

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 2, 1942

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

Total time consumed, 55 mins.
Unanimous decisions, 4
Divided opinions, 2

1. Volkweir Bros., Inc. (13062)--Class E. "Electric Park Overture." The deposit consists of instrumentation for complete military band. As deposited in the Copyright Office the notice of copyright is not upon the first page of music but is placed at the bottom of the instrumentation for "Solo B-Flat Cornet" which instrumentation is one of the last in order. Examiner sustained in her holding that the notice of copyright is misplaced. Reject and refund.
2. Technical Trade School (12762)--Class A. "Newspaper Press work. Secs. 1-12." The deposit consists of twelve sections representing a course of study in newspaper presswork. The first section has a full title page but the notice of copyright is placed on page 7 following the index. The notice for this section is, therefore, fatally misplaced notwithstanding the presence of a sub-title heading on that page, which sub-title heading acts as the full title on the remainder of the sections. The remaining sections, as just stated, do not have full title pages but have titles on the first page of text. The notice of copyright at the bottom of the first page of text in these sections is, therefore, acceptable.
3. Black (Walter J.) Inc. (13076)--Class KK. "Detective Books" and "The New Detective Book Club." Examiner sustained in holding that a full page advertisement in a newspaper, advertising a book club is essentially a commercial print since it is published in connection with the sale or advertisement of articles of merchandise, namely, books. The only apparent purpose of the club membership is to sell books.
4. Sidney, Alta (5228)--Class D. "The Gossipal Truth." Applicant has deposited what he terms a plot synopsis of a musical comedy with the lead sheets of the various musical numbers. This Office informed him that if he could deposit one complete copy of the musical score a single registration for the score as an unpublished E2 could be had. Applicant then advised the Office that he would like to copyright the musical score as such and filed an application on form E2. The copy in its present form, however, contains material that is in the nature of an incompletely worked out "book" which must be deleted. The Board directs that the copy be returned for deletion of the non E2 material. Again advise that if applicant can deposit one complete copy of the musical score, not simply separate sheets with a different song on each sheet, that an examination looking to registration of the work as a single unit may be had.

5. Towne, Arthur E. (12546)--Class A. "Old Prairie Days." The notice of copyright consisting of the word "Copyright" and the year date of publication appears upon the back of the title page beneath a dedicatory statement by the author reading as follows: "Dedicated to my wife Ruby VanDiver Towne whose council and careful editing have greatly aided me in the writing of this book." The copyright claimant according to the application is Arthur E. Towne, the author. The Board divides upon the acceptability of this notice. Mr. MacCarteney and Mr. Pforzheimer hold that in view of the implication in the dedicatory statement above the notice of copyright that the author is the claimant it would appear that ample notice to the public has been rendered. Mrs. Brady sustains the Examiner in holding that the notice of copyright is invalid, lacking the name of the claimant. Appeal. *Register. See memo "Notice."*

6. Kleinschmidt, B.L. Co. (12760)--Class A. "Baby's Book," "The Bride's Wedding Gift Record Book" and "Wedding Memories." Of the three books the Board is unanimously of the opinion that the one entitled "Baby's Book" contains sufficient text matter to justify acceptance of an application on form A1 with no limitation in claim. The other two books are essentially blank books but each has a pictorial cover and a print appearing on the title page. Full notice of copyright is at the bottom of each title page. The Board divides upon the registrability of these two books. Mr. MacCarteney and Mr. Pforzheimer are of the opinion that the pictorial covers and the prints on the title pages are registrable. They favor the registration of these works, therefore, upon form A1 limiting the claim to the pictorial illustrations including the cover pieces. Mrs. Brady, on the other hand, holds that the works are simply books of blank forms and would reject outright. In this she goes further than the Examiner who would agree to registrations on form K for the prints incident to the title pages. Appeal. *Reject as blank forms. See memo "Blank Forms."*

BLANK FORMS

MINORITY MEMORANDUM

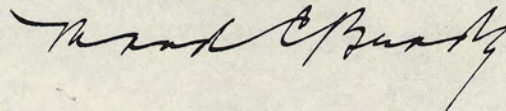
March 2, 1942

Remitter: Kleinschmidt, B. L. Co. (12760)

Title: "The Bride's Wedding Gift Record Book" and "Wedding Memories"
and "Baby's Book".Question: Should any registration be made in this Office for the
deposits in question, being as they are books of blank
forms?

The undersigned member of the Revisory Board disagrees with Mr. MacCarteney and Mr. Pforzheimer in their opinion that registration may be made for these works in Class A "books," with a limitation of the claims to the pictorial matter. As these deposits are books of blank forms, such registration would be in direct contradiction to the decisions of the United States courts in cases involving books of blank forms. See Baker v. Selden, 101 U. S. Reports, 99. The deposits under consideration are composed entirely of ruled lines and headings, and are not copyrightable books, consequently must be rejected. To register them as "books" with special claim recorded in the pictorial contents would condone the misuse of the copyright notice, and in the opinion of the undersigned the deposits must not only be rejected but the claimants should be informed that the notice of copyright must be eliminated from such copies as they have now in their possession. The solitary small print on the title page of the book of blank forms entitled "The Bride's Wedding Gift Record Book," or the decorative covers on all these deposits do not justify publication with notice in my opinion and certainly do not condone registration as "books" in this Office.

M. C. BRADY



Reject as blank forms. Use Cir. 32. Let suggestion for limitation of claim to text and for pictorial matter come from applicant.

W. H. Wise, February 5, 1942.

NOTICE

MINORITY MEMORANDUM

March 2, 1942

Remitter: Towne, Arthur E. (12546)

Title: Old Prairie Days

Question: Shall registration be made for this book published on February 18, 1942 without a notice of copyright which meets the requirements of the Statute "that the notice of copyright required by Sec. 9 of this Act shall consist in the word 'Copyright,' or the abbreviation 'Copr.,' accompanied by the name of the copyright proprietor ... also the year in which copyright was secured by publication?

The deposit under consideration is a paper bound publication entitled ~~above~~. The cover is the title, containing the title as above followed by the statement of authorship, "By Arthur E. Towne." On the back of the title page appears the legend:

"Dedicated
to
My Wife
Ruby VanDiver Towne
Whose Council and Careful
Editing have Greatly Aided Me
in the Writing of this Book

Copyrighted 1941"

Mr. MacCarteney and Mr. Pforzheimer are of the opinion that the statutory requirement as to notice are met, inasmuch as the dedication contains the name of the wife of the author and the statement that she is the wife of the author and that it is followed by the legend "Copyrighted 1941." It is presumable from this reasoning that a dedication to any member of the family, together with an explanation of such relationship, would meet the requirement of the statute "accompanied by the name of the copyright proprietor."

Mr. MacCarteney holds also that if this conjugal notice, which meets the provisions of Sec. 19 as to position, i.e., upon the "title page or the page immediately following," does not suffice, that there is another one on page 9, at the end of the Preface, where the signature of the author is found in proximity to the words "Copyrighted 1940." Here again we are confounded by the statutory requirement with respect to the position of the notice, i.e., "in the case of a book shall be applied upon the title page or the page immediately following."

The undersigned regrets that she cannot find in this deposit a notice

of copyright which meets the requirements of the statute, and holds that unless these provisions are met there has been no copyright secured, and that consequently no registration of a claim can be made in this Office. She agrees with the Examiner that the only action to take is to reject and refund.

M. C. Brady

Register. Public is advised that copyright is claimed by notice on reverse of title page--name of claimant (author) appears on title page. W. H. Wise, February 5, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 3, 1942

The Revisory Board convened at 10:00 and adjourned at 11:15. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica with the Register of Copyrights and the Senior Attorney entering into the discussions in the case of one renewal application.

Total time consumed, 75 mins.
Unanimous decisions, 6

RENEWAL:

1. Presser (Theodore) Co. (Deposit Account) "Southern Moon Serenade." In 1914 Theodore Presser Co. filed an application for registration of this musical composition the following authorship appearing in the application: "Words by Chris Quinn. Music by Jas. C. Quinn. Arranged by H. Tourjee." Theodore Presser Co. now files an application for registration of renewal of copyright as proprietor of copyright in a work made for hire. The name of the author of the renewable matter is given as H. Tourjee, the arranger, followed by the statement "for hire." The title of the work as indicated in the application for renewal likewise basis the claim upon the arrangement. The Examiner recommended that since Chris Quinn and James C. Quinn have apparently not renewed their work it would seem that their names should be given as authors of the renewable matter. The Board, however, after consideration and a lengthy discussion in which the Register of Copyrights expressed his views confirming those of the Senior Attorney, voted to accept the application as filed by the proprietor without further correspondence. In the absence of a sworn affidavit the filing of a letter by applicant reiterating the present basis of claim, i.e., as proprietor of a copyright in a work made for hire, would simply constitute a restatement of what has already been made in the application. This Office should not go into the question of substantive rights as regards the authorship of the other authors involved. We have what upon the face of it is an acceptable basis of claim and if the Messrs. Quinn later file an application or applications with respect to their individual parts of the work, such claims can also be placed of record, leaving adjudication of the claims to the courts.

GENERAL BUSINESS:

1. Cloos, Consuelo (9895)--Class E. "Thrice" and 8 others. An application which gives the maiden name of one of the copyright owners followed by her husband's name in parenthesis is acceptable as giving the claimant's legal name. Enter upon the application received February 10 giving this claimant's name as "Consuelo Cloos (Panteleieff)."

2. Elmo, Sverre' S. (9930)--Class E. "Two Timing Tessie" and "Patriotic Two Timing Tess." Applicant has filed an unpublished musical composition for registration consisting of words and music with an optional set of lyrics

on a separate sheet. Examiner would simply have the applicant add the optional lyrics beneath the version already set to music. The Board is of the opinion that two registrations are in order, one on E2 for the words and music as now set together and the second on form E3 claiming on the so-called "Patriotic" version of the lyrics. A copy of the alternative version of words and music and an additional registration fee should accompany the E3 application.

3. Cory, Charles (No Fee)--Class A. "Die Design Manual Part 1." The notice of copyright on these publications contains three year dates, 1937, 1939 and 1941. It transpires that while the first two year dates are correct in expressing publication with new copyright matter, the 1941 notice actually represents merely a reprint with no new copyright matter. Examiner would advise applicant that such being the case his copyright has been forfeited by publication with an advance year date in the notice. The Board overrules the Examiner in directing that no such advice be given. There is no new matter involved in the 1941 reprint; therefore, there is no new claim. Applicant simply be instructed that the notice of copyright should include only the year dates of publication in which there is new copyright matter.

4. Garfield, Daoust, Baldwin & Vrooman (No Fee)--Class A. "Aid in Defense... Give Old Papers..." The Examiner would reject this work upon the ground that there is no notice of copyright, providing, of course, publication has taken place. To the Board, however, the work is simply an article of utility in the nature of a string holder, its function being to hold lengths of string. Reject as not copyrightable subject matter.

5. Donnelley R.R. & Sons Co. (13685)--Class A. "Charleston Supply Company-Catalog A" [2 others]. There is no formal title page on these deposits, the cover itself acting in that capacity. Immediately inside the cover is a blank page followed by a page of text on the back of which appears the notice of copyright. Examiner would reject upon the ground that the notice is misplaced. The Board, however, holds that the notice is acceptable since the page intervening between the cover on which appears the title and the page on which the notice is inscribed is entirely blank and may therefore be disregarded. Accept with warning letter.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 5, 1942

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

Total time consumed, 55 mins.
Unanimous decisions, 7

1. National Geographic Society (Deposit Acc't)--Class ? "Your Magic Carpet the World Famous Geographic Magazine." Since magazines and other literary works are now considered to be articles of merchandise within the meaning of Section 5 (KK), the Board is of the opinion that these leaflets issued by the National Geographic Society are primarily used for the purpose of advertising the National Geographic Magazine and therefore should properly be registered as commercial prints, notwithstanding there is also the membership in the Society involved and the magazine cannot be obtained unless one is a member of the Society. This decision will be referred to the Register of Copyrights for confirmation or rejection. *See Memo - Commercial Print.*
2. Connor, Ellen (No Fee)--Class A. "Chins Up Everybody" etc. The work deposited is a sticker on which the rhyming couplet "Chins Up Everybody, Let's Take it and Grin; The Harder we Fight, The Quicker we Win!" is printed within a red, white and blue border. Examiner would reject upon the ground that slogans are not copyrightable. The Board, however, is of the opinion that this is a registrable couplet, being definitely the writing of an author. Request application on form A1.
3. Polk, R. L. & Co. (13537)--Class B. LIVING, Vol. 1, No. 2, February, 1942. Held that a notice of copyright appearing upon Page 5 of a periodical which is not the first page of text, the title heading or the title page is fatally misplaced and an issue of a periodical bearing such notice must be rejected. This overrules the Examiner who would accept with a warning letter.
4. Smith, George Charles (13097)--Class A. "Popular Window Service." Examiner sustained. Notice of copyright is defective lacking the names of the claimants. There is no prima facie evidence that Helena Williams and George Charles Smith, the names given in the application as the copyright owners are doing business as "Popular Window Service," the name in proximity to the notice of copyright consisting of the symbol "C" in a circle and the year, 1942. Actually the work is a book consisting of pictorial illustrations and text matter descriptive thereof and the notice is therefore doubly faulty, lacking the required word "Copyright" or its abbreviation "Copr."
5. Ware, Alice Holdship (Mrs.) (No Fee)--Class D. "Scorched Earth." The Examiner would reject this work upon the ground that the notice lacks the name

of the copyright owner. However, in view of the fact that the name of "New Theatre League" of New York appears in proximity to the notice as the party from whom permission to produce the play must be sought, the Board directs that an inquiry first be made as to who the claimant is. If it is the League then registration would be in order.

6. Dullard, John P. (14515)--Class A. "Manual of the Legislature of New Jersey, 1942." This is a case of where publication took place with a notice of copyright in the name of a deceased person. Ordinarily, publication with notice in the name of one who is deceased precludes registration of the claim in this Office. In the instant case, however, it appears that the claimant died and was buried on February 26, 1942 and the book was published on February 27, 1942. It is further understood that the claimant was still living at the time of completion of the printing of the various signatures, including the first signature which mentions her name as the person taking out the copyright. In view of these extenuating circumstances, the notice of copyright will be accepted. A letter, however, should first be written explaining the date of publication which date it is not clear the person applying understands, and requesting a new application in the name of the executor or administrator of the estate of the deceased claimant.

7. Doubleday Doran & Co., Inc. (Deposit Acc't)--Class A. "The Collected Works of Rudyard Kipling"--Burwash Edition, in 28 volumes. Vols. 20, 23, 24, 27, 28. Applications have been filed for registration of several volumes of this limited Burwash edition of Rudyard Kipling's works. The applications are filed in the main to cover the final compiling the late author did for this edition. The Examiner would request application forms A2, claiming upon "additions and revisions." The Board is of the opinion that since the claims are specifically based upon the compiling, as stated in Doubleday Doran's letter and also in the applications themselves, that the present applications on form A1 should be accepted.

THE LIBRARY OF CONGRESS—COPYRIGHT OFFICE Books as Merchandise
under P & L Act.

MEMORANDUM

REFERRING TO "Your Magic Carpet, the World-Famous Geographic Magazine"
Remitter: National Geographic Society. (Deposit Account)

DATE March 12, 1942.

To Mr. Richard S. MacCarteney
Chairman, Revisory Board


The letter drafted 3-9-42 to the National Geographic Society is an excellent piece of work. Final consideration of the problem involved has led me to conclude that it should not be sent.

I quite agree with the proposition that books may be generally regarded as merchandise under the Print and Label Act; that the reference to Section 15 of the Copyright Act made in the second paragraph of the letter as drafted justifies this view; and that the action taken by the Patent Office in past years should be given great weight by this Office.

But whether a book or any other article is actually an article of merchandise depends upon the question as to the use to which it is put. I think it is certainly open to doubt that the National Geographic Magazine can be regarded as an article of merchandise. I understand and I am informed that it is not issued for sale by the National Geographic Society. As stated by Mr. Howell in his memorandum of November 26, 1940, inscribed on the U.B. envelope containing the applications referred to in the letter of October 18, 1940 to the Register of Copyrights from the National Geographic Society, it is membership in the Society for which \$3 is paid and the magazine is only one of the advantages of membership. In the print "Your Magic Carpet" it is true that the National Geographic Magazine is definitely and preponderately featured; but it seems to me that it is impossible to reach any conclusion other than that what is advertised is membership in the National Geographic Society. The last statement on the print is the following:

"To make certain you miss none of the issues to come, it is suggested you remit your annual membership fee of \$3 (Canada, \$4; abroad, \$4) today. National Geographic Society, Washington, D. C."

As you know, we often find on bookstands or bookstalls second-hand copies of this magazine. If a bookstore handling these second-hand copies for sale were to advertise that fact on material corresponding to a commercial print, there would be no doubt in my mind that such a print would be in truth and fact a commercial print. In such case the proper form would undoubtedly be KK. In the present case, however, I feel that for the reasons hitherto stated the print does not advertise an article of merchandise, that is, an article the subject matter of purchase and sale. I feel that it can at least be conceded that a real doubt may be said to exist as to whether KK is the proper form. Following the general principle of office administration, that doubt should, in my opinion, be determined in favor of the applicant. Enter as applied for.


Register of Copyrights

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 6, 1942

The Revisory Board convened at 10:00 and adjourned at 11:20. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 80 mins.
Unanimous decisions, 12

1. Carabella, John F. (14108)--Class D. "The Eve of St. Agnes." Held that where a libretto founded on Keats' "St. Agnes Eve" has been copyrighted and subsequently incorporated in a dramatico-musical composition by permission of the copyright claimant, a registration can be made for the entire work as a dramatico-musical composition by the claimant of the opera. The copyright would extend only to such material as was properly claimed by the composer.
2. White, Julius Gilbert (No Fee)--Class A. "Abundant Health." Examiner sustained in rejecting the application because of an advance year date in the notice of copyright. According to applicant's statement the copies "went out immediately into circulation on December 24, 1941." At that time the copies bore a 1942 notice.
3. Warner, Henry Laurence (13049)--Class A. "Scanning the Shops with Sheila Shea." This is a question of statutory publication. Applicant has a service which he sells to merchants of various towns and cities who later have published part or all of the material in their local newspapers. Examiner would question publication in advance of the appearance of the material in the newspapers. The Board, however, accepts the fact of publication preliminary to incorporation in the newspapers. This is a salable service comparable to the Meyer Both material which is accepted. Return to Examiner for further examination with respect to possible informalities in the particular application.
4. O'Brien, Clarence and Jacobson, Harvey B. (Deposit Account)--Class G. "On to Victory." The work deposited appears to be simply a reproduction of the great seal of the United States with the addition of a slogan "On to Victory." Question basis of claim in the Seal of the United States. The slogan itself is not copyrightable.
5. National Process Company (W.R. No. 40133)--Class A. "The Place of Chain Stores in Distribution and Investment." It appears that this work was first published with a notice of copyright containing only the initials of the copyright claimant. The application was rejected and inadvertently both deposit copies were returned to the claimant. He now reapplies, depositing copies to which the full name of the claimant has been added in the notice of copyright. In support of his application he pleads that the letters "M.L.P.F.B." properly identify the proprietor and that registration should have been granted upon the original deposit. The Board cannot agree with this interpretation. The presence of the initials of the claimant instead of the claimant's name is

permitted only in those classes of works mentioned in sub-sections (f) to (k) of Section 5. The occurrence of the claimant's full name on the outside cover, it is not believed, is compliance sufficient to offset the fundamentally defective notice of copyright. The full name of the claimant does not appear anywhere on the page bearing the copyright notice. Reject. (See p.1182 for reconsideration.)

6. Stuart, Charles R. (Deposit Account)--Class A. "Worth Carrying Around" published in SAN FRANCISCO EXAMINER and VAN NUYS NEWS, February 17, 1942. The same identical advertisement of The Bank of America appeared in two different newspapers in the State of California on the same day. The Examiner would have the Office determine which was first published and register that one only. This, the Board feels, would be going into fractions of days and could be carried to a point of absurdity where a particular registration might be determined only with the aid of a stop watch. The Board would simply inquire which deposit they wish to register, explaining that only one copyright may be had in a particular work.

7. Roberts, Albert (No Fee)--Class E. "Our America." Applicant has registered a musical composition and has now changed the first stanza, resulting in an entirely new verse. The Examiner would reject indicating the changes are so slight that a second registration is unnecessary. The Board holds that a new registration is in order to protect the new verse if applicant desires to make one. Explain procedure.

8. Brown & Bigelow (14351)--Class A and K. "Boy Scout Record Calendar." The notice of copyright is placed on the container or jacket of the calendar. No notice of copyright in the name of Brown & Bigelow and Co. relating to the material to be copyrighted appears on the calendar itself. The Board sustains the Examiner in rejecting the application since the notice does not appear upon the material to be copyrighted, i.e., the calendar itself. It is placed on the jacket which serves the same function of a wrapper to a package and which would immediately be discarded when the work itself is brought into view.

9. Brunswick-Balke-Collender Co. (14002)--Class KK. "Willie Hoppe's 6 Fundamentals of Championship Billiard Form" and four others. Examiner sustained in his holding that the charts in question advertise books notwithstanding they repeat information occurring in the books. They are therefore classifiable as commercial prints used in connection with the sale or advertising of an article of merchandise.

10. Agatha, Mother (11390)--Class A. "Ursuline Tradition and Progress." Held that an affidavit giving the affiant's name in a religious order alone is acceptable. It is not necessary that her name in the world be used in signing the instrument.

11. Crofts, F. S. & Co. (No Fee)--Class D. "Le Misanthrope," "Conte I" and "Conte II," and two others. Certain of these works are plays by Molière and Beaumarchais and the Examiner appropriately requests the filing of applications on form D1 amended. Two other works, however, are books of stories by Voltaire and the Examiner includes these, too, in her recommendation for form D1 amended. The works by Voltaire are Class A material. They have never been

dramatic compositions. Request applications on form A2 with a statement of new matter for these two works--"Contes I and II."

12 Lawskey, Max W. (14250)--Class H. "Megelia--Book of Esther." This work is a reproduction in the form of a lithograph of a hand-ornamented scroll, originally executed by one, Samuel Zanwil of Krakow, Poland in the 15th Century. Examiner would reject upon the ground that the material does not seem to contain artistic element distinct from that of the original. The Examiner, however, overlooks the fact that the work is specifically a "reproduction of a work of art in another medium." Register as applied for.

RECONSIDERATION

National Process Company (W.R. No. 40133)--Class A. "The Place of Chain Stores in Distribution and Investment." Upon reconsideration, Mr. MacCartney and Mr. Lasica change their viewpoint as to the acceptability of the notice. The full name of the claimant appears upon the outside cover whereas the notice appears on the inside of the cover. The name is also in evidence on two other places on the back cover of the book. Inasmuch as a notice reading "Copyright 1942 by author" appearing on the back of a title page would be accepted if the author's name appeared on the title page, itself, Mr. MacCartney and Mr. Lasica feel that the initials of the claimant in the notice furnish sufficient advisement to the public as to who the copyright claimant is. They accordingly reverse their decision and are for entry upon copies now in hand. Mrs. Brady adheres to her original opinion that the notice is fatally defective and supports her contention in a separate memorandum. Appeal.

*Register Give benefit of doubt under
Section 20. W.H. Wise, March 9, 1942
See Memo under "Notice".*

MAJORITY MEMORANDUM

NOTICE OF (6)

Initials in place of name

March 6, 1942 Decided under Sec. 20

Remitter: National Process Company (W.R. No. 40133)

Title: "The Place of Chain Stores in Distribution and Investment."

Question: Whether the initials of the copyright claimant appearing in the notice of copyright on the back of the title page constitutes sufficient compliance with the provisions of Section 18, where the claimant's full name appears upon the title page and is moreover repeated on the back cover in two very prominent positions.

The Office originally received copies bearing a notice of copyright reading:

Copyright 1941
M. L. P. F. B.

The claimant is Merrill, Lynch, Pierce, Fenner & Beane and the full name appears on the outside cover which is the title page. The full name also appears on the back cover in two prominent positions. Since it is the practice of the Office to accept a notice of copyright reading:

"Copyright 19__ by author"

where the author's name is apparent upon the copy, the Majority feels that the inclusion of the claimant's initials on the back of the title page furnishes sufficient advisement to the public as to who the claimant is, especially in view of the fact that the claimant's full name appears upon the cover which would be seen at the outset by anyone examining the copy and would, therefore, be immediately connected as being the name represented by the initials in the notice of copyright on the back of the cover or title page. The copies as now resubmitted by applicant's agent, bear a full and correct form of notice and the original copies bearing faulty notice were inadvertently returned following original rejection. The Office actually, therefore, lacks copies of the publication with faulty notice.

Register. Give benefit of doubt under Section 20. W. H. Wise, March 9, 1942.

NOTICE

MINORITY MEMORANDUM

March 6, 1942

Remitter: National Process Company (W.R. 40133)

Title: The place of Chain Stores in Distribution and Investment.

Question: Should the Copyright Office record a claim in a book which was published with the notice of copyright containing the initials only of the copyright owner?

This deposit, originally received in the Copyright Office on Sept. 5, 1941, is a book. The front cover is the title page inasmuch as it is the only page on which the title is found. On the back of this page appears the following:

"Copyright 1941 M. L. P. F. B."

The initials are those of the firm Merrill, Lynch, Pierce, Fenner & Beane, who are declared in the application to be the owners of the copyright. The work was very properly rejected Sept. 13, 1941, as having been published with faulty notice. Circular 54 was sent on that date. On Sept. 17 a reply was received from the remitters regretting that the initials and not the full name of the claimant appear in the notice of copyright and pointing out that the full name, Merrill, Lynch, Pierce, Fenner & Beane is found on the front cover. This letter was answered on Sept. 23, by Mr. Lasica, in the following terms: "Since according to the application and affidavit filed the book was first published on Aug. 26, 1941, with the faulty notice of copyright, no registration of copyright can be made. Section 10 of the copyright law makes prior publication with adequate notice a condition essential to the issuance of a certificate of registration." On Feb. 10, 1942, new copies with correct notice were received. These copies were rejected by means of Circular 21--"Subsequent publication with correct copyright notice does not remedy the defect of prior publication with insufficient notice," and this circular was sent by Mr. Lasica. It should be noted at this point that no subsequent publication was claimed in the new affidavit accompanying the deposits of Feb. 10.

In reply to this circular No. 21 sent on Feb. 20, 1942, a further communication from the remitters, dated Feb. 26, was received. It is pointed out that the remitters are the printers, evidently endeavoring to repair the damage occasioned by their own inexcusable negligence in printing the defective notice. In this letter they quoted Section 20 of the Copyright Act, adding to this quotation the following: "It is therefore submitted that if we made a mistake originally, the copyright is not invalidated and the certificate should issue." They point out further that the courts only should decide whether there has been compliance with Sections 18 and 19 of the Act. Upon the receipt of this letter in the Copyright Office, the Examiner again rejected because subsequent addition of correct notice does not remedy original

publication with defective notice. The case then came to the Revisory Board for reconsideration with the result:

Mr. MacCarteney, who had previously voted to reject now voted to accept this notice, stating that it was analogous to "Copyright by Author," where author's name is given on another page. Mr. Lasica and Mrs. Brady voted to reject. Mr. Lasica subsequently changed his vote, sustaining Mr. MacCarteney. The undersigned, Mrs. Brady, still holds that there should be no record in this Office of a publication made with defective notice. Publication in this case was not a partial publication, as original publication took place on August 26 with totally defective notice.

It is recognized that certain well-known organizations, such as Newspaper Enterprise Association, American Automobile Association, and one or two others, have through prolonged usage established the initials of their names so that the public has become aware of such initials to the exclusion of the full name for which they stand. The initials in this case, however, M. L. P. F. B., are those of a law firm whose members have changed so often that the initials used in this instance do not serve to notify the public as in the cases above quoted; in other words, the initials M. L. P. F. B. convey no knowledge of the ownership of copyright to the public. It is a fact that this firm which started a number of years ago under the name of E. A. Pierce & Co. merged with Merrill and Lynch first, then with Cassat, then with Fenner & Beane, and that the name of Cassatt has been in and out of the firm name a number of times in the last three years. The firm as now established is only a few months old, and there could be no possible secondary meaning attached to the set of initials found in the notice. It is held that the work was published on August 26, 1941 with a fatally defective notice, and therefore no registration could be made in this Office.

M. C. BRADY

Majority sustained. Register. Give benefit of doubt under Section 20.

W. H. Wise, March 9, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 9, 1942

The Revisory Board convened at 10:15 and adjourned at 11:20. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica in the absence of Mr. Pforzheimer.

Total time consumed, 65 mins.
Unanimous decisions, 5
Divided opinions, 2

1. Fenton, C. L. (Col.)--(14038)--Class A. "Radio and Vacuum Tube Theory, First Revised Edition." The work deposited is according to statements on the copies published by the Department of Chemistry and Electricity, United States Military Academy, West Point. The work was further prepared in the Department of Chemistry and Electricity of the Academy. It would, accordingly, seem to be a government publication, prepared in and by a government department. Inquire as to the basis of claim in view of provisions of Section 7 with respect to government publications.
2. Carabella, John F. (14108)--Class D. "The Eve of St. Agnes." This matter was before the Board on March 6 at which time the Board directed the acceptance of an application on form D4. The Examiner again refers the case to the Revisory Board protesting that the libretto, which forms a part of the deposit, has already been copyrighted in the name of the librettist. The Examiner seems to think that by granting registration for the combined music and libretto at this time as a dramatico-musical composition that the copyright in the libretto would be extended. The Board affirms its original decision that registration be made as applied for as a dramatico-musical composition. What has been deposited is a complete dramatico-musical composition. It is immaterial that the libretto is already copyrighted. Copyright as a D4 does not extend copyright in the libretto (Section 6) but applicant is entitled to broader protection of public performance with or without profit provided in D4 classification.
3. Remington Rand, Inc. (14371)--Class A. "Graph-a-matic. Inventory Analysis for Profit Control." This matter has been before the Board on two previous occasions on both of which the application was rejected upon the ground that the work submitted was in effect a device, tool, or instrument for use in itself. The attorney again requests reconsideration upon grounds that the article carries a percentage table which would be essentially copyrightable. The Board remains of the opinion that the work is essentially a device. Moreover from a patent notice appearing on the copies it would appear to have been patented and this alone would be sufficient to preclude registration of a claim to copyright. Reject again.
4. Morrow, Wm. & Company, Inc. (Deposit Account)--Class A. "Watchdog of Thunder River." The copies of this work as deposited in bound book form bear

a statutory notice of copyright. It appears that there was a publication, however, in the form of a contribution to a periodical. It is immaterial whether the publication of the story in the magazine preceded or followed the publication in book form. The only question is whether the magazine publication bore a statutory notice of copyright. If the story appeared in the magazine without the notice of copyright, the copyright would be forfeited notwithstanding publication first took place in book form with a notice. The applicants may, if they wish, submit a copy of the magazine for inspection.

5. Reed, Malcolm Howard (No Fee)--Class I. "Reed Self-Averaging Achievement and Motivation Chart." This work is a colored chart for the graphic representation of achievement and motivation phases of the young child over a period of time. The Examiner holds that the chart is simply a blank form in that it has spaces and squares corresponding to a graph. The Board is of the opinion that there is in addition to the blank form aspect considerable graphic information displayed and the work as presented is a "writing of an author." There are various more or less complicated scales included and all in all the Board is of the opinion that registration may be made as applied for as a published drawing of a scientific or technical character.

6. Douthitt, John (No Fee)--Class G. "Country Mail" [and] "Town Mail." Applicant submits applications on form G2 for registration of two oil paintings, painted apparently in 1857. Search of the Office records fails to disclose any entries under the titles in question in the name of the original artist, Thomas Pritchard Rossiter. The Board divides upon the acceptability of the applications as applied for. Mr. MacCarteney and Mr. Lasica are of the opinion that since the claim upon its face (in the name of John Douthitt) is in order for registration claims should be placed of record without seeking to establish devolution of title from the original artist to the present claimant. Mrs. Brady on the other hand would first inquire as to the basis of claim of this proprietor in paintings created more than a half a century ago. Appeal.

7. Kugel, Frederick, Co. (14665)--Class B. "May Co. Review of Recorded Music," Oct., Nov. 1941, Dec. 1941, Jan. 1942 and Feb. 1942 issues. Four issues of this periodical have been deposited, three of which are multiple paged publications having the notice of copyright on the back page. The Board is unanimous that these three issues, namely, those of Dec., 1941, and January and February, 1942 should be rejected upon the ground that the notice is fatally misplaced. The Board divides, however, with respect to the November, 1941 issue since it opens out into a single sheet. Mr. MacCarteney and Mr. Lasica hold that since it is in effect a single sheet or page the notice appears upon the title page and is therefore acceptable. Mrs. Brady is of the opinion that the sheet must be considered in its folded form which places the notice on the back and this issue, too, should be rejected. Appeal. Upon reconsideration Mrs. Brady now joins the majority in rejecting three and entering one.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 10, 1942

The Revisory Board convened at 10:00 and adjourned at 11:15. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 75 mins.
Unanimous decisions, 10
Divided opinions, 2

1. Lippstadt, Sigmund (14857)--Class A. "§ on pictures, paintings and: or etchings including frames" etc. Examiner sustained with the exception of recommendation to question the completeness of the deposit. The deposit is in the nature of a mimeographed rider to a standard fire insurance policy and as deposited is acceptable since riders of this sort are initially published separately.
2. Dell, Elizabeth (13831)--Class D. "Crosswords of the Air." The deposit is made up of a typewritten explanation of a proposed radio program and one continuity script. Return copy for deletion of preliminary explanatory material. Advise each separate program script may be registered separately.
3. Crist, Jay D. (14861)--Class A. "Blue Print for Americans." Applicant distributed ten copies of an edition of 500 with an improper notice of copyright. He has refun the 490 copies of the original run correcting the notice of copyright. Registration permissible under Section 20. Advise, however, recall of outstanding ten copies if possible.
4. Johnson, T. Earle (13405)--Class A. "Introductory Phonetics." The Examiner would question a typewritten title page and copyright page tipped into a bound mimeographed volume. She would also question the presence of the author's year date of birth after his name in line (1) of the application. The Board directs entry as applied for. There is no need to question typewritten title page since it was obviously bound into the book. It is unnecessary, also, to question the inclusion of a year date of birth in the application.
5. Walther, M. C. (10122)--Class E. "We're Eagles of the Sky." There was a question originally as to the proper statement of authorship to be recorded in connection with this claim. Applicant now files a new application stating that it is correct and the middle initial of the author on the copies is incorrect. Examiner makes the statement "Request new E2 giving correct authorship." Since this has been done enter on the application now received annotating copy to agree as to author's middle initial.
6. National Schools (82204)--Class A. "Curso de Ingles Practico." This matter was before the Board on February 18 at which time the Board recommended finding out how many copies of this publication were issued before the notice of copyright which was defective was corrected. Applicant now advises that some 150 copies were published with inadequate notice. Examiner sustained in

holding this constituted statutory publication. Reject.

7. Lorenz Publishing Co. (Deposit Acc't)--Class E. "The Lord's Prayer." Applicant inquires whether the distribution of mimeographed copies of a musical composition to members of a choir for rehearsal which copies are collected after each rehearsal constitutes publication thereby requiring registration upon form E. The Board holds that such distribution where control of the copies is not relinquished is not publication sufficient to destroy the rights ~~of~~ common law. Register therefore upon form E2.

8. Dolan, Edward J. (15315)--Class K. "The Lord Jesus Christ, The Name Above Every Name." This work is pictorial in the sense that there is a drawing of The Lord Jesus Christ in the center of the sheet and there are many other outlined shapes harboring the names of the Divinity. It would, therefore, be registrable as an unpublished drawing upon form G2. Examiner recommends registration as a print following publication with notice. The Board feels, however, that in order to cover the compilation of the names of the Divinity, the listing and arranging of which seems to have been the primary purpose in creating this work, registration following publication should be made under the broad classification of book. Advise accordingly.

9. Leevy, J. Roy (15412)--Class A. "Evaluating Classroom Instruction of Social Studies in Secondary Schools." The deposit is a folio sheet giving the name of the copyright claimant under the title on the first page and the notice of copyright minus the claimant's name at the bottom of the last page. Examiner would reject upon the ground that the notice lacks the name of the copyright owner. Since, however, all elements of the notice are present upon a single sheet when it is opened out, the Board deems the notice acceptable.

10. Brentanos, Inc. (9627)--Class A. "Charles De Gaulle." This is a work of foreign origin in a foreign language (French). The original application was filed upon form A3 giving an address of the author and claimant, Philippe Barrès, as in care of the publishers. This Office wrote requesting the legal address of the copyright owner and also raising the question of whether the correct copy had been deposited in view of a statement in the application that the work was published at Montreal, Canada notwithstanding the copy bore a Brentano New York imprint. The publisher now files a new application giving another address in New York City as that of the copyright owner and further giving the place of publication as New York City. Examiner would reject upon the ground that the author being of foreign origin was apparently domiciled in this country and therefore the book would have to have been manufactured here and not in Canada as stated on the copy. The Board holds that domicile in this country has not been established merely by the giving of an address in New York City at the request of this Office. The author, a free De Gaullist frenchman, in all probability has no fixed address. He probably lives in Canada as much as he does in the United States. As for the dual publication at Montreal and at New York, this was done to effect simultaneous publication required for international copyright. The Board accordingly directs entry upon the application received on February 26.

11. Bosqui, E. L. Printing Co. (14450)--Class A. "Rules and Rates for Fire Insurance and Allied Lines." The deposit is a looseleaf publication prefaced

by a title page and two pages of index material. The first notice of copyright appears on page 1 which is six pages removed from the page immediately following the title page. The notice, however, is repeated on every page of the textual material thereafter, numbering some 96 pages. We, therefore, have 96 notices of copyright. The Board divides upon the acceptability of the notice. Mr. Pforzheimer and Mrs. Brady sustain the Examiner in rejecting the work upon the ground that no notice of copyright is inscribed either upon the title page or page immediately following. Mr. MacCarteney, is of the opinion that the claim should be placed of record for the reason that the notice of copyright appears upon every page of the textual material and accordingly there could be no possible doubt in the mind of any person examining the book that copyright was being claimed in the work. Appeal. *Register. See Memo Notice.*

12. Greene, Dan (13934)--Class A. "Survey of High School Students' Future Educational Plans." The work in question is a postcard on the correspondence side of which appears a notice of copyright: "Copr. 1942 D. G." The copyright claimant is Dan Greene to whom the postcard is addressed. The Board divides upon the acceptability of the notice. Mrs. Brady and Mr. Pforzheimer would reject upon the ground that the claimant's initials alone appear in the notice. Mr. MacCarteney feels that since the only name in the postcard is that of the copyright claimant, Dan Greene, it could only be connected with the initials in the notice and therefore the notice is sufficient advisement to the public as to who the claimant is. *Register but write letter. See Memo "Notice".*

WLF:jem

MAJORITY MEMORANDUM

NOTICE

March 10, 1942

Remitter: E. L. Bosqui Printing Company

Title: Rules & Rates for Fire Insurance
and Allied Lines

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

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

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

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

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

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

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

Member of the Board

Member of the Board

Minority sustained.

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

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

NOTICE

MINORITY MEMORANDUM

March 10, 1942

Remitter: Josqui, E. L. Print Co.

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

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

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

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

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

W. H. Wise, March 11, 1942

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

NOTICE

MINORITY MEMORANDUM

March 10, 1942

Remitter: Greens, Dan (13934)

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

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

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

RSM

Register but write letter. This has been submitted to Col. Bourvé.
W. H. Wise, March 10, 1942.

WLP:jem

MAJORITY MEMORANDUM

NOTICE

March 10, 1942

Remitter: Dan Greene

Title: Survey of High School Students
Future Educational Plans

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

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

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

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

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

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

WZP

Member of the Board

MESB

Member of the Board

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

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 11, 1942

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

Total time consumed, 50 mins.
Unanimous decisions, 8

1. Burnham, C. St. Clair (66665)--Class E. "Opus I." Held that a title for a musical composition given as "Opus I" is sufficient for purposes of identification. Enter as applied for.
2. McCoy, Orlando Z. (6826)--Class K. "Patriotic Poster: President Roosevelt and Uncle Sam before a microphone, against a background of an American Flag." Applicant originally deposited photographic reproductions of a work described as a "patriotic poster." The Office wrote requesting the deposit of copies of the actual poster itself and also suggested the possibility of registering the original painting if such existed. In reply applicant deposits two copies of the published print with an application on form K which application, however, gives two dates of publication, one referring to the poster and the other referring apparently to the photographic reproduction. The Examiner would require two registrations, one for the print, i.e., the poster and the other for the photographic reproduction as a reproduction of a work of art. The Board is of the opinion that only a single registration is necessary, namely, for the poster. The essential work to be copyrighted is the poster as advanced by applicant's own statements. The photograph, indeed, would hardly be published in this form since it would serve no purpose. Request a new application on form K giving a single correct date of publication.
3. Halvorson, Halvor L. (14505)--Class H. "Life Portrait of George Washington Painted in his Early Youth." There have been two publications of reproductions of this life portrait of George Washington painted in his early youth. One publication took place in a newspaper as a contribution thereto and that copyright has been duly passed for registration. The second publication is in the form of photographic reproductions. The Examiner holds that since the date of publication of each was the same only a single registration is necessary and such registration has already been made. The Board overrules the Examiner holding that there exists two separate publications in different media, each of which is the subject of a separate copyright and requires a separate registration. Moreover, it appears from applicant's sworn affidavit that the photographic reproduction was published on February 12, 1942 and not February 21 as subsequently given in the application. Inquiry should be made as to the correct date of publication of the photographic reproduction and upon determination of the correct date, entry should be made upon form H.
4. Buffalo Evening News (12253)--Class A. "Buffalo Evening News and Fact Book 1942." The application originally filed for registration of this work contained a variance in authorship. The copy gave the editor, Edward H. Butler,

as author whereas line (3) of the application gave publisher, "Buffalo Evening News." The Office requested an explanation and in response thereto the applicant filed an amended application including the statement "Edward H. Butler Editor and Publisher" after the name of Buffalo Evening News in line (3). Examiner would now request a new application omitting the word publisher from the amended statement in line (3) and she would also now suggest that the name of the copyright owner include Edward H. Butler, Publisher. The Board is of the opinion that the application as now submitted is acceptable and directs registration as applied for.

5. Marschand Music Co. (14874)--Class E. "Keep Your Chin Up in True Yankee Style." The copies filed are so-called professional copies and the Examiner questions them as representing the best edition. The Board directs entry as applied for without questioning the copies. Sales copies may never be published depending on the success of the original publication or distribution of the professional copies to band leaders, radio stations and other interested parties.

6. Sundin, Clifford Emanuel (14947)--Class E. "The Waterfall," "The Girl That Belongs to Somebody Else....," "Let's Do Our Job Over Here..." Same as above.

7. Glasco Electric Company (8931)--Class A. "Glasco Catalog of Electrical Supplies First Quarter, 1942" St. Louis and Kansas City Editions. Applications were originally filed for these works giving a date of publication December 31, 1941 whereas the notice of copyright on the copies gave 1942. The applications accordingly were rejected. Applicant subsequently filed a second set of applications giving January 2, 1942 as the date of publication. The Office wrote requesting a specific statement and pointing out the issue involved. A third set of applications was then received but without comment, again giving the date of publication as January 2, 1942. The Examiner would write again but the Board feels that the new applications should be accepted inasmuch as the date of publication, January 2, 1942, has twice been sworn to in the affidavits of manufacture.

8. Barlow, Edgar Ivanhoe Henry (38115)--Class E. "Gloom." The applicant who gave an address as "Ancon C.Z. P.O." was twice written to with respect to his correct legal name, it having been given in the application as "Edgar Ivanhoe Henry (Barlow). Both letters were returned from the Canal Zone as unclaimed. Since a reply is not obtainable, perhaps for the reason the man is in the army, the Board directs entry as originally applied for. Claim may be recorded as in the application.

Remitter: Carter Carburetor Corp.

Title: "Carter Sales & Service Manual Form 4672" and 2 others.

Questions: Should the Office accept classification book when the article is clearly a commercial print merely because the applicant insists upon such classification and Rule 8 of the Office on the face of it appears to authorize it?

The subject matter in question falls clearly in the class of commercial prints and is normally registered under this classification. Here, however, applications have been made on Form A1 for registration as book, and the applicant insists that his choice should be accepted under Section 5 of the Act. Applicant's position is strengthened by Rule 8 of the Office and the majority of the Board feels that registration should be made as book because of applicant's insistence and this rule.

In his letter of February 16, the applicant admits that the articles in question are used in connection with the sale of articles of merchandise. They are single sheets containing pictorial matter and even the prices. The applicant seems to base his contention upon Section 5 of the Act under which erroneous classification would not invalidate copyright. Previous registrations have been made by the applicant as commercial prints of similar material. Other applicants, such as Bendix Aviation Corp., Otis Elevator Co., and the Singer Manufacturing Co. uniformly apply for registration of similar material as commercial prints, and there have been a large number of such registrations made. If the Office accedes to the applicant's contention, all the other applicants would be entitled to advance the same claim. The Board itself has on previous occasions approved recommendations requiring K classification in cases of similar material.

Rule 8 of the Office, recently adopted, reads as follows: "Where a given work is conceivably capable of falling under more than one class, then the applicant's selection should be followed."

It is submitted that this rule should not apply with respect to commercial prints because of difference in registration fee. If the Office once establishes a practice that the applicant's choice should be accepted as between commercial print and other classes, the result would partially nullify Section 61 of the Act, as amended, which requires \$6 fee for registration of all commercial prints and labels. In this connection, attention is called to the opinion of the Attorney General of the United States, dated September 4, 1940, in which, referring to registration of certain contributions to periodicals as commercial prints, the Attorney General said:

"It does not appear whether it was noticed in the Congress that 'retention' of the \$6 fee might result in an increase in the fee actually paid in those classes of cases over which both offices had claimed jurisdiction. Regardless of this, however, section 3 as it is worded purports to impose a fee of \$6 to the registration of 'all prints and labels published in connection with the sale or advertisement of articles of merchandise' (except trade-marks), and I find nothing in the statute or in its legislative history that would appear to warrant a construction with a different result. On the contrary, it would seem rather consistent with the general purpose of the statute that there should be uniformity in the matter of fees for registration, as well as the place of registration, of commercial prints and labels."

Remitter: Carter Carburetor Corp.

Title: "Carter Sales & Service Manual Form 4672" and 2 others.

This opinion clearly indicates that if an article is a commercial print or label the Register of Copyrights is obligated to require the fee of \$6 in payment for registration.

The applicant in his letter also makes reference to cases where catalogs and booklets were held not commercial prints. These cases are not in point because here only single sheets are involved.

It is the minority's opinion that the Office should continue registration of this type of material as heretofore and that the present applicant should be required to continue applying for registration of similar material under this classification, not book.

Respectfully,


S. Latica
Member, Revisory Board

The question seems boil itself down to whether material is used for or in connection with the sale or advertisement of articles of merchandise. If so, KK is clearly indicated (except perhaps for the four page pamphlet). Write accordingly.

H. A. H. 4/10/46

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 12, 1942

The Revisory Board convened at 10:00 and adjourned at 11:05. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 65 mins.
Unanimous decisions, 6
Divided opinions, 2

1. Savage, Robert C. (16134)--Class G. "Remember Pearl Harbor--Quiet," (Old Glory at half mast, etc). Applicant files an application on form G2 for registration of a work described as "Rayon Flock on Rayon of Old Glory at Halfmast standing out of water." There is a further description but it unnecessary to quote it all. The Examiner recommends that if the flag has been painted on the rayon cloth, registration could be made as a painting. "Flock", however, is a tuft of wool when used in this sense. Work is, therefore, subject to protection under design patent if at all. Reject.
2. Long, Frank (15920)--Class A. "Relativity and \overline{II} ." The work deposited is a card on which has been printed a mathematical solution or formula. Examiner sustained in holding that a mere mathematical solution is not subject matter of copyright. Reject.
3. Peterson, Clarence Stewart (10556)--Class K. "48 State Capitols." Examiner in this case recommends registration for the work as an unpublished photograph in view of the fact that admittedly none of the cards have been sold. The applicant, however, expressly states that while none were sold they "were placed on sale." Placing on sale constitutes publication irrespective of whether any copies are actually sold (Section 62). The photograph should be registered as a published work and the Board so directs.
4. Interstate Sales Co. (16490)--Class I. "Wolfe Divisor for Cirdes." This work consists of a series of circumferences mathematically divided. By the use of a straight edge readings can be obtained of various diameters. The Examiner would reject the work upon the ground that it is a device owing to the fact that in the directions mention is made of a "pointer." In the view of the Board, the pointer only acts as a straight edge and the information would actually be obtained by glancing at the drawing if one had accurate enough eye. In other words, the so-called "mathematical feature" is not essential to the securing of information but merely facilitates the reading as would a ruler laid along a line of logarithms. Register as applied for as a published drawing of a scientific or technical character.
5. Collins, Mark E. (14131)--Class I. "Pianosopes--Charts 1,2 and 3." The material deposited consists of two jackets with sliding panels in the form of the manipulated device currently in use as a quick method of obtaining

information on many subjects. These particular charts have to do with piano transposition and fingering. The Examiner would reject outright upon the ground of the mechanical feature involved. The Board overrules the Examiner as to there being no subject matter for copyright. There is independent copy-rightable subject matter not essential to the operation of the device. Chart No. 3, however, bears no copyright notice and is therefore not registrable. Charts Nos. 1 and 2, forming the obverse and reverse of one of the articles has notice of copyright and may be registered with the usual disclaimer clause. Applicant should further be informed that the name "Pianosopes" and the idea involved are not subject to copyright protection.

6. Hickok, Paul R. (Rev.)--(No Fee)--Class C. "A Personal letter written from Japan on April 13, 1927 concerning items of mutual interest in connection with the Nanking Incident of 1927" by Pearl Buck. The deposit is a thirteen page typescript of a letter written by the authoress, Pearl Buck, to a clergyman at Troy, New York on April 13, 1927 dealing with aspects of the Chinese Revolution. The recipient of the letter who is the present applicant applies for registration of the letter as a lecture or address, stating that "this letter was written from Japan for that very purpose, and was actually used as an oral message to the congregation of the Second Presbyterian Church in Troy, New York." It is well established in copyright law that in the absence of a specific agreement to the contrary the literary property in a letter remains with the writer. There is no evidence at hand that Pearl Buck assigned her literary rights as regards this letter. Accordingly registration does not seem permissible and the applicant should be so advised.

7. Harper & Brothers (Deposit Acc't)--Class A. "Atlantic Ordeal." This is a question as to the proper application form which should be filed where there is first publication of a book abroad in the English language followed by first United States publication as a contribution to a periodical with a bound American edition of the book subsequently being published within the term of ad interim copyright. Harper & Brothers, the publishers, deposit two copies of the American bound book edition with an application on form A, giving after the title in line (5) the date of publication of the work in an American magazine, followed in lines (6) and (7) by the respective dates of original publication abroad and publication in this country in bound book form. The Board divides upon the proper application to cover the situation. Mrs. Brady and Mr. Pforzheimer support the Examiner in her recommendation that application form A6 which is for a serial republished in book form would be the proper one to use inasmuch as the first American publication took place as a contribution in HARPER'S magazine on December 19, 1941. Mr. MacCarteney is of the opinion that application form A as submitted by the publisher should be accepted. This form was specifically prepared for an American edition of an ad interim book which this is. The fact that the first American publication of the work took place in a magazine, he believes, is not sufficiently weighty to justify the change necessary in the application form A6 in order to present the facts surrounding the case. Application form A6 was primarily intended for original domestic publications in serial form that have been republished with new matter in bound book form. Application form A on the other hand presents all the necessary information including the original date of publication abroad. The copyright is retroactive to the original publication abroad and the form expresses the fact that what is being registered is a bound American edition of an ad interim book.

See memos and Cal. P's note and final decision of Mar. 12, 1942.

To require form A6 would be to require the presence of new copyrightable matter as a condition of registration. The presence of new copyright matter is not necessary in the case of an American edition of an ad interim book. Indeed, new matter is seldom present. Appeal. *Register as applied for. (See Memo) "Classification"*

8. Beranek, John (14900)--Class A. "Capture Hitler Game." The deposit is a photostat of a game board at the bottom of which appear printed directions. Mr. Pforzheimer and Mrs. Brady hold that directions are not subject to copyright when they are an essential part of a game board. Mr. MacCarteney sustains the Examiner in holding that provided the notice of copyright is attached to the directions specifically, registration can be made for such directions notwithstanding they are printed upon the game board. Appeal.

Examiner and minority sustained. See "Memo" Game.

CLASSIFICATION
A or A6

MINORITY MEMORANDUM

March 12, 1942

Remitter: Harper & Brothers (Deposit Account)

Title: "Atlantic Ordeal"

Question: Whether application form A or A6 should be used in connection with the American bound book edition of an ad interim book where actual first American publication took place as a contribution to a periodical.

This is a question as to the proper application form which should be filed where there is first publication of a book abroad in the English language followed by first United States publication as a contribution to a periodical with a bound American edition of the book subsequently being published within the term of ad interim copyright. Harper & Brothers, the publishers, deposit two copies of the American bound book edition with an application on form A, giving after the title in line (5) the date of publication of the work in an American magazine, followed in lines (6) and (7) by the respective dates of original publication abroad and publication in this country in bound book form. The Board divides upon the proper application to cover the situation.

Mrs. Brady and Mr. Pforzheimer support the Examiner in her recommendation that application form A6 which is for a serial republished in book form would be the proper one to use inasmuch as the first American publication took place as a contribution in HARPER'S magazine on December 19, 1941.

Mr. MacCarteney is of the opinion that application form A as submitted by the publisher should be accepted. This form was specifically prepared for an American edition of an ad interim book which this is. The fact that the first American publication of the work took place in a magazine, he believes, is not sufficiently weighty to justify the change necessary in the application form A6 in order to present the facts surrounding the case. Application form A6 was primarily intended for original domestic publications in serial form that have been republished with new matter in bound book form. Application form A on the other hand presents all the necessary information including the original date of publication abroad. The copyright is retroactive to the original publication abroad and the form expresses the fact that what is being registered is a bound American edition of an ad interim book. To require form A6 would be to require the presence of new copyrightable matter as a condition of registration. The presence of new copyrightable matter is not necessary in the case of an American edition of an ad interim book. Indeed, new matter is seldom present.

Register as applied for. W. H. Wise,
(See Asst. Reg. memo) March 18, 1942.

Richard S. MacCarteney

MAJORITY MEMORANDUM

CLASSIFICATION --A or A6?

March 12, 1942

Remitter: Harper & Bros.

Title: "Atlantic Ordeal"

Question: Correct form for use in completion of an ad interim registration.

The volume in question was first published in England on December 15, 1941 and a few days later in the United States in the January 1942 issue of Harper's magazine with a notice of copyright upon the first page of the text in the name of Harper and Brothers. This notice served as the notice of copyright for the entire issue. The book itself was published in the United States on March 5, 1942 containing a notice of copyright in the name of Elspeth Huxley, the authoress, and the year dates 1941 and 1942 in the notice. Application for registration of the claim to copyright therein was filed upon Form A giving the name of Elspeth Huxley as the copyright owner. The examiner contends and is supported by the undersigned that registration for the book should have been filed upon Form A-6 and that Form A should have been applied for registration of the claim to copyright in the American magazine appearance of "Atlantic Ordeal."

It is conceded that the provisions of Section 21 have been complied with. Section 22 then requires that within the period of ad interim protection "an authorized edition" of such book should be published within the United States in accordance with the provisions of Section 15. The first authorized American appearance of "Atlantic Ordeal" as stated above was in the January 1942 issue of Harper's magazine. By such appearance it would seem that the provisions of Section 22 have been complied with. Therefore, application for registration of the claim based upon the magazine appearance should have been made by Harper and Brothers upon Form A.

Almost three months elapsed from the date of the magazine appearance in the United States to the date of the publication of the American edition of the book entitled "Atlantic Ordeal". The book contained new matter in the form of illustrations. Therefore, application for registration of this claim should have been filed upon Form A-6 as the examiner has ruled.

If the examiner and the undersigned are sustained in this contention, it will afford those publishing books in the English language outside the United States an additional opportunity to secure copyright protection in the United States. It is relatively more simple to publish American editions of books first published abroad in the English language in serial form in magazines than to produce a new volume, and this comes well within the requirements of the manufacturing clause.

Register as applied for. W.H.Wise, 3-18-42.

[See Assistant Register's Memo]

Walter P. Bonferrini
Wendell B. Brady

MINORITY MEMORANDUM

Game

March 12, 1942

Remitter: Beranek, John (14900)

Title: "Capture Hitler Game"

Question: Whether copyrightable text matter published with a notice of copyright specifically referring to it may be registered notwithstanding the text matter appears physically upon a gameboard. For purposes of argument it is to be assumed that the text matter is a cohesive unit separable from the game features of the board.

The deposit consists of a gameboard. At the lower right hand corner is a block of text matter consisting of the directions of play. For purposes of argument it will be assumed that the notice of copyright is attached to the directions specifically and is not printed in such a way as to give the impression that an exclusive right is claimed in the gameboard as such.

Mr. Pforzheimer and Mrs. Brady are of the opinion that the device rule as amended prohibits the registration of printed "instructions" if physically present on any portion of a device or as in the present case on a gameboard. It is their contention that the clarifying clause to the rule makes a distinction between instructions and other material of itself copyrightable appearing on the work. In other words, while any other copyrightable material appearing upon the work and not essential to the operation thereof will be accepted, the "instructions" constitute a class apart and must be published separately, i.e., on a separate sheet.

It is the opinion of the Chairman that the word "instructions" should be read in connection with the preceding word "such" which word refers unquestionably to the instructions hypothecated in the preceding paragraph as being physically incorporated in such device. The addition of the clarifying clause to the rule, he contends, was for the purpose of modifying the blanket statement to exclude "instructions," that while physically present in such device were nevertheless "not essential to the operation thereof," i.e., not so positioned as to be inseparable from the device (here the gameboard) feature.

That his interpretation of the rule is correct, the Chairman feels is borne out by several admitted facts. It is an admitted principle that the association of non copyrightable with copyrightable matter does not prevent a work from being copyrighted to protect the copyrightable matter. In Holmes v. Hurst, 174 U. S. Rept. 82, the Assistant Register will remember it was held that "It is the intellectual production of the author which the copyright protects and not the particular form which such production ultimately takes and the word "book" as used in the Statute is not to be understood in its technical sense of a bound volume but any species of publication which the author selects to embody his literary product."

3-12-42

It was the opinion approved by the Assistant Register as recently as December, 1941 in the case of a gameboard containing copyrightable print published with a notice of copyright specifically attached to it, that such illustrations were registrable if the claim were limited to the copyrightable matter.

The Chairman is unable to see why there should be any basic difference in treatment as between various classifications of copyrightable matter. If a print appearing upon a gameboard is registrable, then a block of text with notice of copyright referring to it specifically is also registrable. It could not have been the intention of the framers of the rule to so distinguish between text matter constituting "instructions" and "Other material itself copyrightable" as to require separate publication for the instructions as a condition of registration while not requiring a separate publication for other types of copyrightable material.

Provided, therefore, the text matter consisting of instructions is segregated upon a gameboard with a notice of copyright attached specifically to the text matter so as not to mislead the public that copyright is being claimed in the gameboard as such, the Chairman is of the belief that registration should be granted to such text matter upon an application limiting the claim to the instructions.


R. S. MacCartney

Examiner and Minority sustained. Text matter in the way of directions and rules is copyrightable and copyright notice in juxtaposition therewith, with an application limiting copyright claim justifies registration.

W. H. Wise, March 13, 1942

MAJORITY MEMORANDUM

MP-1192 "GAME"

March 12, 1942

Remitter: John Beranek

Title: "Capture Hitler" Game

Question: Whether instructions for playing a game which form an integral part of the face of a game board are registrable in this Office if published with proper notice of copyright.

The remitter has deposited in this Office what appears to be two proof copies of a work which he described as a "game" entitled "Capture Hitler." In final form these copies will serve as the face of a game board. The Chairman contends that if the work is published with the notice of copyright placed under the directions rather than under the center of the board, registration for these directions will be in order even though the instructions appear directly upon the face of the board itself.

The Majority reiterates the Office ruling that game boards are not subject to copyright protection and of course holds that the instructions themselves would be protectible were they separately published with proper notice of copyright. However, when the instructions appear as an integral part of the face of the game board no registration for them is permissible.

It appears to the majority that the analogy to instructions in connection with devices is pertinent. In the Office ruling upon this subject, it is pointed out that words essential to the operation of a device and instructions concerning its use are not registrable if physically incorporated therein but that copyright protection may be secured for the instructions if they are not incorporated in the device itself. So in the present case, registration of the claim to copyright for the instructions may be made if they are published separately with proper notice of copyright. Registration of the claim to copyright cannot be made when the instructions appear upon the face of the game board itself. The Majority feel that the elements of consistency in these two rulings lend additional force to the argument.

The Chairman's mention of the case involving the registration of the claim to copyright in the Borden Cow upon a game board is particularly distinguishable in view of the special circumstances surrounding that registration.

Examiner and Minority Sustained. Text matter in the way of directions and rules is copyrightable and copyright notice in juxtaposition therewith, with an application limiting copyright claim justifies registration.

W. H. Wise, March 13, 1942

Walter J. Brannan
Member of Board

Wm. C. Brady
Member of Board

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 13, 1942

The Revisory Board convened at 10:30 and adjourned at 10:55. Those present were: Mr. MacCarteney, Mrs. Brady and Mr. Lasica.

Total time consumed, 25 mins.
Unanimous decisions, 5

1. O'Neil, Eleanor Jordan (15980)--Class E. "Please Don't Ration Love" [and] "Please Don't Ration Fashions." The deposit is a manuscript of two songs, one entitled "Please Don't Ration Love" and "Please Don't Ration Fashions." The first lyric is visibly set to the music whereas the latter is not, the verses being stapled to the manuscript. Because of a second page typescript carrying additional verses to the second lyric, "Please Don't Ration Fashions," the Examiner would call for two additional registrations, one for the song "Please Don't Ration Fashions" and the other for the additional verses bearing the titles: "Uniforms," "Suits," "Sports", "Pretty As a Picture," etc., apparently considering the additional verses as a second alternative version. The Board overrules the Examiner, holding that one additional registration is all that is necessary. The verses on the last page of typescript are merely additional ones to "Please Don't Ration Fashions," the alternative version. Request an additional form E2, one complete copy and registration fee.
2. Hansen, Ruth Holmes (16078)--Class E. "White Rose of Sigma." Applicant has deposited one manuscript and one hectograph copy of this musical composition. The application has been filed upon form E and bears the statement: "Printed by ditto process and distributed to members of 'Sigma.'" The Examiner while pointing out that the copies are questionable as representing the best edition, states that if the hectograph copies have been published within the meaning of the law, registration will be made upon receipt of an additional copy and an application, omitting statement referring to the printing and distribution. Upon examination the Board finds that there is no notice of copyright on the hectograph copy; therefore, if publication has taken place the copyright has been lost. Publication, however, seems doubtful and accordingly the Board directs that a letter be written explaining the circumstances and enclosing an application form E2 for applicant's possible use.
3. Stoddart Aircraft Radio Co. (9552)--Class I. "Approximate characteristics of fixed aircraft antenna. Approximate length of fixed aircraft antenna for quarter-wave resonance." The works deposited for registration are published technical drawings. At the lower right hand corner appears the statement: "Engineered..P. J. Holmes; Drawn...L. B. Stubbs." P. J. Holmes was given as the author in the applications. The Office questioned whether this should not be a joint authorship including L. B. Stubbs as co-author. Applicant replied that L. B. Stubbs was simply the draftsman employed to do the manual drawing and that the works are not the result of a joint authorship. Examiner

would again advise that the person who has done the drawing is considered as the author unless the company for whom the work has been done wishes to show that the work was done for hire. The Board overrules the Examiner, directing acceptance of the statement of authorship as given in the applications, i.e., P. G. Holmes.

4. Broadcast Music, Inc. (Deposit Acc't)--Class E. "Nobody Knows My Trouble." Two slightly different versions of the old negro spiritual "Nobody Knows The Trouble I Have Seen" have been filed on form E3, one claiming on the transcription and the other on a swing arrangement. The music deposited consists simply of the melody line of the song. The Examiner would reject the application for the so-called "transcription" upon the ground that no new musical composition was involved. He would, however, accept the application for the swing arrangement upon the applicant deleting the statement "Arr. by Larry Clinton" which statement appears on the copy. In the view of the Board there is no new musical composition justifying registration in either copy. No "swing arrangement" has been deposited but simply the melodic line faithfully reproducing the traditional melody with the exception of possibly a very few notes. If they can deposit a copy of a bona fide swing arrangement an examination can be made. As deposited, however, neither copy is a "new musical composition" as understood from the decisions of the courts following the reasoning of the original case of Jollie v. Jacques.

5. Party Guild (16264)--Class A. "The Party Guild." The work deposited for registration is a folder which incidentally advertises certain novelties, table favors and party supplies as an inducement to join the membership of the so-called "Party Guild." The purpose of the work, however, is not to advertise the novelties but to advertise a service, that is, the overall cost of a party to be furnished by the Party Guild upon the payment of the stipulated fee. Examiner sustained. This work is registrable as a book and does not require classification as a commercial print.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 16, 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 in the case of one corrective entry.

Total time consumed, 60 mins.
Unanimous decisions, 5

The actual time consumed in acting upon material formally before the Board was twenty minutes. The remainder of the hour was taken up by Mrs. Rafter in representing cases that the Board had already acted upon in an endeavor to secure reversals of opinion. The Board's original action in each case was reaffirmed.

Corrective Entry:

1. Chartered Institute of American Inventors (Deposit Acc't)--Class I. "Typographic Layout Tee-Square." Applicant filed an application giving the address of the claimant as of Salt Lake City, Utah whereas the correct address should be in New York City. Since the error was not simply one of an incorrect street number, but involved practically the entire breadth of country, it is believed that a corrective entry would be justified. Explain procedure.

General Business:

1. Courier Citizen Co. (15452)--Class A. "Gregg Woodwork of Quality." 80 page edition and 32 page edition. Examiner sustained in her recommendation that a 32 page edition of an earlier published 80 page edition would be subject to registration upon form A2 where the 32 page edition contains new matter not present in the original and larger edition. Two entries in order, one for the original and one for the second edition.

2. Stair, Lester L. (E unp 283585)--Class E. "My Sweetheart's Picture." Applicant wishes to abandon a recorded entry upon the ground that he was not satisfied with the music of the song to which his lyrics have been set. Applicant was advised that the record might be marked "abandoned" if he would return the certificate. It does not appear, however, upon the application that the composer of the music was an employee for hire although such might be the case. Nor have we any authorization from the composer to mark the record of his music "abandoned." The Board feels in such case that the applicant should be advised in the absence of authorization from the composer that the record should not be marked "abandoned" thereby destroying the composer's possible renewal rights. He can, however, make a new registration based upon new music if and when the same is composed.

3. Gerlach-Barklow Co. (6831)--Class K. "Flower Prints 1 to 12." This Office neglected to return applications for the addition of descriptive titles. Merely numbers have been given in the space provided for the title of the prints and while the numbers appear also on the copies thereby furnishing identification, it is believed that the descriptive titles also appearing on the back of the copies should be repeated in the applications. In view of the fact, however, that it was the Office's error in not returning the material for the addition of the descriptive titles, the Board directs that this Office should add these titles to the applications in each instance and pass the claims for registration.

4. Chico Record (51236)--Class A. "Bay Police Useless as Family Seeks Missing Chico Man" in CHICO RECORD, July 19, 1941. The name of the periodical, THE CHICO RECORD, is given as the claimant in the application and also in the notice of copyright on the contribution. The Examiner felt in view of a statement appearing on another page of the periodical that the CHICO RECORD was "Published by the Chico Publishing Company" that the latter name should be given in curves in the application. The Office twice attempted to secure such an application but no response was received from the claimant. In the absence of a reply the Board directs entry as applied for to close the matter. The CHICO RECORD would in effect be a trade name.

1196A

LIBRARY OF CONGRESS

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MEMORANDUM

REFERRING TO PATENT OFFICE PRINT REGISTRATIONS

DATE March 16, 1942

To: Chairman, Revisory Board

From: Examiner, Prints & Labels

As requested, the Print and Label Section is calling to the attention of the Chairman of the Revisory Board and its members, the practices of the Patent Office in respect to what is an "article of manufacture" in the light of previous registrations at the Patent Office. The Patent Office registered prints which were pictorial advertisements for the following articles:

1. Catalogue (17622)
2. Accounting Form Specimens (13713)
3. Horoscope (17881)
4. Comic Magazine (17991)
5. Publication (15419)
6. Magazine (17458)
7. Talking Motion Picture (12079)
8. Motion Picture Films (4450)
9. Bible (12536)
10. Book (16832)
11. Puzzles (14489)
12. Examples of Peasant Art (11126)
13. Half-tones (16064)
14. Artwork, mats and cuts (17971)
15. Portraits (12193)

The examples cited will not be returned to the files for a few days so that the copies may be inspected by anyone interested.

Examiner, Prints & Labels

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 17, 1942

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

Total time consumed, 15 mins.

Unanimous decisions, 2

1. Vaughn, William M. (15122)--Class K. "Modern Forty Niner--I Drive Under Fifty." The deposit is a printed sticker consisting of three red, white and blue circles within which appears the writing "Modern Forty-Niner--I Drive Under Fifty." In the center of the circle is a large printed number "49." Applicant applied for registration of the work as a print. Examiner would reject upon the ground that there is no pictorial illustration present. The Board, however, is of the opinion that registration should be made as applied for in view of Colonel Bouvé's rulings in the "America" case and the "Service Emblem Case." The work is undoubtedly a print; there is color and taken as a whole there is some elementary design, the artistic work of which it is not for this Office to determine.

2. Clayton, Harold O. (16820)--Class A. "Salvo." Applicant deposits three applications for the three component parts of a game, the envelope, the instructions and the gameboard. Examiner sustained in holding that the gameboard is simply a blank form and as such is not registrable. Examiner also sustained in holding that the instructions can be registered as a book. The Examiner is overruled, however, in recommending rejection of the envelope because it shows the same print appearing on the instructions. The envelope is in color and should be referred to the Print and Label Examiner for possible classification under that category.

M E M O R A N D U M

March 18, 1942

To the Chairman of the Revisory Board

Referring to "Atlantic Ordeal" by Elspeth Huxley, submitted for registration by Harper and Brothers.

The application submitted is for the United States edition of the work entitled "Atlantic Ordeal" by Elspeth Huxley. Within the ad interim period there have been two United States manufactures--one as a contribution to Harper's magazine and one in book form (now submitted). It seems clear that for deposit in connection with the United States edition copies of the best edition in accordance with the statute should be deposited. This has been accomplished by depositing copies of the book, which is a better edition than the work as printed in Harper's magazine. The case has been discussed with the Register of Copyrights and certain of his observations are noted below:

"Ad interim application was made in the form required by the statute and registration made on the ad interim application. Within the statutory period of 4 months this work has been published twice in the United States--first in Harper's Magazine in serial form; next in book form. I know of no provision in the Act preventing honoring the application when accompanied by the two volumes of the publication in book form, said publication having, as I say, been accomplished within the 4 months period. Harper's has simply made a deposit of the best edition which has come into existence during the deposit period. It is said that the book form contains new matter, that is, illustrations, which were not contained in Harper's Magazine and that consequently Form A6 should be used.

"Let us suppose that A publishes a book in the United States in cheap paper cover and generally of cheap manufacture. The book has a very good sale and the cheap edition bids fair to be exhausted, whereupon the publisher gets out another edition in expensive binding carrying illustrations that were not contained in the cheaper edition. The copyright owner applies for registration and deposits two copies of the unillustrated paper edition. The Copyright Office happens to know of the publication of the second expensive edition. What would the Copyright Office do? Obviously it would communicate with the publisher and insist upon getting the best edition in existence at the time of registration. It is hardly to be conceived that the Copyright Office would refuse to accept the best edition in existence at the time application for registration was made, and accept the cheap unillustrated edition in lieu of the expensive illustrated edition."

W. Harvey Wise
Assistant Register of Copyrights

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 19, 1942

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

Total time consumed, 40 mins.
Unanimous decisions, 8
Divided Opinions, 2

1. Finkelhor (Francis)--(12132)--Class KK. "A Soldiers Secretary." The deposit is a book of pictorial postcards with a pictorial cover. The individual postcards have already been registered as separate prints. The applicant also applies for registration of the cover as a commercial label stating the merchandise to be correspondence cards. The Examiner is overruled in holding that the cover is not a label. Register as applied for on application form KK.
2. National Exchange Club (No Fee)--Class A. "The Exchange Club Bulletin-Who, What, When, Where, Why and How!" This work was twice denied registration upon the ground that publication initially took place with a faulty notice of copyright and that the subsequent correction of the notice did not remedy the original defect to permit registration. Applicant again reapplies, stating that the distribution of copies was restricted to members of the corporation. Nevertheless some few hundred copies were so distributed with faulty notice which did constitute publication. Examiner sustained in again rejecting the application.
3. Starck, Frederick Douglass (50216 [1941])--Class B. "The World of Tomorrow." The Copyright Office has been unable to secure confirmation from the applicant that the two issues of the newspaper in question were actually published with notice of copyright. The copies deposited in this Office bore a notice of copyright that had been added by means of a rubber stamp and application was inadvertently passed for numbering. In the absence of a reply and due to the fact that publication with notice has not been established the Board recommends that the registration be cancelled and refers the matter to the Assistant Register for his approval of the recommendation.
4. Jaqua Company (17392)--Class A. "Wiring Materials Power Apparatus General Electric Supply Corp." The work in question lacks a formal title page, the cover serving that purpose. The notice of copyright appears upon the second page inside the cover, there being a sheet comprising a sectional index between the cover and the page on which the notice appears. Held that in the absence of a formal title page the notice of copyright so placed is acceptable.
5. Owens, Charles (17647)--Class A. "Chapman's Reflexes, The Osteopathic Lesion and The Pelvic-Thyroid Syndrome in Gynecology." Held that where the name of the copyright owner appears upon the same page as the notice of copyright even though separated by the extent of the text on that page, registration may be made.

6. National Printing Co., Inc. (Deposit Acc't)--Class A. "Happy Birthday-4212," "A Friendly Message -4213," "Missing You -4214." The deposit in question consists of two quarto sheets, one upon the other, the outside one being of transparent material. Both have pictorial illustrations upon them, the top or transparent sheet having also inscribed a notice of copyright reading "© By Nat'l Ptg. Co., Inc. MCMXLIII." The Examiner would reject upon the ground that the notice is faulty for registration as a book under which classification they applied. The Board holds, however, that the print material is certainly registrable under Class K and the notice is acceptable for registration. It directs the filing of an application on form K.
7. Miller, Homer B. (No Fee)--Class E. "Uncle Sam's Fighting Again." Held that where two or more names, one of which is the copyright claimant, appear upon a page separated from the notice of copyright including the word "Copyright" and the year date of publication, that registration may be made upon the basis that the claimant's name is present on the same sheet.
8. Viking Press (Deposit Acc't)--Class A. "Amerigo". The work deposited bears the notice of copyright in the name of Stefan Zweig, the late author. The book was published on February 23, 1942, the date on which Mr. Zweig died. The notice is, therefore, in the name of a dead man but since the date of his death and the date of publication coincided and it was not possible to rerun the copyright page, an application in the name of the executor or administrator of the estate of Stefan Zweig will be accepted.
9. Jackson, Frank D. (No Fee)--Class A. "U. S. Defense Stamp Certificate." The deposit is a coupon with a small amount of text and copyrightable pictorial matter on both sides. A single notice of copyright is on the face of the coupon. The Board divides upon the registrability of this work, Mr. MacCarteney and Mr. Pforzheimer holding that registration is permissible as a book in view of the admittedly copyrightable print matter on both sides of the work and in addition the small amount of text present. Mrs. Brady holds that the work is not registrable as a book. She apparently feels that registration for the single print on which the copyright notice appears could possibly be had. Appeal.
10. Continental Supply Co. (17369)--Class ? "Select a 'ZC' for Low Cost Production Calculator." The work deposited is a cardboard print advertising the sale of the Continental Supply Co. 'ZC' engines. As a feature of the print there is a moving wheel calculator which by manipulation is supposed to impart technical information as to the various types of engines which may be selected. The Board divides upon the registrability of the work. Mr. MacCarteney and Mr. Pforzheimer hold that registration may be made as a commercial print since the notice of copyright is not upon the device feature but can be held to apply to the print as a whole. Mrs. Brady on the other hand holds that according to the device rule this notice "purports to copyright the device" and therefore the Examiner is to be sustained in rejecting the application. Appeal.
11. Oxford University Press (78307)--Class A. "The War: Second Year." This matter was before the Board on January 9, 1942 at which time the Board recommended the making of two separate registrations, one for the new matter in the book as a whole, claiming upon the new matter in Sections 1-3 and the other for Section 4 which was incorporated in its entirety in "The War: Second Year."* Due to the lapse of
- * A letter was so written and passed for mailing but for some reason was never mailed, the envelope being filed away.

time the period of ad interim protection has expired and it is now too late to carry out the Board's recommendations of January 9, 1942. In view, therefore, of the Office action we should accept the application filed by claimant on December 31, 1941 with the negative statement of claim reading: "Copyright is claimed only on material not appearing in the "Oxford Periodical History of the War," Vols. 6,7,8. This is not the best registration which would have been possible but it is now the only one due to the blunder made.

1198A

MAJORITY MEMORANDUM

Resmitter: The Advertiser Company

Title: "The Science of Feeling Fine"

Question: Is an advertising booklet comprised of some 30 pages of text and pictorial matter registrable as a commercial print when the claimant applies for registration in this class and registration as a book cannot be made because the notice of copyright appears upon the outside of the back cover?

Minority opinion of the Revisionary Board holds that this case comes under Rule 15A and/or 15C providing that if advertising material consisting of several sheets is filed with an application on Form 25, registration should be made as applied for and if the notice of copyright is inadequate for a "book" but is acceptable for a commercial print, the Office should give the applicant the benefit of the doubt.

It seems to the majority that the work in question cannot reasonably be termed a commercial print. It is an advertising booklet comprised of some 30 pages of text with a print border. In the case of J. A. Richards, Inc., v. New York Post, Inc. (District Court, S. D. New York, March 26, 1938) 23 F. Supp. 619. 38 U.S.P.C. 475, Judge Patterson stated

"By explicit provision of the statute the place for copyright notice in the case of a book or printed pamphlet is on the title page or the page immediately following. It follows that a notice on any other page, no matter how prominent, is ineffective." United Thrift Plan, Inc. v. National Thrift Plan, Inc., D.C.W.D., 34 F. 2d 300; Bennett v. Corrain, D. C. Mass., 18 F. Supp. 249. See also Fressman v. The Trade Register, C. C. Wash., 173 F. 419. * * * "I will not say that a copyright notice on the front cover or on the page following a title page being absent, would not suffice. In any event, a notice on the back cover will not do."

It is the opinion of the majority that a 30-page pamphlet even though it advertises or has to do with the sale of an article of merchandise, cannot reasonably be construed as constituting a commercial print. It is in essence a booklet consisting in the main of text matter and the conditions as to notice of copyright in the case of a booklet must be met.

R. S. MacCartney
Chairman of the Revisionary Board

I think we should write first and put it up to them.

H. A. H. 4/10/46

SUBJECT

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 20, 1942

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

Total time consumed, 60 mins.
Unanimous decisions, 11

Corrective Entry:

1. Morris, Edwin H. & Co. (E pub. 102067)--Class E. "Long May We Love." Corrective entry is in order to establish a correct date of publication in the records.

General Business:

1. Bernard Picture Co., Inc. (5682)--Class K. "Landscape 1 & 2," "Vase and Flowers 1 & 2," "Flowers 1&2," "Still Life 1 & 2," " Figures 1 & 2." This matter has twice been before the Board upon a question as to the meaning of dual notices of copyright on the copies, one notice being in the name of a person termed "Michel" and the other in the name of Bernard Picture Co., Inc., the copyright claimant in the applications. It has been established that the correct claimant is Bernard Picture Co. and that Michel is the name of an artist on the company staff. The claimants submit new copies bearing a full notice of copyright on the margin and an abbreviated notice reading "(C) B.P." stamped under the name of Michel. The Examiner would require the filing of an assignment before the registration could be made. The Board is of the opinion, however, that registration should now be made in the name of Bernard Picture Co., Inc. based upon the new copies bearing full notice of copyright on the margin. The fact that the Examiner saw framed copies in a local store which copies seemed only to bear the notice "(C) Michel" is not controlling. The full notice in the name of the company would be hidden by the frame.

2. Walton & Wright (4178)--Class A. "A Boy and His King." This matter was before the Board on February 23 upon a question as to whether a notice of copyright which had the name of one of the original claimants pasted out was acceptable. The Office is informed that such claimant, Suttonhouse Publishers, is now in bankruptcy although they had apparently intended to claim jointly with the author which is the other name in the notice. The application now in hand gives the name of the author as sole owner and the new publisher, the present remitter, indicates that future reprints will bear only the author's name in the notice. The Board is of the opinion that in the absence of contractual agreement between the author and Suttonhouse Publishers whereby the copyright would revert solely to the author in the event of non-compliance with the terms of the contract by the publisher, it would seem a claim would be a joint one between the author and the trustee in bankruptcy and an application should be so filed.

3. Anker, Walter R. (18024)--Class KK. "American Bred Singer." This work has twice been rejected upon the ground that it was apparently first published without notice of copyright. Applicant now reapplies, invoking the saving clause of Section 20, stating that "several particular copies were distributed without copyright notice." Write and inquire as to the number constituting the "particular copies" distributed without notice. The notice itself upon the back of the label would be acceptable as now placed on the tag.
4. Burns, Charles Edward (17490)--Class E. "We'll Smash the Japanese." Do not question so-called "professional copies" when submitted bearing a notice of copyright with an application on form E and the statutory fee of two dollars. Register as applied for.
5. Bell, Glen Marvin (17470)--Class E. "Fighting for our Country." Same as above No. 4.
6. Davis, Delaney & Harris, Inc. (17449)--Class G. "Help Uncle Sam Get Letters to the Boys Quickly, Keep 'Em Writing." This deposit consists of an envelope containing a so-called "letterform" which can apparently be used many times in the course of correspondence constituting itself the stationery. Examiner would register as a book after publication with notice. It appears, however, to the Board that the jacket is in the nature of a label used in connection with stationery. Refer to Print and Label Examiner.
7. Rochester Athenaeum & Mechanism Institute (17834)--Class A. "No. 1 Small Measuring Instruments Test - Form a." The title heading of this publication has the following setup:

ROCHESTER INDUSTRIAL TEST SERIES

of the

Rochester Athenaeum and Mechanics Institute

Rochester, New York

NO 1 - SMALL MEASURING INSTRUMENTS TEST - FORM A

by

(1)

(2)

Leo F. Smith and Alfred L. Davis

Copyright, January, 1942

Examiner raises the point of a variance in claim since the application is in the name of Rochester Athenaeum and Mechanics Institute. The Board is of the opinion that registration should be made as applied for. The statement "by Leo F. Smith and Alfred L. Davis" appearing before the copyright notice relates to authorship not ownership.

8. Drum, W F L Co. (13841)--Class A. "Baton Swirling." The applicant makes the following statement: "The author is really Fred W. Miller who wrote all

of the material. Ray Gaedke and C. W. Boothe are, in a sense, co-authors in that they supplied the illustrations and the information." The application gives all three names in line (3), the latter two in parenthesis. The Examiner would have the co-authors' names removed from the application. The Board holds, however, that their inclusion is correct, the only amendment being the removal of the parenthesis from around the co-authors' names.

9. Bowman, A. B. (18214)--Class I. "Projector." This work was before the Board on February 23 at which time it was rejected as a tool or instrument. The attorney asks reconsideration claiming upon the printed matter in the form of an isometric drawing appearing upon the physical object, i.e., the projector. Examiner feels that registration in Class I-1 would be in order after certain informalities have been adjusted. The Board directs, however, that a letter first be written to the attorney inquiring as to whether the printed matter, i.e., the technical drawing, assumes a functional use. If the drawing is an integral part of the tool and is used with it, it would not be separable from the uncopyrightable tool or instrument and registration would not be in order.

10. Carteret Book Club (16032)--Class A. "The Fortsas Bibliohoax." This publication bears two notices of copyright, one in the name of Walter Klinefelter for the "Bibliohoax" and the other in the name of Carteret Book Club for the special contents of the edition including the "Bibliographical Notes and Comments." The Examiner seems to think there is simply a variance in claim and that there has been a previous publication. From the viewpoint of the Board, however, apparently two copyrights vested in this publication, one claimed in the "Bibliohoax" by Walter Klinefelter, and the other claimed in the Special Contents including the Bibliographical Notes by Carteret Book Club. Two registrations, accordingly, would seem to be in order based upon the respective claims. Inquire.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 23, 1942

The Board convened at 10:00 and adjourned at 10:55. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 55 mins.
Unanimous decisions, 10

1. Just, C. Hercus (18210)--Class K. "He Joined the Colors." Five identical prints of the American Flag have been deposited, the only difference between the copies being one of title, for example, one print is entitled "She Joined the Colors" while another is entitled "He Joined the Colors." Applicant has applied for registration of each of the variants apparently in an effort to secure protection for the titles. Examiner sustained in holding that since only a single print is involved one registration seems proper. It seems to be merely a case of the applicant registering titles.
2. Davis, Samuel H. (17658)--Class A. "Our Invitation." The work deposited is a so-called "scrambled writing." Examiner overruled in holding that it apparently conveys no thought. When deciphered an intelligible quatrain results. Office should, however, question pen and ink notice and explain publication.
3. Jones, Ira Milton (18448)--Class KK. "Restin -Eez." The deposit is a strip of cloth to be attached to a rocking chair. It bears simply the title "Restin - Eez" and the slogan "The Lounge Rocker Supreme." Examiner sustained in holding that there is no copyrightable subject matter present. The slogan may not be copyrighted and the fanciful way of printing the name of a product cannot be considered in this case. Reject.
4. Clayton, Harold O. (16820)--Class A. "Salvo." There are three separate deposits involved, being the component parts of a published game. Examiner sustained with respect to the blank form constituting the game board. It should be rejected. Likewise Examiner sustained in accepting for registration the published instructions. The application filed, however, should be amended to read "Salvo, instructions for game" in line (6). The sheet of instructions also has on it a blue and white pictorial print which same print is reproduced in other colors on the envelope or jacket. The Examiner admits that the envelope is a label but would deny separate registration on the ground that the print appears on the instructions sheet and therefore a second registration would not be in order. The Board overrules the Examiner. A separate registration may be had for the label if so desired. These are simultaneous publications but are not identical.
5. Research Institute of American, Inc. (18661)--Class A. "Producing for War." Held that a notice of copyright separated from the name of the claimant by a list of the names of the committee constituting the authorship is acceptable. Register.

6. Thiess, Olson & Mecklenburger (18020)-G-1. "Help Us Set the Rising Sun." Applicant originally submitted two photographic copies of a sign board used in connection with the sale of Government stamps and bonds. The work was rejected as an article of manufacture not subject to copyright. Applicant re-files application this time classifying the work as a print. Attention is called to the fact that there is definite pictorial matter present. Actually there seems to be little doubt but that the work is an article of manufacture. There is electrical equipment forming an integral part of the display and other portions of the display seem from the photograph to have been superimposed on the board. However, if the applicant wishes further examination upon the merits, he may deposit two copies of the work as actually published in accordance with the provisions of Section 12 of the Act.

7. Alley & Richards Co. (15172)--Class A. "New Ways to Make Desserts Without Using Sugar." A Joint authorship as between the company and the company as employer for hire of an individual should with respect to the present case be framed in the application in line (3) as "Alley & Richards Co. and Alley & Richards Co., as employer for hire of Bertha M. Becker."

8. Wolff (S.J.) & Co., Inc. (13490)--Class KK. "Strawberry Marble Ice Cream (No. S 397)" and eleven others. These deposits are lithographs depicting various kinds of dishes of ice cream which have specific titles though no reference is made to any particular brand of the product. This Office has in the past due to an incorrect understanding, informed the company that unless an advertisement of an article of merchandise referred to a specific brand, it would not be registrable as a commercial print in this Office. Applicant quotes the Office interpretation in applying for registration of the lithographs as prints connected with the fine arts. The Print and Label Examiner has conducted a research into the records of the Patent Office which formerly had jurisdiction over such matters. He finds that under the practices of the Patent Office identical material was accepted for registration as commercial prints. The Board accordingly suggests that in view of further consideration and research into the practices of the Patent Office that applicant be informed that for their own maximum protection registration could be made under the KK classification. Indeed, applicants themselves have made registration in that category for similar prints where no brand of merchandise was evident.

9. Weeks-Howe Emerson Co. (No Fee)--Class A. "Digest of California Game Laws" 1941--1943, in 1942 TIDE TABLES. The notice of copyright on these charts includes only the initials of the claimant, thus: "Copyright 1941 WHECO." Since however, the full name of the copyright claimant appears prominently upon the title page and outside and inside front cover of this booklet, the Board directs acceptance of the notice especially in view of the decision in the case of Merrill Lynch, Pierce, Fenner & Beane where registration was in order upon a similar form of notice.

10. This matter was before the Board on March 5, 1942 upon a question of acceptance of a notice of copyright in the name of a claimant who was then deceased, the death having taken place subsequent to the print^{ing} of the work. The decision of the Board^{was} that registration should probably be made in view of the extenuating circumstances since it is too late to correct the name in the notice, the last signatures having been received. The Board thought it

best, however, to establish the date of publication as given in the application since there was some doubt as to its being correct. The Examiner would now reject the application upon the ground that publication did take place after the claimant's death with a notice of copyright in the dead claimant's name. The Board would accept this fact due to the extenuating circumstances, i.e., the narrowness in time between the claimant's death and the date of publication. The Board directs, however, that a new application be filed giving the correct date of publication which would presumably be the date on which the first copies were made available to the interested public. The Board would also inquire whether the claim in line (1) should not be in the name of the executor or administrator of the estate rather than the name of the "trustees." Request a new application form A1.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 24, 1942

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

Total time consumed, 60 mins.
Unanimous decisions, 4
Divided opinions, 1

1. Fuller, Charles Richard (10941)--Class E. "There's a Place in My Heart for You." The question here is one of the proper application form to use. This applicant has over a number of years secured quite a number of registrations under this particular title, such registrations following the first one being based upon new matter such as changes of music and lyrics. There was, however, a published edition issued in 1937 and this was registered. In 1942 still another version was made, this time in the form of a song for piano and voice and it was published. The Examiner without comment states that form E, not E1, should be used in this registration. The Board returns the envelope to the Examiner with the query as to why, if the work was published previously in 1937, does the Examiner request an application on form E for what is apparently a republication.
2. Marks, Esq. B. Music Corp. (Deposit Acc't)--Class E. "Danza De Antonito" and "Fandango Brasileiro." Examiner sustained in recommending that the citizenship of these two composers (given in the application as of the United States) be verified inasmuch as the preface of one of the works implies that the composer born in Mexico has returned to that country and previous registrations made in the name of the other composer gave him as of France, domiciled in the United States.
3. Hinkle, G. A. (Mrs.)--(18259)--Class E. "U. S. Fighting Song" and "My Yankee Girl." Applicant files a manuscript copy consisting of two titles and two sets of words to the same music. The Examiner would request an application on form E3 for the second set of words claiming upon the words. The Board points out that provided the copies of each song are deposited together the copyrights would initiate on the same day and therefore there would be no "second set of words." Two forms E2 should accompany the respective copies and additional registration fee.
4. Burkitt, Henry L. (W.R. 40162)--Class A. "Your Own Patriotic Seals." This matter was before the Board on February 23 at which time the application was rejected upon the ground that the work consisting of a book of stamps with a notice of copyright occurring only on the cardboard cover was not registrable. The stamp when distributed did not bear notice of copyright and any existing copyright would automatically be lost. Applicant's attorney refiles an application contending that the work is essentially a "book" and that the book has been published with notice. The Board upon further consi-

deration cannot see otherwise than to affirm its original decision and recommend rejection. The work is not a "book" within the meaning of the term. It is a single pictorial stamp reproduced in copies and stapled to cardboard covers. The only "writing of an author" is the matter on the single stamp which is actually a print. The notice of copyright does not appear upon this print and therefore it is not registrable. Even admitting for purposes of argument, which actually the Board cannot, that the work is a book there obviously will be a republication of the book since the single stamp constitutes the "writing of an author" to be copyrighted and the stamp bears no notice. Thus contrary to applicant's attorney's contention there are two publications of the work at bar which make the decision of the court in the case of Deward & Richard v. Bristol Savings & Loan Corp. (120 F. 2nd 537) exactly in point.

5. Volkwein Bros. Inc. (No Fee)--Class E. "Electric Park Overture." This work was before the Board on March 2 at which time the Board sustained the Examiner in rejecting the application upon the ground that the notice of copyright in this looseleaf band arrangement appeared only on the "Solo B-Flat Coronet" part which was not on the top or first page of music. Applicant requests reconsideration upon the ground that the notices of copyright "are always engraved on the Solo Coronet parts." This in itself would not be a weighty argument but the fact is now observed that as originally deposited, folded to show the title page, the work as naturally opened shows notice of copyright on the first sheet so outspread. In view of this fact Mr. MacCarteney and Mr. Lasica are of the belief that registration should be made as applied for without limiting the claim to the "Solo B-Flat Coronet" part as recommended by the Examiner. Mrs. Brady would reject outright, holding that the notice of copyright is misplaced. Appeal. *Register as appeared*

for. See memo "Copyright Notice"

COPYRIGHT NOTICE

Section 18

MINORITY MEMORANDUM

March 24, 1942

Remitter: Volkwein Bros., Inc. (13062--refunded)

Title: Electric Park Overture.

Question: Is there any justification for the registration of this work, which is in public domain, for the slight changes which are made the subject of this new claim?

The undersigned is in favor of again rejecting this musical composition despite the explanation in claimant's letter received March 13--

"The copyrights are always engraved on the solo cornet parts and if our man in assembling these two copies did not put the solo cornet part on the outside that should surely make no difference in getting a clear copyright on same. These pages are all out apart before the band can play them so what would be the difference whether the solo cornet is on the outside or inside or on the back."

This explanation as to the proper way of folding the copies to exhibit the notice of copyright might be acceptable as to the position of the notice but does not justify in the opinion of the undersigned the revival by these publishers of a work now in the public domain, upon the pretext of slight changes. True, the refolding of the copies brings the Solo B-flat Cornet part on top, and there is a notice on that part but no new matter in that part, only the original 1906 composition (not renewed) of Chas. Southwell. The slight changes found in this work, including a change of title, as the original 1906 composition was called "Searchlight March and Two-Step" by Chas. Southwell, for band (C-113522, Feb. 5, 1906), scarcely seem to warrant the issuance of a certificate of copyright, and the republication with notice should be condemned. Separate band parts which are purchasable separately do not bear notices, and although the work may be sold as an entity the parts are also sold separately and none bears the notice except the Solo B-flat Cornet or lead part, which is unchanged over the original composition of 1906. The pretext for reviving this work is so flimsy and such a flagrant filching from the public, that it is the considered opinion of the undersigned that this Office is not justified in making a new registration of this anomalous publication. This work was originally rejected because of the position of the notice. New copies were received in which the copies were so folded as to put the notice in an acceptable position. However, in spite of the adjustability of the copies I would still reject not only for the original reason but also because I do not think there is any justification.

Register as applied for. Give applicant benefit of doubt. H. H. Wise, M. C. Brady

MINORITY MEMORANDUM

March 24, 1942

Remitter: Volkwein Bros., Inc. (13062---refunded)

Title: Electric Park Overture.

Question: This work was originally rejected because of the position of the notice. New copies were received in which the copies were so folded as to put the notice in an acceptable position. However, in spite of the adjustability of the copies I would still reject not only for the original reason but also because I do not think there is any justification for the registration of this work, which is in public domain, for the slight changes which are made the subject of this new claim.

The undersigned is in favor of again rejecting this musical composition despite the explanation in claimant's letter received March 13---

"The copyrights are always engraved on the solo cornet parts and if our man in assembling these two copies did not put the solo cornet part on the outside that should surely make no difference in getting a clear copyright on same. These pages are all cut apart before the band can play them so what would be the difference whether the solo cornet is on the outside or inside or on the back."

This explanation as to the proper way of folding the copies to exhibit the notice of copyright might be acceptable as to the position of the notice but does not justify in the opinion of the undersigned the revival by these publishers of a work now in the public domain, upon the pretext of slight changes. True, the refolding of the copies brings the Solo B-flat Cornet part on top, and there is a notice on that part but no new matter in that part, only the original 1906 composition (not renewed) of Chas. Southwell. The slight changes found in this work, including a change of title, as the original 1906 composition was called "Searchlight March and Two-Step" by Chas. Southwell, for band (C-113522, Feb. 5, 1906), scarcely seems to warrant the issuance of a certificate of copyright, and the republication with notice should be condemned. Separate band parts which are purchasable separately do not bear notices, and although the work may be sold as an entity the parts are also sold separately and none bears the notice except the Solo B-flat Cornet or lead part, which is unchanged over the original composition of 1906. The pretext for reviving this work is so flimsy and such a flagrant filching from the public, that it is the considered opinion of the undersigned that this Office is not justified in making a new registration of this anomalous publication. This work was originally rejected because of the position of the notice. New copies were received in which the copies were so folded as to put the notice in an acceptable position. However, in spite of the adjustability of the copies I would still reject not only for the original reason but also because I do not think there is any justification.

Register as applied for. Give applicant benefit of doubt. W. H. Wise,
3-28-42

M. C. Brady

SUBJECT

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 25, 1942

The Revisory Board convened at 10:00 and adjourned at 10:30. 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, 30 mins.
Unanimous decisions, 5

Corrective Entry:

1. Macmillan Company (A 161540)--Class A. "Attack Alarm." Corrective entry is in order where the date of publication appearing on the ad interim publication was given incorrectly. The Examiner is overruled in not wanting to grant a corrective entry inasmuch as the validity of the copyright itself is actually involved. The incorrect application had the effect of post-dating the initiation of the copyright which would possibly vitiate the copyright.

General Business:

1. Helbert, George K. (17371)--Class KK and A. "If You Made These Notes," and "Government Steel Advisor." Of the two deposits involved one is a folder which obviously advertises the creation of new machinery steel. The Examiner is sustained in his recommendation that this work can only be considered as a commercial print requiring registration under that category. The other deposit is a chart made up of a tabulation of information on various army specifications for different kinds of steel. Examiner is overruled in holding that this, too, is a commercial print inasmuch as it is put out by a particular steel company. This work is primarily intended as a chart of information and would therefore be registrable in Class A under Rule 4 of the Copyright Office Rules and Regulations.

2. Lyon, James B. (18122)--Class E. "Silver Wings." The Examiner would question the citizenship of the composer given as U.S.A. in line (4) inasmuch as the statement of composership reads: "Erie Pace employee for hire of James B. Lyon." He, the Examiner, seems to feel that the citizenship has been given to the employee rather than the employer. The Board directs entry as applied for. The citizenship is applicable to both and since Lyon, the employer, is an American name and his address is in Texas, it is not felt that there is any serious doubt of his citizenship.

3. Associated Song Writers and Publishers (No Fee)--Class E. "Dusk On the Prairie." There are two editions of this work, one a professional edition of some 1000 copies and the other a sales edition with a pictorial cover. The professional copies bear a 1941 notice of copyright whereas the sales edition has the year date in the notice changed to 1942. The Examiner rightly points out that if the professional edition was published the subsequent publication of the sales edition with an advance year date in the

in the notice would prevent registration. The Board feels, however, that the applicant apparently has not as yet published either the professional or sales edition. He states in his letter of March 13 that he still has on hand the entire 1000 copies constituting the complete professional edition. He apparently has confused printing with publication. The Board directs that a letter be written explaining publication and suggesting registration on the basis of the sales edition following the marketing of that edition. A new application would, of course, be in order.

4. Coordinating Council of French (No Fee)--Class A. "Le Merveilleux de la Voyage Goutee de Vitamine." The copies of this work deposited for registration do not bear a notice of copyright and the Examiner would reject without further ado because of the absence of the notice. There is no indication, however, that publication of this work has as yet actually taken place. No application or fee accompanied the copies and the letter of transmittal simply expressed the desire to copyright the book. Write and inquire explaining publication and the proper procedure to follow in copyrighting a book. If subsequently registration is found to be in order the translator's name and nationality, since this is both a French and English language work, should be included in the application.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 26, 1942

The Revisory Board convened at 10:00 and adjourned at 10:15. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Rafter also acting in the case of one corrective entry.

Total time consumed, 15 mins.
Unanimous decisions, 5

Corrective Entry:

1. Snow, C. A. & Co. (19761)--Class G. "United for Victory." Through error the name of the author and proprietor was given in the application as Elliott H. Williams whereas the correct name is Elliott H. Millican. Corrective entry approved.

General Business:

1. Lotar, Peter (18382)--Class D. "Jesus-Nicht Caesar!" The letter of transmittal submitting this application is signed with the name Petr Lotar. This name also is typed above the address on the letter. It reappears on the copy as the author and is given in lines 3, 7 and 8 of the formal application. Line (1) of the application, however, shows an undecipherable word following that of Petr Lotar. The Examiner would write to Switzerland and inquire as to the meaning of this word. The Board is of the opinion that registration should be made as applied for, giving Petr Lotar as claimant in view of the fact that a letter of inquiry would have to be sent to Switzerland and also in view of the fact that the Office translator believes the word following the name in line (1) is that of geographical location. The application will be annotated to show the Revisory Board action.
2. Moulder, Chester Spurgeon (18732)--Class A. "Dan Moulder." The book purports to be a biography of the author's father. It includes two sermons written by the author's father. The Examiner would make this a case of joint authorship in view of the inclusion of the two sermons. The Board directs entry as applied for giving the author as Chester Spurgeon Moulder. This is not a case of joint authorship and the inclusion of two sermons by the author's father does not make the father a co-author.
3. May, Herbert C. (19474)--Class A. "A Father's Pledge." The deposit is a sheet of cardboard on which is printed the "Father's Pledge." On the back of the sheet are printed prices involving quantities of the copies. The Examiner "reluctantly" advises registration as a commercial print inasmuch as the price notices, he feels, advertise the sale of the pledge which is a book and a book is an article of merchandise. The Revisory Board is of the opinion that since the work deposited is the pledge itself, registration should be made for the work as a book as applied for. The price notices do not constitute

a separate print advertising the sale of the article but are analogous to the price notices on a bound book the presence of which certainly would not cast the book into the classification of a commercial print. Register as applied for.

4. Bardell Laboratories (18995)--Class KK. "Bardells Hair Tonic" and 2 others. The deposits are labels bearing the following form of copyright notice: "Bardell Laboratories, Chicago Heights, Illinois, Reg. of Copyright, Washington, D.C., 1942." The claimant in the application is Vincent Lido Berardinelli. Held that if V. L. Berardinelli is doing business as Bardell Laboratories, the notice of copyright is acceptable. Inquire; if such transpires have him file new applications showing the relationship between the individual and the concern in line (1).

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 27, 1942

The Revisory Board convened at 10:00 and adjourned at 10:35. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Pforzheimer.

Total time consumed, 35 mins.
Unanimous decisions, 8

1. Beard, Charles (Deposit Acc't)--Class A. "Army-Navy Insignia Game." The work as deposited is typical of the type of material received from the Chartered Institute of American Inventors. Specifically, it is a single sheet containing pictorial illustrations and text matter descriptive of the invention. This copy differs, however, in that it bears a notice of design patent issued May 2, 1939 to expire May 2, 1953. A 1942 notice of copyright appears at the bottom of the descriptive text and the application has been filed upon form A1 giving the title as "Army Navy Insignia Game." The Examiner would reject the entire work upon the ground that it is "literature promoting the sale of a design patent." The Board is of the opinion that applicant should be advised that a game is not copyrightable and that the designs of the particular cards appearing on the copies are already covered, as indicated, by a design patent. He may, however, submit an application on form A1 limiting the claim to the text, provided such text did not constitute the original patent specifications. Ask explanation and send new form A1.

2. Masselle, Sam'l Alfred (19072)--Class E. "Private Perry Pembroke Percival Potts." Examiner would question professional copies of a musical composition as representative of the best edition. The Board directs entry as applied for. Professional copies should not be questioned in the absence of definite knowledge that there does exist a better edition.

3. Creative Agency (19174)--Class A. "Soldier with Bugle, soldier peeling potatoes," etc. The work deposited is in the form of a pictorial envelope which is to be used in addition as the writing paper. It is then to be folded and sealed in such a manner that the writing is not visible. In the view of the Board the work is therefore an article of utility and would seem to be subject to protection by a design patent.

4. Gardner, Elmer E. (18907)--Class A. "Steno-Shorthand." This work is a book on shorthand reproduced by some ditto process and with the title printed in pencil on the outside cover. The notice of copyright consisting of the word "Copyright" and the year date 1942 appears on the title page between the name of the author, who is the claimant, and the publisher. Examiner holds the notice of copyright faulty and questions publication. The Board overrules the Examiner directing entry as applied for. The process of this reproduction is a multiple one admitting of publication and all of the elements of the copyright notice appear upon the same sheet.

5. Hamelin, Roger (70925)--Class E. "Venez, Ma Belle, Venez." This is a case

of original publication in Canada with a defective notice of copyright which notice was subsequently corrected. Applicant indicates that copies will also be sent to the United States to be placed on sale. The Examiner recommends registration as a domestic publication following distribution in this country. The Board directs entry upon E-For. based upon first publication in Canada. The notice has been corrected and has been republished in Canada, the application giving the date of such republication has been filed.

6. Drake Press (16228)--Class A. "In the Service of the United States." Examiner claims that the title as given is not identifying and requests a pictorial description after the title. The Board directs entry as applied for. The title is sufficiently identifying and a print does not require a pictorial description.

7. Dodge, John Milton (12633)--Class I. "The Dynamic Ether of Space." This is a case of what citizenship is to be recorded. Applicant states in the application that he was born in the United States, became a citizen of Canada but lost Canadian citizenship by returning to the United States in 1930. He is domiciled at Bremerton, Washington. Examiner would still have him a Canadian domiciled in the United States. Under the Canadian law, however, an absence of seven years from Canada forfeits Canadian citizenship. The applicant is therefore an alien domiciled in the United States and the application should be accepted as filed. In the "Mein Kampf" case it was held that a condition of "statelessness" did not bar the possibility of a valid copyright being secured in the United States.

8. Boyle, John, Jr. (No Fee)--Class G. "Duck Head". This matter has twice been before the Board upon a question of registrability. Actually the article is a novel bottle opener or paper-weight as seen advertised in stores in this city and in a national publication. It is in the form of a duck's head with the bottle opener forming the base. The claim has three times been rejected and each time applicant's attorney refiles, claiming protection under the copyright law. This time he offers to submit copies of the article without the screw holes indicating the work as a device. Reject again. Paper-weights, and bottle openers are articles of use and the use of this article has been established beyond reasonable doubt.

1214A

BOOKS

MEMORANDUM

*See "Seals published
between covers as "Books."*

March 27, 1942

Memorandum from the Register of Copyrights regarding
a book of seals and proper classification thereof
is filed under SEALS PUBLISHED BETWEEN COVERS AS "BOOKS."

M E M O R A N D U M

March 27, 1942

TO: Assistant Register

The applications in these two cases raise what to me seems to be a perplexing question. Both cases have been rejected by the Revisory Board; the fact of rejection was communicated to the applicant in one of these cases, whose attorney has reapplied with a brief, urging the acceptance of the applications. This letter was referred to the Senior Attorney who supports the Board. The matter was thereafter brought to the attention of the Assistant Register who disagrees with the joint action of the Board and the Senior Attorney. This fact being pointed out to the Chairman of the Board, he has suggested that the matter be referred to the consideration of the Register.

1. The material submitted in each case consists of a number of so-called patriotic seals, in one case to be "Exchanged at this store for U. S. defense stamps;" in the other case "to be "Redeemed for U. S. defense stamps as per plan." In the first case the material consists of a number of sheets reproducing, to the extent of 180, the same "seal." In the second case a number of sheets reproducing to the number of 300 the same seal. These sheets are bound between covers of a material analogous to cardboard. The cover contains on the outside a title "Your own patriotic one cent Seals" with a copyright notice "© 1942" and on the inner cover "Copyright 1942 by Deluxe Sales Co., Inc." The seals themselves contain no copyright notice. Application is made for registration on this material as a "book." Each seal constitutes a print and as such reflects certain aspects of creative authorship.

2. In my opinion the method of approach should be based on broad principles, bearing in mind that the degree of artistic merit of a print should not be taken as a basis of a test of copyrightability, just as the degree of merit in a literary or musical composition does not enter into the question of whether an author has a right to copyright, so should it not enter into the case of a print. Let us assume that an artist executes what anyone would ordinarily refer to as a fine print. He puts no copyright notice on the print. However, he binds the print between two covers, puts a title of the print on the outside of the cover and a copyright notice on the inside of the cover. There seems to be little doubt that the publication of the print would constitute as described its publication in book form. Suppose he does this with a dozen different prints included between the covers instead of a single print. Is the result any more or less in "book" form than had he restricted the contents of the "book" to one print? Suppose instead of having a dozen different prints he binds up books each containing twelve copies of the same print. Is the material any less in "book" form than if the dozen identical prints were different prints? In other words, we come right down to the question as to whether or not it is a physical possibility for a person to publish a single print in book form. I am not ready to say that this may not be done or that if, on the inside of the cover which contains the title, there is printed an adequate copyright notice applicable to books, this Office is justified (a) to conclude that this is not a "book", or consequently (b) to refuse registration thereof as a book. The entire question of what constitutes

a book as well as what constitutes a copy of the best edition of a book has been thrown wide open to conjecture as the result of the decision of the District Courts in the King Features and Fox Film cases and the Circuit Court of Appeals in the Fox Film Case.

3. As I understand it, there is no denial on the part of the members of the Board that in conceiving and executing by means of color and draftmanship the "patriotic seals" the applicant has not executed a work of authorship. If this is true (certain considerations aside into which there is no need to go here) he is entitled to registration since this material has been assembled together and affixed to and between two covers, one of which, as to location and content, contains the most complete copyright notice known to the Copyright Act. What he has sought to copyright is a hybrid of a book coupled with a many times reiterated identic print. There is no doubt that it is a "best edition," for in the condition in which it reaches the Copyright Office the contents are intact. The substance of copyright is there, although the form is not clearly defined. For want of better classification it may as well be classified as a book; for as provided by Section 5 of the Act, error in classification (which I think means error in classification by this Office) does not affect the rights of the copyright owner, which, of course, include the right of registration.

4. There is, however, another consideration which seems to have been overlooked. It is obvious from the examination of both of these "books" that no seal has been removed from either of them. It is further observed that on the outside cover of one book it is stated that 1,000 patriotic seals are contained therein, whereas only 180 is the correct number; and on the other that 2,500 stamps are contained therein whereas the true number is only 300. I take it that this is a slip up on the part of the copyright owner. I am addressing a letter to him today, calling his attention to this circumstance. It is hardly to be expected that the Office should register material which on its very face gives, though unintentionally, false information to the public.

C. L. BOUVÉ (signed)

Register of Copyrights

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 30, 1942

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

Total time consumed, 50 mins.
Unanimous decisions, 9
Divided opinions, 1

1. Williams, Philip T. (Dr.) (19681)--Class I. "Dental Model Showing Extractions and Areolectomy." The deposit consists of a set of dental models showing steps in extracting teeth and trimming bone. The models themselves are life size and on the bottom of each one with the exception of one copy there is a notice of copyright in ink. The Examiner would reject upon the ground that the notice is misplaced being upon the bottom of the work. The Board is of the opinion that the position of the notice per se would be acceptable since no one could examine the work without seeing the notice of copyright. The Board directs, however, that a letter first be written, questioning publication in view of applicant's statement that the models "were exhibited" in Chicago. If publication has taken place, however, the notices would be acceptable, as stated, provided they appear on all copies published.
2. Personeni, Joseph, Jr. (19176)--Class ? "Personeni Golden Anniversary 1942 Calendar." This calendar contains in addition to an ordinary calendar pad stapled to the cardboard sheet a pictorial print, the upper edge of which is pasted to the cardboard back. There is a full notice of copyright at the bottom of the sheet. The Examiner would reject upon the ground that there is no basis for registration as a book and she considers the print as probably the property of some company other than the claimant. The Board agrees with the Examiner that the work as deposited is not a book (as applied for). If, however, the claimant has a valid claim in the print it would be registrable upon form K since the notice of copyright appears at the bottom of the sheet to which the print is attached. There was a similar ruling in the case of Christmas Greeting cards where the print was likewise pasted to the format on which appeared the notice of copyright.
3. National Geographic Society (Deposit Acc't)--Class A. "Progress Report 1938-1942" in March 1942 TIDE. A notice of copyright including only the initials of the National Geographic Society held acceptable in view of the fact that the name "National Geographic Magazine" and "National Geographic" appear prominently upon the same page. Write, however, a warning letter.
4. Timmons, Edward (19669)--Class E. "God Bless My Parents." Of the component parts of the work as deposited, the cover, the copyright notice, the musical staves, the title, author and composer, and words are printed. The notes have been written by pen. Examiner sustained in requesting an explanation of this peculiar format before recommending the classification under which to apply. Applicant himself files an E2 application.

5. Chartered Institute of Amer. Inventors. (Deposit Account)--Class I. "Gold Star Jewelry for Parents of Deceased Soldiers," Figs. 1-4. Applicant applies for registration of the line drawings of three "Gold Star Jewelry" articles upon a single I2 form. His application includes the sub-titles "Figures 1-4" after the main title in line (6). The Examiner would request separate registrations for the drawings inasmuch as they involve different proposed articles. The Board is of the belief that a single registration can be made to cover the line drawings involved since they constitute a single boxed drawing. Register as applied for.
6. Ludlow, William Linnaeus (13455)--Class A. "A Syllabus for the Study of Marriage and the Family." Applicant originally filed an application on form A1 for this work. Upon observing a statement in the Preface that the "material was first brought together in mimeographed form and revised three times" the Office wrote suggesting that form A2 would probably be proper. Applicant now submits application form A2 that gives the statement of new matter as "Syllabus (printed)." Upon further consideration it is believed that the work in the form deposited actually represents the first publication. It would seem that the mimeographing referred to sections of the work distributed to a class in connection with a course of study. The Board sustains the Examiner in now recommending that entry be made as originally applied for on form A1.
7. Richards & Grier (No Fee)--Class K. "We're Buying Bonds." This work was originally denied registration upon the ground that it was an emblem plate to be attached to an automobile presumably above the license plate. Applicant requests reconsideration upon the ground that the method of application or mode of use is immaterial. In view of the Register's decision in a similar case involving emblem plates, the Examiner is sustained in again rejecting the application.
8. Townsend, Charles E. (14602)--Class A. "Map Reading Course Outline" and "Map Reading Course." This work was denied registration upon the ground that the notice of copyright contained only the claimant's initials, the full name appearing nowhere upon the copies. Applicant's attorney reapplies for registration contending that the initials give sufficient advisement to the public as to whom the claimant is and that "these initials can be said to be the name of the copyright owner." Examiner sustained in holding that the initials of the copyright owner do not suffice in the case of a notice on a book. They suffice as to the graphic works provided the claimant's name appears somewhere else upon the copies but this very fact makes it clear that there is a distinction between the initials permitted for graphic works and the "name" of the claimant provided for books. Reject.
9. McKinley Music Publishing Co. (5467)--Class A. "In Memory of Our Countrymen-Poem." This work was originally received in the Copyright Office with application lacking the year date of publication in the notice. Registration has twice been denied and the applicant now submits a letter stating that "this was printed with the copyright notice." And further stating, "These numbers were not put on sale without the copyright notice." Before rejecting request a specific statement as to whether the copies "printed with the copyright notice" included the year date of publication. That is the point at issue. Publication with a faulty notice can be as fatal as publication with no notice whatsoever.

10. Western Business Papers, Inc. (Deposit Account)--Class B. "GAS," Jan., Feb., Apr., 1941 and 9 others. The notice of copyright in these issues of the periodical is contained in the masthead at the bottom of the title page. At the top of the masthead in each case appears the statement "GAS is published monthly by Western Business Papers, Inc." Following this statement are eight lines of text including the usual masthead information with the names of the various editors. Following this information is the copyright notice, "Copyright 1942." The Board divides upon the acceptability of the notice. Mr. MacCarteney and Mr. Pforzheimer hold that the notice is acceptable since the name of the copyright owner appears in the same section of the page as the notice itself, the only intervening material consisting of the names of the editors of the publication and the address of the publishing house together with subscription prices. Mrs. Brady upholds the Examiner in recommending rejection upon the ground that the notice of copyright lacks the name of the copyright claimant. Appeal.

Register - see memo Notice of Copyright

NOTICE OF COPYRIGHT

MINORITY MEMORANDUM

March 30, 1942

Remitter: Western Business Papers, Inc. (Deposit Account)

Title: GAS - Issues for January, February, April, May, June
 July, August, September, October, November, December
 1941 and February 1942.

Question: Does the notice of copyright found in these publications
 meet the requirements of the copyright statute?

The undersigned is in agreement with the Examiner, who recommends rejection of these periodicals because they have been published with fatally defective notice. The provisions of Section 13 of the Copyright Act, which requires that the word "Copyright," or the abbreviation "Copr.," be accompanied by the name of copyright proprietor has not been met in publications under consideration. The fatally defective notice which is the subject of this memorandum is found in the so-called masthead, a legend invariably printed in fine type, usually on the contents page of a periodical, and containing the title, names of the management, subscriptions and advertising rates, and frequently the notice of copyright. The masthead in the publications under discussion follows the usual pattern as to fine type and contents, and reads as follows:

"January, 1941. Volume XVII, Number 1. GAS is published monthly by Western Business Papers, Inc., at 1709 West Eighth Street, Los Angeles, California. JAY JENKINS, President and General Manager; CRAIG ESPY, Vice President; JAMES E JENKINS, Secretary, Treasurer; ARTHUR ROHMAN, Managing Editor; ELLIOTT TAYLOR, Eastern Editor; GUY CORFIELD, Technical Editor; W. G. RUSSELL, Field Representative. Subscription price: United States, Mexico and Central American countries (in advance), 25 cents the copy; three years for \$2.00, \$1.00 per year; all other countries, \$3.00 per year. Entered as second class matter August 20, 1936, at the post office at Los Angeles, Calif., under the Act of March 3, 1979."

Then in the same fine type at the end appears the lonesome legend "Copyright, 1940."

Not only is there no name found in immediate conjunction with this legend, but the name of the copyright owner as given in the application: Western Business Papers, Inc., is separated from the copyright legend by five lines of text in which seven individual names are found. The "Copyright 1940" is itself in close proximity to the legal entity "Associated Business Papers, Inc., which might well be considered the copyright owner, but there is in the opinion of the undersigned no copyright vested in the Western Business Papers, Inc., and therefore no registration should be made in that name. These applications should be rejected, and the question

might be asked: Is Association known as the Western Business Papers, Inc., a subsidiary of The Associated Business Papers, Inc., in whose name the copyright registrations might be recorded.

M. C. Brady

Register but write warning letter. W. H. Wise, April 1, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
March 31, 1942

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

Total time consumed, 60 mins.
Unanimous decisions, 13

Corrective Entry:

1. Douglass, William Boone (No Fee)--Class I. "Tenencia Concrete Pavement Expansion Joint Support - Strong - Rigid - Simple." Held that a registration in which the spelling of the claimant's surname and his middle initial were incorrectly given may be the subject of a corrective entry. So advise applicant.

General Business:

1. Hardway & Woodruff (19810)--Class G. "Official Monogram and Official Seal of the Assn. of Well Head Equip. Manufacturers." Applicant submits a drawing of an official monogram and a design for an official seal, both of which appear in a printed publication which has been registered. Applicant applies for separate registration of the monogram and seal as works of art. The Board sustains the Examiner in holding since both works appeared in the printed publication that the drawings are not registrable as unpublished works of art. The Board would go further in stating that the monogram and seal are essentially uncopyrightable. They are not works of art within the copyright meaning of the term.

2. Universal Printing & Lithograph Co. (No Fee)--Class A. "Gin Rummy." The deposit is a pad of blank forms to be used in scoring the game "Gin Rummy." On the back of the pad are printed instructions for playing the game, beneath which is a notice of copyright. The Examiner would reject on the ground that the notice of copyright is misplaced, appearing as it does on the back cover. The Board points out that the notice of copyright would be acceptable for the text matter beneath which it appears but since the text matter appears to be the standard "Gin Rummy" rules, a basis for registration is not seen.

3. Douglas, Edward C. (20065)--Class E. "Freedom, Justice, Evermore." Held that a notice of copyright reading: "Copyright 1912, E. C. Douglas (Revised 1942)" is acceptable as expressing a claim for a 1942 republication. There is a question, however, as to whether the "revision" actually includes new musical composition. Return to the Examiner for a further examination upon the merits.

4. Shevlin-Hixon Co. (19949)--Class B. "Safety Soundboard," Vol. 2, No. 2, February 1942. Held that a notice of copyright consisting of the word "Copyright" and the name of the claimant but separated from the year date of publication by the width of the page is acceptable. All of the elements appear

upon the same line and there is no extraneous material between the elements of the notice.

5. De Strickroth, Flavia G. (14952)--Class E. "El Arrurru," "Amor sin esperanza," "El Adios de Guaymas," "El desgraciado dia," and "Creyendo en que Amabas." The authors of the new copyright matter are given jointly in the applications as Flavia G. de Strickroth and Lue Alice Keller. It appears that Lue Alice Keller is the author of the musical arrangements and Flavia G. de Strickroth "collected and translated" the folk songs. The translations are not submitted since the applicant informs the Office that they are in prose and are of no use. The Examiner recommends the return of the applications so that "and translations" can be added to the claim of new matter. The Board overrules the Examiner in view of the fact that the translations are not present as part of the deposit and would not be acceptable as conforming to the music even if they were deposited. Instead of requesting that the statement "and translations" be added to the applications, therefore, the Board directs that the applications be returned for the deletion of Flavia G. de Strickroth's name as one of the authors of the new matter unless there is some other element of musical composition inherent in the deposits of which she is the author.
6. Putnam's, G. P. Sons (Deposit Account)--Class A. "Longhorn Cowboy." Examiner sustained in her recommendation that since the co-claimant of copyright died while the book was in manufacture, a new application should be filed showing the ownership now obtaining. This would take the form of a claim in the name of the surviving author and the executor of the estate of the deceased author, i.e., Howard R. Driggs and _____, executor of the estate of James H. Cook.
7. Willmar Gospel Tabernacle (17920)--Class E. "Good Night." From information in the applicant's letter of March 26 it is established that one of the two persons whose name appears in a joint notice of copyright on the copies wishes to assign his rights to the other claimant. The publication having issued with a joint claim, Examiner sustained in her recommendation that the registration be covered jointly, after which an assignment can be placed of record, assigning the assignor's rights to the other claimant, the assignee.
8. Preston, Lee K. (16110)--Class A. "Vignettes of Chicago Opera - 'La Traviata'" and four others. This Chicago Opera season's program appears to be issued weekly but it is registrable as a book. Each issue contains an article in which copyright is claimed by a notice of copyright appearing at the end of the article which in every case is pages separated from the title page of the article. The question is since the publication in which the article appears is not a periodical whether the notice of copyright placed at the end of each article and separated by pages of text is acceptable. In a contribution to a periodical it would be acceptable under the Office practice. After consideration the Board holds that the notice is acceptable for the work in hand for the reason that the publication in which the articles appear is essentially a periodical in form and substance and a notice at the end of a contribution to a periodical is acceptable under the Office practice.
9. Carlson, Reuben T. (20539)--Class ? "Val - Tec." The deposit consists of a compilation of various industrial securities with blank spaces provided for the insertion of plus and minus marks indicating price trends and the statistical value of the securities. On the copy deposited these blank spaces have been

filled in and it is quite possible that in issuing the work the copies will have the trends inserted for the benefit of subscribers. The Examiner would reject upon the ground that the work is a blank form not subject to copyright. The Board holds that the work is registrable as a compilation but recommends that a letter be written inquiring as to how publication takes place and whether the markings are incidental to all copies distributed. It would also suggest that registration be made as a book in keeping with the classification generally assigned to news letters and other publications issued periodically but lacking periodical format and volume and number.

10. Mullis, Elbert (20620)--Class ? "Superintendent's Information Sheet Attendance," and three others. Examiner sustained. This work is essentially a blank form with insufficient text to support registration as a book.

11. Majestic Music Co. (19235)--Class E. "You'll Never Remember (I'll Never Forget)." Held that copyright indicia consisting of a copyright notice in the name of the original claimant followed by a notice of copyright assignment to the present applicant for registration is acceptable. Both the notice of copyright in the name of the original claimant and the notice in the name of the assignee, however, have the year date of publication changed from what was originally 1941 to 1942. While 1942 conforms to the date of publication given in the application it is recommended that a letter be written requesting information as to the reason for the change.

12. Standidge, Harry W. (13150)--Class A. WAR. This has been before the Board on several previous occasions and the Board has uniformly acted in rejecting the deposit as constituting a gameboard and copies subsequently received as constituting proofs of a gameboard. In applicant's latest letter he admits that "the work is part of a gameboard" the complete copies of which have "a raised portion or 'wall' * * * to prevent contact from the outside with round objects" constituting implements of the game. Reject.