it would not be a violation of the federal laws respecting lotteries and similar devices for a bureau of the United States Government to give its approval to an applicant's device by registering the same, it is certainly against public policy to do so, Ex Parte Allen & Co., Bulletin 18, pg. 1. Mr. Pforzheimer bases his concurrence for rejection upon the latter half of this opinion, namely, on the ground of the Ex Parte Allen & Co. decision.

Mr. Lasica constituting the Minority takes the view that the material should be registered because of the previous approval of the Register of Copyrights respecting the proof prints. He supports his contention by a separate memorandum.


K. S. MacCarteney


W. L. Pforzheimer

Reject--on ground of lottery and also article of manufacture punch game board. W. H. Wise, January 30, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 28, 1942

The Revisory Board convened at 10:30 and adjourned at 11:15. Those present were: Mr. MacCarteney, Mr. Lasica and Mr. Pforzheimer.

Total time consumed, 45 mins.
Unanimous decisions, 10

1. Karstendiek, Louis G. (4530)--Class K. "Shield Shaped Service Banner with Star." The deposit is a cloth emblem manufactured by the Eagle Flag Co., 142 Flatbush Ave. Brooklyn, New York. It takes the conventional form of the United States shield with a single blue star in the center of the stripes. Reject--not subject matter of copyright.
2. Quickprint (The) (No Fee)--Class K. "Serving You." Essentially the same cardboard service emblem with, however, only a single star in the center denoting one member of the family in the service was accepted for registration by the order of the Register of Copyrights. Applicant now deposits four additional shields, the only difference being the number of stars involved. Examiner would make multiple registrations based upon the number of stars appearing in the various shields. The Board, however, is of the opinion that the original registration for the print containing one star is sufficient. So advise applicant.
3. Kimmel & Crowell (5730)--Class A and Class G. "The Pearl Harbor Club" [and] "Remember Pearl Harbor." The material deposited consists of a number of items involving the use of the slogan "Remember Pearl Harbor" with various shapes and positions of the American flag. Examiner sustained with respect to the application for registration of the name of "THE PEARL HARBOR CLUB One Hundred Thirty Million Strong." Names are not copyrightable. Likewise the various unpublished drawings cannot be considered as works of art subject to registration under sub-section (g) of Section 5. They are simply very crude drawings, cut in different shaped outlines. Examiner sustained in not registering the print entitled "Remember Pearl Harbor." With respect to the G2s, applicant's attorney should be required to make a case.
4. Karsh, Yousuf (W.R. 40045)--Class J. "Prime Minister Winston Churchill" in SATURDAY NIGHT, Vol. 57, No. 18, January 10, 1942. This photograph originally appeared in the Canadian publication SATURDAY NIGHT without the notice of United States copyright. It was later republished with the statutory notice in the form of a separate photograph and an application was filed giving the date of publication as January 17, 1942, being the date of publication with notice. Accept republication with correct notice since work was first published abroad. Request, however, an acceptable remittance.
5. Bloom, Edward Leon (2462)--Class A. "Sanctions Things Begun: The New Order of the Ages." Examiner states that an affidavit must be executed

by a notary public. This is not true. Section 16 of the Copyright Act provides that "in the case of the book the copies so deposited shall be accompanied by an affidavit, under the official seal of any officer authorized to administer oaths within the United States.

6. Lawson, F. O. (70934)--Class K. "The Old North State Toast [Long Leaf Pines]." Examiner would reject without **first** determining whether this postcard was published in 1925 with or without the copyright notice. The notice on the two cards deposited consists of the symbol "C" in a circle inscribed with pen and ink in connection with the claimant's name which is printed. The Board directs that a letter be written, first requesting a specific statement as to whether publication took place with notice of copyright. It holds, moreover, that the inclusion of a state flag in the revised edition of the print would constitute new copyright matter subject to registration.

7. Harb, Leonard M. (5122)--Class A. "The New Foreman." The copies originally received bore a notice of copyright reading "Copyright-ISI - 1941" at the bottom of the first page of text. At the top of the first page of text the name "Industrial Supervision, Incorporated" appeared. The claimant in the application was given as Leonard M. Harb and the application was rejected upon the ground that the claimant's name did not appear in the notice. Applicant now files copies including the name Leonard M. Harb in the notice of copyright but the Examiner would still reject upon the basis of Circular No. 21. The Board feels that a letter should first be written, inquiring whether Leonard M. Harb is doing business as Industrial Supervision, Incorporated. If so, an application may be filed so stating in line (1).

8. Davis, Deborah (76587)--Class A. "Our Constitution." This work bears a notice of copyright applied by means of a rubber stamp to the back of the title page. The Office originally wrote requesting the filing of an application and a statement as to whether the stamp had been applied to all copies. Applicant files the request application but is silent as to the application of the stamp on all copies. The Examiner would inquire further. The Board directs, however, that the stamped notice be accepted without further question. The title itself has been applied to the copies by means of a rubber stamp and there is no question as to its appearance on all copies.

9. Fine, Israel Leo (83664)--Class G. "Let's Go America" - "Remember Pearl Harbor." Examiner sustained in holding that the identifying reproduction submitted in the form of a photograph does not represent a "model for a work of art" as applied for. Request use of designation "drawing" in line (1) of a new application G2. Applicant himself speaks of wishing to copyright the design "before turning it over to the manufacturer as a model."

10. Perron, Beatrice (5378)--Class E. "Dieu de Paix" (God of Peace). Applicant deposits printed copies of an edition of 135 copies which she had manufactured as a Christmas gift for her mother. She states that copies have not yet been sold but that some half dozen were given by her to close

friends as souvenirs. The Examiner would question publication. The Board is of the opinion that registration may be made as applied for since copies have been distributed, the work is in a form admitting of publication and a publication date has been given in the application.

Minutes of the Revisory Board
Copyright Office
January 29, 1942

The Revisory Board convened at 10:00 A.M. and adjourned at 10:55. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 55 mins.
Unanimous decisions, 9

1. Kenyon & Kenyon (Deposit Acc't)--Class ? "Day by Date Calendar 1942." The work deposited consists of a single sheet, the major portion of which is a so-called "Day-by-Date Calendar" for the year 1942. It has a red border and is definitely distributed in connection with the sale or advertising of an article of merchandise, namely, copper tubing. The Office granted a registration for the 1940 edition of this calendar as a book---incorrectly, it is believed. The Print and Label Examiner does not feel that there is present any print element that would justify registration as a commercial print. The Board, however, cognizant of the decision of the Register in the "America" case, and more recently the "Quick Print" case, overrules the Examiner and suggests that registration be made as KK. The entire ensemble presents color, arrangement and definitely advertises an article of merchandise.
2. Posty, Charles Francis (5490)--Class E. "I Know a Land." This is an unpublished musical composition and according to a statement on the copy part of the second verse is taken from a speech by Mr. Wendell Willkie. The Examiner would include Mr. Willkie as joint author in line (6) upon the basis of this statement. The Board, however, directs entry as applied for, giving Charles Francis Posty as sole author. Mr. Willkie is not an author as regards this composition.
3. Belnap and Thompson, Inc. (4041)--Class K. "Ruler -- How Broad is Your Smile Today?" There is only one item that comes before the Board in this case, namely, a sticker published in connection with a so-called popularity contest. This print contains two pictorial illustrations and also reproduces approximately ten inches of the ordinary ruler. Beneath is the question "How Broad is Your Smile Today? Measure it Yourself." The Examiner recommends that applicant be advised that a ruler as such is not registrable but that the text and illustrations may be made on form A1. The Board holds that the work in question is a print and suggests an application be filed upon form K. This work is not a device in any respect and the text consists only of three ordinary statements which would seem to make questionable registration as a book.
4. L'Roy, Calvin T. (4596)--Class G. "Monument design - HAGERTY." Applicant files a blue print of a proposed cemetery memorial. The Examiner would present possibilities of registration as an unpublished technical drawing in addition to the equal possibility of registering the blue print as a design for a work of art. The Board is of the opinion that this is definitely a

design for a work of art and applicant should be so advised. Request a new form G2 describing the work as a "design for a work of art" in line (1).

5. Peterson, Clarence Stewart (83876)--Class J. "The 48 State Capitols." The deposit is a composite photograph of the 48 state capitols of the Union. The copies bore notice of copyright lacking the name of the claimant. The Examiner would reject notwithstanding the entire edition consisted of three copies, two of which were deposited in this Office and the third remains in the possession of the applicant. Examiner overruled. The deposit of two copies in this Office and the retention of a single remaining copy is not statutory publication. Advise applicant he may correct notice, publish (explain) and subsequently apply for registration.

6. National Newspaper Contest Bureau (6028)--Class A. "U. S. Treasury Department Offers \$250,000.00 in Cash Prizes to Winners in the Great Nationwide Victory Contest." The deposit is a broad side advertising what purports to be a contest sponsored by the United States Treasury Department, offering \$250,000.00 in cash prizes. It is submitted by an organization known as the National Newspaper Contest Bureau. The Chief Examiner inquired of the Treasury Department whether they knew anything of this contest and the Treasury Department denied all knowledge. The Board recommends the matter be referred to the Assistant Register for inquiry to the Justice Department on this apparently unauthorized contest.

7. Wisconsin State 4 H Club (6292)--Class E. "I Pledge My All." This is apparently a case of where the applicant does not understand the statutory meaning of publication. It seems evident from the letters received that copies are being withheld from the public pending the receipt of the certificate of registration from this Office. Explain publication and request a new E form giving correct date of publication after that has been effected.

8. Sigma Nu Fraternity (No Fee)--Class E. "A Rose and a Star." This was originally denied registration upon the ground that publication had apparently taken place without the notice of copyright. Applicant subsequently reapplied but was again rejected upon the basis of Circular No. 21. He now informs the Office that copies of the work were only distributed at the Grand Chapter of the Fraternity for trial singing to find out whether fraternity members wished to accept it as a fraternity song. Inquire as to whether control of these copies was lost at the lodge meeting. If copies were recalled at the end of the meeting registration can be made following actual publication with notice. A new application will be needed in that case.

9. Wolcott, Mary Lloyd (80536)--Class E. "Over the Ocean Blue." These copyright deposits are apparently proof copies and it is indicated from the two notices of copyright on the copies that there are joint copyright proprietors, namely, the author of the words, Mary Lloyd Wolcott, and the composer of the music, Agnes S. Lloyd." The application filed gives only a single person as the copyright owner, Mary Lloyd Wolcott. Since proof copies seem to indicate publication in the near future, it is recommended that applicant should be advised regarding publication with notice of copyright giving a true statement of claim and subsequent registration.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
January 30, 1942

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

Total time consumed, 20 mins.
Unanimous decisions, 5
Divided opinions, 1

1. Coon, Ada M. (4992)--Class E. "Memories of You." This is a case of an unpublished musical composition with new copyright matter. Applicant files an application on form E3, claiming upon "professional arrangement of my own original composition." Examiner admits "there are slight grounds for new registration" but advises that registration be postponed until after publication with notice when the changes could be incorporated in the published edition. The Board, holds, however, that since the Examiner admits there are grounds for entry, that the application for registration should be accepted.

2. Potts, Joshua R. H. (63905)--Class I. The deposit is a sheet on which a drawing of a design for a pin has been reproduced identically nine times. The sheet bears a single notice of copyright and also a notice of "Patent applied for." The Office questioned publication in the form deposited and in response applicant files affidavits swearing to the gift of one copy by a member of the applicant's law firm to an individual presumably also a member of the Office staff. The Board directs that a letter be written reiterating the Office opinion that the gift of one copy by a member of applicant's law firm does not appear to be a bona fide publication. However, if applicant insists on so considering it, all copyright would apparently be lost under the Supreme Court decision of DeJonge & Co. v. Breuker & Kessler Co., Bull. 18, p. 86 - 235 U.S. 33 [1914], since the copyright notice was not inscribed on the reproductions of the drawing. *Overruled by Assistant Register. Enter as applied for. Chas K.*

3. Tyrer, A. H. Rev. (4443)--Class J. "In Conference." This photograph was published in Canada without notice of copyright. Examiner would definitely reject with no possibility of reapplication. This work, however, is a foreign publication and under the present practice of the Office it may be republished with notice of copyright and the claim registered. Send the usual "Foreign Letter."

4. LaSalle Industrial Finance Corp. (4132)--Class A. "Financing Business Enterprises." Application for registration of this work was originally rejected upon the ground of misplaced notice of copyright. Applicant now submits copies bearing a correct notice and an affidavit to the effect that "relatively few" copies were published with the faulty notice. Request a specific statement as to the number of copies constituting the

"relatively few" distributed with misplaced notice.

5. Bernard Picture Co., Inc. (5682)--Class K. "Landscape 1 and 2," "Vase and Flowers 1 and 2," "Flowers 1 and 2," "Still Life 1 and 2," and "Figures 1 and 2." These prints bear notice of copyright on the face reading "Michel (S)." A full notice of copyright appears on the back of each print reading "Copyright 1941 Bernard Picture Co., Inc." and the applications are in the latter name. Examiner would reject and refund, doubtless being of the opinion that the true claimant is the Bernard Picture Co., Inc. and accordingly there is no proper notice on the face of the prints. The Board, however, directs that inquiry first be made as to the meaning of the copyright notice on the face of the prints in the name of Michel. As the matter now stands there is simply a variance in claim.

6. Walsche, Edward A. (5778)--Class D. "Property to Let". The deposit is a three page typed script in the nature of a monologue to be rendered orally. The Board divides upon the question as to whether the contents must be regarded as obscene. Mr. MacCarteney and Mr. Pforzheimer taking into consideration the fact that the work is unpublished and lacks a single vulgar or obscene word are of the opinion that this Office should not be required to accept only the shady implication and thereby put itself in the position of perhaps having to explain why the work was considered not fit subject matter for copyright. Mrs. Brady on the other hand sustains the Examiner in holding that the work is obscene and therefore not subject to copyright registration.

MINORITY MEMORANDUM

January 31, 1942

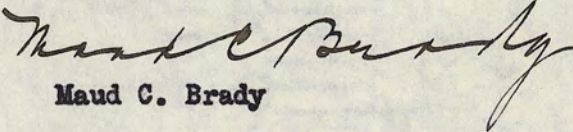
Remitter: Walsche, Edward A. (5778)

Title: "Property to Let"--A Monologue.

Question: Should the deposit under consideration be rejected as a pornographic writing unfit for registration in the Copyright Office.

The undersigned sustains the Examiner in the rejection of this writing because of its extreme licentiousness. In her opinion the Copyright Office should not record a claim to copyright in an unpublished work which when published would most certainly not be permitted to be sent through the United States mails, and therefore not registrable in the Copyright Office. The publication of a work with notice of copyright is a procedure which is authorized by the registration in this Office of the unpublished manuscript. But if this writing were published with a notice of copyright and deposited in this Office for recording, it would be unquestionably submitted to the Postal authorities and determined unmailable as a pornographic writing.

Therefore, as publication of a work with notice of copyright is presumptively authorized by the Copyright Office when registration of a manuscript is permitted, this Office would be in the anomalous position of recording a claim for copyright in the manuscript and refusing registration for the published work. For this reason, but initially because of the extreme pornographic nature of the deposit under consideration, the undersigned recommends rejection.


Maud C. Brady

Majority sustained. See case of Stone Stable Press (48574) 1941,
W. H. Wise, Feb. 4, 1942