

MINORITY MEMORANDUM

May 1, 1942

Remitter: Witt, Frank (25944)

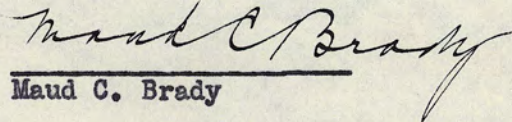
Title: "The Father, Son and Holy Spirit Trust Co."

Question: Is this deposit a writing of an author?

The deposit in question is a printing simulating a negotiable check. It is headed in black lettering--THE FATHER, SON & HOLY SPIRIT TRUST CO. Immediately under this heading appears in black lettering Pay to the Order of, followed by "Whosoever Believeth in Him John 5:24-- Everlasting Life" in red lettering. The signature upon the pseudo check, "JESUS CHRIST", also is in red letters. Trinity Purchasing Agent On the back of the check three quotations from the New Testament are found. This constitutes all of the text.

In the opinion of the undersigned, the work is not the writing of an author, nor is it a compilation in the accepted application of that term. It is not a book in either the sense of an original writing or a compilation; nor is it a print merely because of its gaudy lettering.

It is in the opinion of the undersigned a highly colored expression of an idea which is offensive to good taste and which does not come within the classification of works which are subject matter of copyright. I am in favor of rejection.


Maud C. Brady

In my opinion there is some "authorship" shown. Register as applied for, using form Al. W. H. Wise, May 4, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 1, 1942

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

Total time consumed, 30 mins.
Unanimous decisions, 5

Corrective Entry:

1. McGuire, Marie F. (Mrs. A.J.)--(No Fee)--Class G. "Las Americas Unidas Be a Good Neighbor." Registration was made for this drawing in the name of Marie F. McGuire as proprietor. Mrs. McGuire now files an request signed in her name and in that of Emilio LeFort that the claim should be expanded to include the latter's name who is the artist. The Board finds that a corrective entry is in order since according to the letter received the record is not in accordance with the facts. We need not go into the question of whether the share of rights was assigned subsequent to the securing of copyright. Request the return of certificate and other necessary requirements.

General Business:

1. Put Your Heart in America Campaign (82477)--Class K. "Put Your Heart In America." The work in question is a pictorial sticker, the copies of which were originally received in this Office bearing a statement "Revised Edition." The Office requested application on form K and in response new copies of the sticker were received that omitted the statement of revision and the new application gave the same date of publication. The Office requested an explanation. Now we have a request for the return of the fee and cancellation of the application. Explain that publication with notice obligates registration and enter upon the K application received December 15, 1941. It is not necessary to question further the date of publication.

2. Miketta, C. A. (27240)--Class A. "Bombs or No Bombs Merry Christmas." Examiner would reject this work as not being subject matter for copyright. The Board holds that ordinarily it would be registrable as a print since there is sufficient pictorial matter to justify such registration. However, this particular work has a misplaced notice, occurring on the blank back of the print. It would not be registrable as a book as applied for due to the use of a symbol "C" in a circle. Reject on these grounds.

3. Brown-Morrison Co., Inc. (26443)--Class ? "The Brennen Autograph Seal." This work is a book of identic seals with no text matter and with a single notice of copyright printed on the outside cover. The question is simply one of classification since it is admitted that a seal is a work of authorship and is subject to copyright protection. The Examiner recommends form K as suitable

for classification since the seal is entirely pictorial. In a similar case, however, the Register of Copyrights held that a book of seals wherein the notice of copyright appeared only on the cover and was not reproduced on the seals themselves could only be registrable as a book. This was in line with the De Jonge v. Breuker & Kessler wherein the Supreme Court held that the notice of copyright must appear upon every reproduction of the design if the copyright was to be valid. In the Register's words: "Work is a hybrid of a book, coupled with a many times reiterated identic print * * * For want of a better classification * * * will be classified as a book." C.L.B. memo of 3-37-42 to W.H.W., Burkitt, No. 45891. The Board accordingly recommends that an application on form Al be filed. The Examiner is sustained with respect to the inforatory informalities appearing in the present application.

4. Wible, R. A. (27104)--Class A. "Identification of Constituents of Aluminum Alloys." Register as applied for on form Al(not I-1). The work is a chart within the meaning of the Rules as describing material registrable as a book.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 4, 1942

The Revisory Board convened at 10:00 and adjourned at 10:40. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Rafter voting in the case of two corrective entries.

Total time consumed, 40 mins
Unanimous decisions, 8

Corrective Entries:

1. Levell, Robert O. (No Fee)--Class E. "Scatter Sunshine." The copyright claimant advises that a mistake was made in the registration of the song in that the music was written by Carroll Copeland instead of Derald Springer, the latter being the composer of record. Corrective entry may be had upon receipt of request for correction from Carroll Copeland and Derald Springer, the persons involved. Request the return of the certificate and other necessary deposits.
2. Boosey & Hawkes, Inc. (Deposit Acc't)--Class E. "Chansonette," "Enchanted Echoes" and "Wintergreen." Through an error the citizenship of the composer, R. Barsotti, was given as of the United States instead of Great Britain, of which country he is a resident and subject. Notwithstanding the composer would be entitled to copyright under either citizenship, a corrective entry may be had since the claimants so desire. Record.

General Business:

1. Ralls, Leah C. (No Fee)--Class ? "Moses Said to the Israelites:--" The deposit is a six line play on words in which the original statement is somewhat humorously if earthily turned around. Examiner would reject upon the ground that slogans are not copyrightable. The Board finds that there is sufficient text to be registered as a book if the work is printed and published with notice of copyright.
2. Cunningham, Martha E. (19419)--Class A. "Velvet Leaves of the Oregon Country." The Office has an application giving the legal name of the claimant in pen and ink in line (1) above which has been written in pencil "Kara Buschka, pseud of." This statement is repeated in line (3), likewise above the author's legal name which is written in ink. The Examiner would return the application and have the statement of pseudonym written in pen and ink "exactly as noted in pencil." An inked application is unnecessary. Present application is acceptable and if the Examiner desires she can ink the penciled statement of the pseudonym. Register upon the application in hand.
3. Marks, Edward B. Music Corp. (Deposit Acc't)--Class E. "Frank Luther's Circus Songs for Children" and "I Hear America Singing." The deposit is a collection of the playing parts of a composition in which the claim is based upon the arrangement for orchestra. The first violin part bears a correct notice of copyright.

The majority of the other parts, however, bear notice in Roman numerals which obviously due to inadvertance reads "Copyright 1952" instead of '42. The Examiner would have the claim restricted in view of this fact to the "first violin part." The Board in overruling the Examiner and directing entry as applied for without restriction, points to the Register's memorandum of April 2, 1942, paragraph 2 of which reads in part: "A collection of the play ^{ing} parts of an original composition contained in no cover * * *. In such instances a copyright notice, adequate in substance applied to any given playing part will be regarded as sufficient for purposes of registration." See also memorandum re Osborne Co. "The Homemakers, Calendar for 1943," where there were two notices, one with an advance year date. The decision was to enter.

4. Bobbs-Merrill Co. (Deposit Acc't)--Class A. "Memoirs of an Epicurean." This work was printed with an inadequate notice of copyright lacking the year date of publication. The application gave a date of publication and accordingly the claim was denied registration. Applicant now advises the Office that "This is a book for the 'elect' and not for the many; few copies have been distributed." The applicant proposes to rectify the mistake at once by printing a new notice including the year date, and inserting it in all copies on hand in place of the present notice. He pleads consideration on the part of the Copyright Office due to the printer's inadvertance. The Examiner still would reject and it is true that if the book is for the "elect" the number of copies would necessarily be limited and to that extent a substantial portion of the edition might have been published thereby forfeiting the copyright. However, before finally rejecting the claim, the Board would inquire as to the number of copies distributed in proportion to the size of the edition. If relatively few, registration might be made under Section 20.

Rejected by Ex. B. Examiner was 855 copies put, without year date!

5. Thompson, Gordon V. Ltd. (23525)--Class E. "Let's Carve a 'V' on Every Maple Tree" and "You'll Get Used to It." This comes to the Board on the question of the composer's citizenship to be recorded. The application gives merely "stateless" and it is understood that the composer was born in Germany of Polish-Jew father and a German mother. He later immigrated to England and finally arrived in Canada where he is now in the business of song writing. The publisher is of the opinion that the composer is entitled to full protection under the United States copyright law notwithstanding his "statelessness" and the fact that he is not domiciled in the United States (Howell, COPYRIGHT LAW, page 54). The only known precedent is the decision in the "Mien Kampf" case which indicated that an author did not have to be a citizen or subject of a state to be entitled to copyright in this country. This would seem to be contrary to the opinion of Ladas INTERNATIONAL PROTECTION OF LITERARY AND ARTISTIC PROPERTY who seems to imply that citizenship is the first requisite for copyright registration in this country. The Examiner would require applications giving only "Germany (deprived of civil rights)." The Board amends this recommendation to the extent that the word "stateless" may be repeated in the application if desired. Return the application.

6. Shepard, Sheldon (27471)--Class ? "V+ a publication of Victory Plus." The deposit is a strip of paper bearing the title "V+" separated by a pictorial dividing line from a statement reading "A publication of VICTORY PLUS Victory Prayer League of the United States. Applicant submits a statement that the work is a label and it is used on prints and publications. The Print and Label Examiner does not feel that the work is intended for use on an article of merchandise and hence is not registrable in Class KK. The Board feels otherwise in that the work is definitely stated to be in use on prints and publications and it has been determined that a print or other publication is an article of merchandise. Request application on form KK.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 5, 1942

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

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

1. Shapiro, Bernstein & Co., Inc. (E¹ 103921)--Class E. "Moonlight on the Waterfall"--New matter: Words by Jimmy Kennedy. The deposit is a republished musical composition with new copyright matter, the new matter being stated in the application as new words the author of which is Jimmy Kennedy. The copy contains the following statement of authorship: "Words and Music by Jimmy Kennedy and Hugh Williams (Will Grösz)." The Board received the case with a question as to the meaning of Will Grösz's name in parenthesis. It is of the opinion, however, that since the only authorship involved here is the new words by Jimmy Kennedy, and the application is clear upon this point, that the claim should be so registered without going into a question that has no import in so far as the recordation of this claim to copyright is concerned.

2. Glass, Gilbert & Futterman, Chas., Inc. (27436)--Class KK. "Match book - with rose design." The deposit is a match book, the cover of which advertises the sale of flowers by a particular florist. Examiner would reject, stating that the material is not subject matter of copyright. The Board overrules the Examiner, it having been established that such a work used in connection with the sale or advertising of an article of merchandise is registrable as a commercial print. Refer to Print and Label Examiner.

3. Gary, Lee J. (27772)--Class K. "Keep 'Em Flying - You Buy 'Em - We Fly 'Em Sticker." This work is a pictorial auto windshield sticker, on the back of which is a notice of copyright. In the center portion of the work is a detachable label advertising the product of a concern--the L. Berman & Co.. The product is the particular adhesive material by means of which the sticker adheres to the glass. The Board divides upon the registrability of this work. Mr. MacCarteney and Mr. Reed contend that the object on which the notice appears is a utilitarian article, i.e., a stamp holder and not copyrightable. The purpose of the work is to hold an auto tax stamp after the central section in the label is removed. The simple label itself is copyrightable matter, advertising Burkert-Walton Co. product. The label, however, bears no notice. The majority, therefore, votes for rejection. Mr. Lasica as the minority opinion contends that the work is a commercial label and that the label is a component part of the print. He holds, therefore, that the notice on the back would be acceptable. Further it is his opinion that the work is not an article of manufacture in a broad sense. Appeal.

Reject - W. U. Wise, May 6, 1942.

See Memo under "Copyrightable."

LABEL

MINORITY MEMORANDUM

COPYRIGHTABLE

May 6, 1942

Remitter: Lee J. Gary (27772)

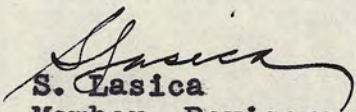
Title: Keep 'Em Flying - You Buy 'Em - We Fly 'Em (Sticker)

Question: If a notice of copyright in due form affixed on the back of a shield is applicable to a label glued on the face of the same shield and forming a component part thereof as published, so as to warrant registration as a commercial label.

It is admitted that if in this case the copyright notice were on the face of the label or on the back thereof, dissociated from the shield, it would be registrable on KK application. Should the fact that the notice is on the back of the shield to which the label is glued invalidate the notice, both the label and the shield being deemed first published as a unit? In the opinion of the minority (Mr. Lasica), it should not. As the label is distributed to the interested public (published), it cannot be said that, strictly speaking, it is published without notice, when, as a matter of fact, the notice appears on the back of the article (shield) of which, as published, the label forms a component part. The fact that the label is afterwards separated from the shield is not material insofar as registration is concerned. The Office has only recently registered a book of stamps published with a notice on the inside cover (no notice appearing on any of the stamps), notwithstanding that the stamps were to be detached from the book and used separately after publication. If this notice is acceptable, the question of utility of the shield becomes immaterial.

For the reasons set forth, the minority contends that registration should be made for the label upon filing by the claimant of an application on Form KK with an additional fee of \$4.00.

Respectfully submitted,



S. Lasica
Member, Revisory Board

The material on which the notice appears is a utilitarian article, i.e., a stamp holder and not copyrightable. The copyrightable matter is the central label advertising the Burkert-Walton Co. product. The label, however, bears no notice. Reject. W. H. Wise, May 6, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 6, 1942

The Revisory Board convened at 10:00 and adjourned at 11:05. Those present were Mr. MacCarteney, Mr. Lasica and Mr. Reed with Mrs. Rafter voting in the case of one corrective entry.

Total time consumed, 65 mins.
Unanimous decisions, 10

Corrective Entry:

1. Oahu Publishing Company (AA 391713)--Class A. "Oahu Easy Note Method, Lesson 29 PN, Long, Long Ago." Applicant filed an application giving the wrong date of publication in the affidavit. Since this was the sworn date the Office placed it of record notwithstanding the application side of the form gave a different date and what proves to be the correct date. Applicant wishes the date of record to be changed. Examiner sustained in recommending that a corrective entry may be had if desired.

General Business:

1. Day (Thomas)--Class KK. (28013) "Carry On America..." The deposit is a shopping bag on which a pictorial illustration appears urging the carrying of packages in bags to save tires, gas, etc. Applicant's attorney files an application classifying the work as a commercial print. Examiner sustained in recommending registration as a commercial label since the print is not separate from the article advertised. An impregnated advertisement may be considered as "attached" to the article thereby fulfilling the requirements of a commercial label.
2. Palazzolo & Co. (A). (23778)--Class KK. "Checker Board Brand." Examiner sustained in recommending refund as requested in view of the fact that the label in question primarily bore a doubtful notice of copyright, and further was rejected by the State of Ohio as not conforming with the state's requirements pertaining to a commercial label.
3. O'Keefe, Robert E. (18807)--Class F. "Map of Snow Ridge Structure. O'Keefe's Plane Table Survey. Blaine County, Montana, West Portion." The Copyright Office has twice questioned whether publication of this map has taken place. Applicant now files an application giving a date of publication and two new copies of the map reproduced by photostat process. The Examiner would still question the fact of publication. Since, however, it has been explained and a request made for the submission of an application only in the event of such publication, the Board overrules the Examiner and directs entry as applied for without further question.
4. National Fire and Marine Insurance Co. (W. R. 40301)--Class K. "The Home of Friendly Service." The deposit is a calendar containing a central design and a slogan (which latter is not copyrightable). The Office first recommended

registration of the design as a print following actual publication of the calendar. This recommendation was subsequently changed without explanation to require a filing of an application on form A1. The Examiner now recommends that the application be rejected outright upon the ground that there is no copyrightable matter. The Board overrules the Examiner, holding that registration may quite properly be made for the pictorial illustration which appears upon the calendar and in connection with the notice of copyright. Request the submission of an additional copy of the calendar as published. The application in hand is apparently in order.

5. Townend, William Henry (27942)--Class J. "Design for mask for printing a V for Victory -- border for photograph." Examiner recommends registration for the border ~~of~~ designs as a published photograph if actually distributed in that form. The Board would first question the work as a possible article of manufacture in the form of a pin to be worn, or a picture frame. It notes what appear to be small chains connecting a "V" emblem to a top bar. The detailed design also appears to be raised, denoting three dimensions. Inquire.

6. Warner, Henry Laurence (13049)--Class A. "Scanning the Shops with Sheila Shea." This matter has been before the Board on several previous occasions upon a question of the form of publication. The deposit appears to be made up of a number of separate publications, each of which would properly be the subject of a separate copyright. The Office has inquired as to this but the applicant gives no explanation, save to reiterate that because of the previous registration granted for similar material he believes he is entitled to a single registration in this case. There is, of course no justification for the perpetuation of an error even when made by this Office. It seems apparent that the various sections making up the present deposit were published separately. In the absence of any explanation to the contrary, the Board sustains the Examiner in holding that separate registrations would seem to be in order.

7. Neilsen, Thor (28133)--Class A. "The Thor Neilsen Vitality Tone." The deposits are typewritten copies and the Examiner accordingly would question the fact of publication. In view of applicant's specific statement that these are "two complete copies of the best edition thereof then published" enter as applied for. In the absence of a specific statement, inquiry would have been justified but we are informed that these copies are of the best edition. There is a sworn date of publication.

8. Wiley, John & Sons, Inc. (Deposit Acc't) Class A. "Electric Motors in Industry." The Examiner questions the statement of authorship of this revised edition including the names of the original authors and that of the editor. The Board sees no reason to question such a statement. The new Preface is signed by the editor and there is no reason to doubt that the original authors corrected and revised the present work. Enter as now applied for.

9. Gorton, Artists, Inc. (20471)--Class K. "Flying High & Striking Hard." The Office has twice questioned the date of publication given in this application as varying by a month from the stated date of issue on the copies. Twice applicant has submitted new applications giving the same date of publication. Examiner would again question the discrepancy. The Board overrules the Examiner since the later date of publication given in the application may well have caused ^{by} delayed publication due to circumstances arising out of the war. Enter as applied for.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 7, 1942

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

Total time consumed, 35 mins.
Unanimous decisions, 5

1. Franklin Printing Company (37041)--Class KK. "For Want of a Shoe" and five other works. Each two works of the same title have conflicting notices of copyright, one by Brown, Wales Co. and the other by Horace T. Potts Co. The contents of these works are the same. Explain that there can be but one copyright existing in a particular work. Inquire as to who the claimant of copyright is. (It appears from a statement on the copies that the three claimants are "Associated Distributors.") Only a single registration for the copy-rightable contents of each work seems to be in order. Examiner sustained as to classification, namely, commercial print.
2. Howard, E. T. Co. (15296)--Class KK. "Protect Our Nation; Buy Defense Bonds." This matter was before the Board on April 1, 1942 upon a question as to the type of copyright deposit necessary for registration. The work in question is a painting on a billboard, advertising the sale of Feigenspan beer and ale. Applicant points out that the deposit of actual copies of the painted billboard in full scale would entail tremendous expense as well as present difficulties in transportation. The Board's ruling is to accept photographs as identifying reproductions in view of the manifest absurdity in requiring copies of the actual board. The work will be registrable as a commercial print notwithstanding the copies themselves are actually paintings. The work is essentially a piece of commercial advertising. Paragraph 3 of the Register's memorandum of April 3, 1942 dealing with the subject of published sculptures is the authority for accepting the photographs instead of the actual publications.
3. Gearhard, Emory Joseph (28515)--Class A. "Gerhart's Hose Mending Instructions." The deposit is a folder of instructions on how to mend runs in silk stockings. A copyright notice reading "Copyright 1941 E. J. G" appears on the copies and on the opposite side of the folder is typed the full name and address of the copyright claimant, Emory J. Gearhart. Examiner would reject upon the ground that application form I-1 deposited is the wrong form, the work being a book with a notice of copyright inadequate for registration in that class. The Board, in view of the presence of the typewritten name and address, would inquire first as to whether publication of all copies took place with the name and address typed thereon. The work is Class A1 material.
4. Brown, Eules (23041)--Class E. "My Love." Applicant originally registered her unpublished musical composition and subsequently entered into a contract with the New Era Music Corporation to publish the work. The New Era Music Corporation apparently changed the words and music slightly and re-registered

the work in their name substituting the name of one of their composers for that of the original composer. The Examiner correctly states that this Office cannot nullify this second registration in the absence of authority from the claimant and composer of second record. Examiner overruled, however, in her statement that the applicant is protected by the 1931 registration which takes precedence over the 1940 registration. It is no part of the procedure of this Office to go into questions of substantive right. Actually, the terms of the contract may have resulted in the loss to the original composer of her rights under the original copyright.

5. Jam Handy Organization (22509)--Class A. "What to Look For," "What Makes Champions," "A Design for Selling," "Get the Facts." Register these slides as J-2s in the absence of publication. Accept their explanation. Exhibition of motion pictures to many thousands of people--this was not publication requiring deposit of two copies. Patterson v. Century Productions, Inc., 21, Bull. 241.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 8, 1942

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

Total time consumed, 75 mins.
Unanimous decisions, 8
Divided opinions, 1

1. Nebraska, State of, Dept. of Public Instruction. (No Fee)--Class A. "Narcotic Education - Bulletin E-1 (Revised). The notice of copyright is in the name of Charles W. Taylor, State Superintendent of Public Instruction. This form of claim is repeated throughout the application, including line (1). The Examiner would have the official capacity removed from the statement of claim. The Board overrules the Examiner, feeling that he may possibly be acting in his official capacity. Charles W. Taylor is likewise given as author of the work but a statement appears in the Foreward to the effect that Edna Jackson, Department of Public Instruction has been responsible for collecting and compiling the material of the bulletin. If such is the case she would apparently be the author. The Examiner has likewise overlooked the fact that the affidavit was not executed. Request another.
2. Ilardi, Arthur (28853)--Class E. "The American Victory." This composition has both English and Italian lyrics. The copy bears the statement "translated from Italian." The author as given in line (6) of the application is Giovanni Pampinello. In order to clarify the statement of authorship if Giovanni Pampinello is the author of both the Italian lyric and English translation, request that line (6) of the application be amended to read: "Author of Italian and English words."
3. Indianapolis Engraving Co. (28744)--Class J. "Thoroughbreds." The photograph bears a notice of copyright in connection with the name "Indianapolis Engraving Co., Inc." There is no other name upon the copies. The application gives Manley Brown as the copyright owner. Examiner suggests registration in the name of Indianapolis Engraving Co., Inc. followed by an assignment to Manley Brown. To the Board, however, this is simply a variance in claim upon its face. Possibly this is a case of sole ownership or d.b.a. Inquire.
4. Young, Warren K. (28313)--Class A. "Young Measures..." Applicant makes the statement that the present publication is at least 75 per cent new including the organization of the material and the headings which also "involve a large amount of work and a degree of originality." The book does include reprints of previously copyrighted articles. Since 75 per cent of the material is new and the whole is issued in book form for the first time, register upon application form A1 as applied for.

5. National Industrial Conference Board, Inc. (Deposit Account)--Class A. "Indexes of Change in Retail Prices of Department Stores from January 31, 1941 through January 31, 1942." The Office questioned a variance in the statement of authorship, the copy reading "Division of Industrial Economics, the Conference Board" whereas the application gave National Industrial Conference Board, Inc. Applicant replies that the form of authorship given in the application is the "correct legal title" of the organization claiming the copyright and responsible for the authorship. Examiner overruled in holding that the Division of the company be given as the author in the application. The Board directs that the authorship be recorded as given in the application since it is the correct legal form of the claimant and author's name.
6. Misklow, Betty (26939)-- Class E. "I'll Remember." The Examiner states that there is a variance as to composer, the copy reading Betty Misklow whereas the application gives Elizabeth Beatrice Misklow. Accept the application. Betty is simply the diminutive of Elizabeth--there is no chance of confusion as to identity.
7. Monumental News-Review (No Fee)--Class G. "Jaques Cugate Memorial Design..." This deposit is a page torn from a magazine. At the upper left hand corner is a print of a new tombstone design with a notice of copyright appearing directly in connection with it. Beneath the illustration is the statement to the effect that embossed photographs of original memorial designs can be obtained at a stated price. The rest of the page is text matter concerned with the design pictured in the cut at the top of the page. The Office suggested that possibly two registrations would be in order, one for the design for the memorial itself on form G* and another for the entire page as an advertising print. Applicant replies that all they are interested in is the protection for the design for the monument. Examiner feels that two entries are in order but the Board is of the opinion that if the design for the monument is all they wish to copyright, they may submit two copies of the photograph as published with an application on form G*.
8. Pan American Union (28673)--Class ? "Know Your Neighbor." Applicant wishes to copyright "the title of the pictorial matter" comprising this heading of a series of newspaper articles. The application filed gives a date of publication as March 27, 1942. A proof of the first article submitted contains a date of release as of March 16. Applicant should be advised again that titles are not copyrightable. If registration is desired for the pictorial heading, request an application giving the original date of publication of the pictorial heading. This would presumably correspond to the date of publication of the release of March 16.
9. Paper, Stationery & Tablet Mfgs. Assn. (K50726)--Class K. "Bonds of Victory..." The deposit is a pictorial poster urging the writing of letters by families to their relatives in the service and vice versa. The copyright claimant is the Paper, Stationery & Tablet Manufacturers Association, Inc. The Board divides upon the classification under which this claim should be recorded. The Majority view is that the purpose of the poster is to stimulate the sale of stationery and in view of the Register's recent decision in the Better Packages, Inc. case, holds that the poster is a commercial print used in connection with the sale and advertisement of an article of merchandise, i.e., stationery, and that registration should be made accordingly. The Minority opinion is that the work is an artistic print and may be registered upon form K. Appeal. Register as Class K. See memo

"Prints"

PRINT
(Commercial or artistic?)

MINORITY MEMORANDUM

May 8, 1942

Remitter: Paper, Stationery & Tablet Mfrs. Assn. (K-50726)

Title: "Bonds of Victory - Write those Letters Today - National Letter Writing Week"

Question: Is deposit under consideration to be reclassified as an advertising print published in connection with the sale or advertisement of an article of merchandise?

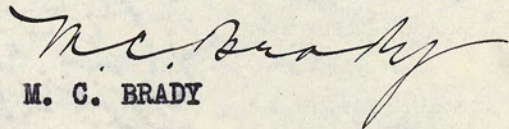
The undersigned agrees with the findings of the Examiner with respect to the print under consideration, that is, that it is a poster used to promote the writing of letters to members of the United States armed forces, and that it would indirectly stimulate the sale of stationery, but that it does not illustrate or advocate the purchase of any specific kind of stationery any more than it does any special brand of ink or any special kind of pen or pencil. The obscure presence of a notice of copyright at the base of the poster, which is in the name of Paper, Stationery & Tablet Manufacturers Association, Inc., indicates to this Office that this organization is responsible for the publication and owns the copyright therein, but it is not an advertising message to the public to incite them to buy paper, pen or ink, or any of the necessities of correspondence. It is a message to the public to write to the fighting forces.

The poster might be described as follows: On the brilliant red background of this print, which measures 13 x 22 inches, in the upper left hand corner are two blue rectangles 7 x 2 inches each, which bear the legend in large white letters:

BONDS OF
VICTORY

On the right hand at the top, slightly impinged upon the blue rectangles described above, is the print of a soldier and sailor both happily reading a letter. Immediately under this cheerful picture is a large facsimile of a white envelope bearing the superscription "Write those Letters TODAY," and having the picture of a stamp in the upper right hand corner and printed in black lettering the admonition "Buy War Savings Bonds and Stamps." In the lower left hand corner of the deposit is depicted a mother and father reading a letter received from their absent son. The part of the letter visible says: "The thing that we await most eagerly at camp is the arrival of letters. News from home is always welcome news, and we don't have to pay postage on our replies." On the right of this is the announcement: "5th Annual National Letter Writing Week October 4-10th." The words "National Letter Writing Week" appear in blue rectangles, nicely balancing those at the upper left corner, as described above. The undersigned agrees that

there is a subtle urge in this poster to encourage the writing of letters, but because there is no article of merchandise either pictured or mentioned in this print she feels that the application already acted upon is acceptable. The registration has been made under that classification, and it is her opinion that the deposit is not a commercial print used in connection with the sale or advertisement of any article of merchandise but belongs in the classification in which it has already been numbered.


M. C. BRADY

No article of merchandise or manufacturing referred to. Register -
Class K as applied for. W. H. Wise, May 12, 1942.

MAJORITY MEMORANDUM

PRINT
(Commercial or artistic?)

May 8, 1942

Remitters: Paper, Stationery & Tablet Mfgs. Assn.

Title: "Bonds of Victory - Write Those Letters Today..."

Question: Whether a pictorial print ostensibly issued as a patriotic gesture in advocating correspondence between families and their relatives in the service but the claimant of which poster is the Paper, Stationery & Tablet Mfgs. Assn. Inc., an organization vitally interested in the sale of stationery, is registrable as an artistic or commercial print.

It is the Majority opinion that this print is identical in principle with the print recently issued by Better Packages, Inc., which print the Register of Copyrights decided must be registered as a commercial print. The points of similarity between the two works are as follows:

1. Both are upon the face of them disinterested patriotic posters, the one advising silence as a means of keeping military secrets, while the other advises correspondence as a means of keeping up morale.
2. The arrangement of both prints is identical. Both display the disinterested feature prominently. The Better Packages, Inc. print carried at the top a large red lettered warning not to talk loosely. The print under consideration prominently urges the writing of letters to form the bonds of victory.
3. The Central portion of each print actually advertises the article of merchandise which determines the character of the work. The Better Packages, Inc. print bore an illustration of the machine manufactured by the copyright claimant. The print now under consideration likewise displays the particular article of merchandise in the center thereof, namely, correspondence envelope and other stationery.
4. The claimant in each case is a company or organization vitally interested in the sale or advertisement of the particular article of merchandise pictorially represented in the poster. Better Packages, Inc. was interested in the sale of sealing machines. The Paper, Stationery & Tablet Mfgs. Assn., Inc. is vitally interested in the sale of stationery, the use of which is the sole urge of its poster.

In view of the above identical characteristics between the print ordered into the commercial category of registrable prints by the Register of Copyrights, and the print now the subject at issue, the Majority urges that the principle of consistency requires the same classification be applied

to the letter writing print whose sole urge is the use of stationery which must be acquired by sale, said stationery being the article of merchandise in which the claimant is solely interested.


R. S. MacCartney

No article of merchandise or manufacturing referred to. Register - Class K, as applied for. W. H. Wise, May 12, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 11, 1942

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

Total time consumed, 45 mins.

Unanimous decisions, 8

Divided opinions, 1

1. Jacc-Lac Decal Co. (28699)--Class K. "Army Air Corps Insignia" and "Naval Aviation Insignia." The deposits consist of large sheets of decalcomas reproducing the various insignia adopted and used by air squadrons in the United States Army and Navy. It appears upon further examination that each sheet is made up of six separately numbered sheets, each of which bears an individual notice of copyright. Question publication of the large sheets as deposited. Copy as actually sold must be submitted. As to the subject matter, these prints are the applicant's own representations and as such are entitled to copyright. Reiterate, however, that no monopoly is being obtained in the insignia as such.
2. Cate, Harold Webster (28476)--Class E. "Hail! All Hail! to Old Glory" and "America is Calling." Applicant advises that while copies of these musical compositions are not for sale, a few copies were made for his friends and a few have been taken back to Hawaii. He encloses application form E plus the registration fee for published works. The Examiner would further question publication and the extent of distribution. It seems to the Board that the facts at hand are sufficient for a decision one way or another. In view of the release of copies, the works may be accepted as published. Request, however, forms E1 for the S.A.T.B. arrangement of "America is Calling" which has a later date of publication than the voice and piano version. Inquire as to the pen and ink notice.
3. Dow, Fayette B. (34683)--Class A. "A Digest of Pipe Line Rates on Gasoline and other Petroleum Products...Memorandum No. 2, Dec. 18, 1940." The Office has several times requested the filing of an additional copy of this work. Applicant now definitely informs the Office that such copy cannot be obtained inasmuch as they have all been destroyed following the publication of a new edition. In view of these circumstances, the Board directs filing without further action, the fee to go in the special account provided for unclearable published works.
4. Douglas, Helen (24332)--Class E. "Aviators Song." This matter was before the Board on April 21 upon a question of variance in claim. The applicant now submits an application giving only the pseudonym in line (1) thereof. The Examiner overlooks this, requesting simply the return of the original copy. The Board requests the filing of a new application, giving the legal name of the claimant in line (1) followed by the statement "Helen Douglas Pseudonym" if desired.
5. Hutchinson, Celia Laura B. (Mrs.) (24737)--Class E. "Sing a Song of Victory." This matter was before the Board on April 20 upon the permissibility of republication

with correct notice inasmuch as the work was a foreign publication. Applicant now submits a new copy bearing a corrected, printed notice and a new application on Form E-Foreign, which, however, gives the original date of publication. The Examiner would request a new application giving the date of republication with correct notice. It is the established practice of the Office, however, ^{not} to question the date of publication in the case of foreign publications republished with correct notice. This Office requests only an appropriate application in such case; that is, we accept either date, the date of original publication or the date of republication. Enter.

6. Brooks, Cordelia Loring (28852)--Class K. "Gen. Douglas MacArthur, Back Him Up Now Folks - Don't Wait!" The deposit is a postcard containing a picture of General Douglas MacArthur on the face, together with a notice of copyright "© CLB." On the back of the postcard is the advisement "Victory Card Co., 50 Joy Street, Boston, Mass." The Examiner would reject upon the ground of faulty notice. The Board observes, however, that the address of the Victory Card Co. is the same as the address of Cordelia Loring Brooks whose name is in the application and in the copyright notice. Inquire as to the possibility of d.b.a.

7. Leahy, Shealy, Olsen & Parker (58443)--Class KK. "A Gift from Dairyland." Several letters have been written in connection with this application, the question being the establishment of correct classification. It has now been discovered, however, that there is apparently no notice of copyright on copies. The Board, accordingly, directs rejection and refund.

8. Krook, Sarah Dance (Mrs.) (28263)--Class ? "Pearl Harbor." The work in question is a pad of identic gameboards. These are bound together with a pictorial cover entitled "Pearl Harbor - A War Game," which cover bears a notice of copyright. On the back of the cover are printed instructions for playing the game. The applicant files two applications, one on form A1 for the explanatory text and the other upon form K for the print. The Board divides upon the question of proper classification. The Majority, consisting of Mrs. Brady and Mr. Lasica, would register the work as a book limiting the claim to the copyrightable text and pictorial matter. The Minority opinion, which upholds the recommendation of the Print and Label Examiner, is that the cover design of the work seems registrable as a label since the contents comprise the gameboard which is an article of merchandise. Since the rules for playing the game are published on the back of the cover design or label, one registration in Class KK would seem sufficient to cover all the copyrightable component parts. Appeal. Register as A' as applied for. W. W. Wise - 5-12-42 See Memo "Book."

BOOK

MINORITY MEMORANDUM

May 11, 1942

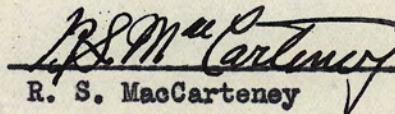
Title: "Pearl Harbor"

Remitter: Krook, Sarah Dance (Mrs.) (28263)

Question: Whether a pictorial cover on the back of which is also explanatory text, which cover is attached to a pad of identic gameboards, is registrable as a commercial label or as a book with, in the latter instance, the claim limited to the text and pictorial matter.

The Majority opinion is that registration for the entire publication should be made limiting the claim to the pictorial cover and text matter, the proper classification being that of book. It is the Minority Opinion, however, that the cover design for this work seems registrable as a label since it is attached to the contents, which contents comprise the game. Since the rules for playing the game are published on the back of the cover of the label, one entry in Class KK would seem sufficient to cover all of the copyrightable component parts.

As a precedent for the minority recommendation, there is the case of a pictorial cover for several sheets of detachable post-cards, the whole stapled together in the form of a book, which cover was deemed by the Board to be registrable as a commercial label. The only difference between that case and the one in question is that the contents of the one publication consisted of detachable postcards whereas the contents of the other consist of detachable sheets in the nature of gameboards.


R. S. MacCartney

Majority sustained in part. Register as A1 as applied for.

W. H. Wise, May 12, 1942

1277A

TREASURY DEPARTMENT * DEFENSE SAVINGS STAFF

NEWS MATERIAL

RELEASE NO. 167

May 12, 1942

FOR IMMEDIATE RELEASE.

WASHINGTON, D. C. -- The Treasury Department today announced its policy with reference to the use of War Savings Bonds or Stamps as prizes in lotteries, games of chance, and the like, and as premiums, prizes, discounts, or gifts in connection with the promotion and sale of merchandise.

The official statement released by the Treasury Department follows:

"The Department disapproves of the use of Savings Bonds or Savings Stamps as prizes or rewards, either alone or in combination with merchandise, through lotteries, punch boards, pin ball games, or other games of chance where an element of personal profit is involved either directly or indirectly. Objection is not made to such use in contests of knowledge or skill, not depending upon chance, such as quizzes, slogan contests or the like, not directly connected with retail sales of merchandise.

"The Treasury also strongly disapproves of the use of either Bonds or Stamps as premiums, discounts or gifts in connection with the retail sale of merchandise, particularly as premiums for coupons or other Stamps or counters in the nature of trading stamps or the like, or the use of Bonds or Stamps in any way calculated to give one merchant or dealer any advantage, real or apparent, over his competitors.

"These objections are based on consideration of public policy and do not depend upon the legality or illegality of any of the devices or games mentioned under the laws of the United States or of any state, nor upon whether or not practices to which the Department objects may be considered violations of fair trade practices."

The Senior Attorney called Mr. Winston Br. 2246 of the Treasury Department and this order was affirmed as of December 10, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 13, 1942

The Revisory Board convened at 10:00 and adjourned at 10:50. Those present were Mr. MacCarteney, Mrs. Brady and Mr. Lasica with Mrs. Rafter voting in the case of one corrective entry.

Total time consumed, 40 mins.
Unanimous decisions, 6

Corrective Entry:

1. Frank, Camilla M. (No Fee)--Class E. "Afraid of You," "Little Chum," and "Dizzie Lizzie." Applicant advises the Office that through an error the name of one of the true copyright claimants was omitted from the application, the registration having been made in applicant's name alone. The Board agrees that a corrective entry is in order.

General Business:

1. "440" Music Publishing Co. (29590)--Class E. "How About a Date Tonight." Held that a notice of copyright is acceptable where the name of the claimant appears upon the same page as the notice consisting of the word "Copyright" and the year date of publication.
2. Stensgaard & Assoc., Inc. (26919)--Class K. "Piggy Bank Fashions" and 4 other works. The item in question is a book of prints stapled together illustrating the arrangement of window displays. Each print bears a notice of copyright using the symbol "C" in a circle. There is no collective notice and no "book" notice. The Examiner would reject outright inasmuch as the material is not KK material and the symbol "C" in a circle is used. The Board overrules the Examiner, holding that the separate prints are registrable in Class K as artistic prints. The notices of copyright are adequate for Class K.
3. Bunin, Louis Inc. (D unpub 80084)--"Bury the Axis - A Victory wallop in one reel." The Examiner passed this work for entry as a dramatic composition, being of the opinion that it could reasonably be classified as a dramatic composition. The Record Section withheld registration upon the ground that actually the work was but a mere synopsis. Upon consideration the Board is of the opinion that the work is a border case, but that the Examiner should be sustained in accepting the work for registration. Enter as applied for in Class D.
4. Burstein, Paul (23479)--Class E. "Oh Boy, She's Got It!" This musical composition consisting of the music and a set of Jewish lyrics was originally published at Buenos Aires by distribution to theatre goers. Applicant now advises that a set of English lyrics has been added and he wishes to register the music, the Jewish lyrics and English lyrics. Incidentally, the work was published

abroad without notice of copyright. The Examiner holds that the only registration possible is upon form E3, claiming upon the English lyrics. The Board points out, however, that since the original was a foreign publication, it could be republished in the United States with notice of copyright and registration could be had to cover the music, Jewish lyrics and English lyrics. This, of course, could be done providing that publication has not as yet been effected in the United States without notice of copyright.

5. Miller, Claude (No Fee)--Class A. "Miller School Forms - Pupil Unit - High School Form." Examiner overruled in rejecting upon the grounds that this work is simply a blank form. The Board holds that there is sufficient text to support registration for the work as a book provided it has not yet been published--there being no notice. Explain.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 15, 1942

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

Total time consumed, 45 mins.
Unanimous decisions, 7

1. Brown, Lincoln, Jr. (27609-Used). Class A. "Rush-o-gram Service Cards". Applicant has registered one of a series of cards, and he inquires whether others of the series that differ only with respect to insignia of a particular branch of the service and the color of the background would be separate subjects of copyright. The Examiner categorically states that they would not be subject matter of copyright, inasmuch as the changes indicated are insufficient. The Board is of the opinion that this statement is too broad; it is possible that the other prints may be copyrightable. Applicant should be advised to deposit copies for an examination upon the merits.
2. Mann, Robert Goodelle (30102). Class E-2. "Land of Sky Blue Water". Examiner asks if the words set to this musical composition are original. It seems obvious to the Board that they are not original in that they are the words to the well-known song "The Land of the Sky Blue Water". Examiner otherwise sustained.
3. Certified Dry Mat Corp. (30552). Class KK. "If I Don't Reach Your Town". This work is in the nature of a postcard apparently sent out by salesmen of the corporation to plants which are their clients, advising that due to the gasoline and rubber situation they will not be able to appear in person. The postcard seems to solicit letters from the clients and states that they will receive prompt attention. There is a pictorial representation of a man apparently marooned at a distance from a town. The card also contains a considerable amount of text, and at the bottom is the name Certified Dry Mat Corporation, followed by a notice of copyright reading "© 1942". The Print and Label Examiner holds that this is not a commercial print, in that it does not specifically advertise an article of merchandise. The Board notes, however, that registration cannot be made as applied for as a "book," due to the use of the copyright symbol © instead of the word "Copyright" or its abbreviation "Copr." Full protection therefore could only be obtained by registering the work in Class KK. The card does indirectly advertise an apparent article of merchandise, i. e., a dry mat--whatever that may be.

4. Mayfair Music Corp. (Deposit Account). Class E. "When the White Azaleas Start Blooming". The applicants submitted an application for registration of this musical composition in their own name. The notice of copyright on the copies, however, was in the name of Bob Miller, Inc., the original publisher and owner. It was determined that Bob Miller, Inc. had assigned the rights to the Mayfair Music Corp., and the document was recorded in this Office, and subsequently the claim registered in the name of the existing copyright claimant, the Mayfair Music Corp., as applied for. The Office is now in receipt of a letter from an attorney of the Mayfair Music Corp., requesting that a new certificate of copyright registration be issued in the name of the original publisher and copyright owner, Bob Miller, Inc., rather than the assignee, "In Order that there may be no confusion apparent from the record." It is the policy of the Office to record claims in the name of the copyright owner existing at the time the registration is applied for. The assignment in this case is of record, and accordingly no further action is in order and no corrective entry can be made.

5. Dudgeon, Frank (65988). Class E. "Love and Heartaches". Applicant originally submitted proofs of this song bearing a 1936 copyright notice. The Office requested copies of the complete work, and since it appeared to have been published in a volume, two copies of said volume were requested. In reply, the applicant filed two copies of the song as torn from the book in which it was published. The Office again requested complete copies, and in response is met by a request from the applicant to refund his money and return the application. Examiner sustained in her recommendation that since there is no evidence that complete copies of the book are unobtainable the Office should again write explaining publication with notice obligates registration and compliance with the provisions of Sections 12 and 13 of the Act.

6. Dillon, Ethele (29294). Class E. "America's Calling", "Oklahoma's Home", and "Missing-link Talk". The deposit is a manuscript consisting of three alternate versions of the same song; that is, alternate as to lyrics. The three sets of lyrics have absolutely no connection as to theme or content. Three different titles are given on the copy and in the application. The Examiner would simply have the applicant choose which title and sub-title he wants placed of record. The Board overrules the Examiner. Inasmuch as there are three different versions of the song, separate registrations would appear to be in order. Request separate copies, applications and fees.

7. Indiana Memorial Union (30225). Class A. "Our Indiana". This is a question of validity of notice. Across from the title page of this book appears the following notice: "This book is protected by copyright, and no part may be reproduced without permission of The Indiana Union." On the title page, beneath the title is the statement: "Published and presented by: The Indiana Union," and below this: "May, 1942." The Examiner would reject upon the ground that the notice is not in the

statutory form, lacking the year date. The Board is of the opinion that since all of the elements of the notice are present and visible at the same time, and the notice is also acceptable as to position, it should be accepted and the registration made for what such registration may be worth. Enter and write warning letter.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 19, 1942

The Revisory Board convened at 10:00 and adjourned at 10:30. Those present were Mr. MacCarteney, and Mr. Lasica with Mrs. Rafter substituting for Mrs. Brady in the latter's absence.

Total time consumed, 30 mins.
Unanimous decisions, 5

1. Milliron, Ellsworth Ora (27641)--Class A. "Complete Funeral Record." The Office questioned the form of the deposit consisting of a single sheet as constituting the complete work as published. The question was based upon the presence of holes at the side of the sheet indicating that it might be intended as part of a larger publication. Applicant replies that the work is not taken from any book or printed publication. It is the 1942 revision of an original 1936 publication. Examiner would still insist that the sheet was taken for a book. The Board, however, directs that applicant's statement be accepted. A new form A2, however, should be required with a specific statement of the new matter incident to this 1942 revision. The present A2 application seems to describe the entire work.
2. Zwart, Gerrit C. (29183)--Class A. "Protection Against Gas." The deposit is a roll of photographic film in the nature of a still. Various frames actually represent photographs of drawings and text matter. Applicant properly applies for registration of the work as a book in view of the text and the merely mechanical photography involved. The notice, however, is insufficient for Class A registration since the symbol "C" in a circle is used in place of the required word "Copyright" or its abbreviation. The Examiner would reject but the Board feels that since the work is the result of photography, registration can be made in class J for the extent of coverage resulting. After all, before the amendment in 1912 even motion pictures were registrable as photographs.
3. Eichmann, Anna E. (30460)--Class C and E. "The Liberty Parade" (address) and "The Liberty Parade" (song). The deposit is a poem apparently intended for oral delivery together with a song that is intended for rendition as part of the performance. Examiner sustained in her recommendation that for full protection the Office should advise that the song be separately registered on form E2. While it is to be an integral part of the performance it is not a part of the lecture and is susceptible of separate performance, and publication upon its own merits.
4. Nat'l Ass'n of Musical Mdse. Wholesalers, Inc. (No Fee)--Class K. "Member of National Association of Musical Merchandise Wholesalers, Inc."

Examiner sustained in holding that this insignia, a proof of which has been deposited, could under a broad interpretation of the term, be registered as a print following publication with notice. The Board bases its affirmation of the Examiner's recommendation upon the ruling in the "America" case.

5. Parrish, Amos & Co., Inc. (Deposit Acc't)--Class KK. "The Coat Champion Retains Its Title" and "There's a Sweetheart in your Suit Department." The work in question is a folded sheet which upon the face of it advertises the sale of a particular type of women's coats and dresses. The Office wrote, suggesting applications should be filed upon form KK, classifying the works as commercial prints. Applicant replies that the two publications are not advertisements for articles of merchandise. "They are suggestions for individual store promotions and are not actual advertisements covering tangible merchandise." The Print and Label Examiner is overruled in insisting upon registration in Class KK. Applicant's statement that the publications are not actual advertisements covering tangible merchandise should be accepted. Register in Class A as now applied for.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 20, 1942

The Revisory Board convened at 10:00 and adjourned at 11:05. Those present were Mr. MacCarteney and Mr. Lasica with Mrs. Rafter substituting for Mrs. Brady in her absence from the Office.

Total time consumed, 65 mins.
Unanimous decisions, 10

Corrective Entry:

1. Robbins Music Corp. (Eunpub 104045-046)--Class E. "Modern Design" and "Rondo for Trumpet." The claimant of copyright requests correction of the facts of registration which incorrectly give the name of the author as Milton Samuels instead of Milton Weinstein. The registrations were made in accordance with the applications submitted. Corrective entries, however, may be had if the claimant so desires.

General Business:

1. Certified Dry Mat Corp. (30552)--Class ? "If I Don't Reach Your Town." This matter was before the Board on May 15 upon a question of classification. The Board voted to suggest that registration be applied for as a commercial print in view of what it deemed a probability that an article of merchandise, namely, a "certified dry mat" was involved. The notice of copyright was insufficient to support a registration under the classification of "book" as applied for inasmuch as the symbol "C" in a circle had been used in the notice instead of the word "Copyright." The Print and Label Examiner addressed a memorandum to the Board requesting reconsideration of what he describes as an "order" from the Board, requiring registration in Class KK. The Board is of the opinion that its recommendation is sufficiently flexible to permit a letter being written that will cover the facts of the case. If applicant does not feel that the card is a commercial print, he may register it as an artistic print, if he so desires. The Board, therefore, reaffirms its recommendation in a memorandum signed by the Chairman and sent to the Print and Label Examiner.

2. Mock & Blum (31692)--Class K. "Diorama--People Who Helped Build Our Country; The U.S. is a Great Mfg. Nation" and 3 others. The deposit is a diorama depicting a colonial scene showing social activities of that era. The dioramas used for educational purposes, particularly with reference to instructing children. The Examiner questions the registrability of the work in that it is in three dimensions and "would appear to be an article of manufacture." The Board directs that registration may be made for the work as a published print upon receipt of an application giving a descriptive sub-title. The work does not appear to have any utilitarian purpose. Indeed, its main object is to be contemplated thereby imparting information to the onlooker, i.e., the child student.

3. Taylor, Thomas D. (W.R. No. 40333)--Class A. "Come to Holy Communion Next Sunday." The original edition of this work was duly entered in 1941. Appli-

cant now submits a new edition for registration which has one word changed in line (2) and change of church sponsor in line (13); otherwise the new edition is identical with the original. Examiner sustained in that no new registration is in order merely because of a change in identification of a church. Applicant seems worried because he has printed the notice of copyright on thousands of copies. Advise that notice is properly placed on the new copies, however, to insure protection under the existing copyright.

4. Research Institute of America, Inc. (18661)--Class A. "Proceeding for War." This application was inadvertently filed instead of being passed for entry following a warning letter written to the claimant with respect to the form of copyright notice inscribed on the copy. Upon receipt of an inquiry from the claimant as to why he had not received the certificate of registration, the matter was brought to light but the Examiner finds a variance in the authorship, the application giving the name of the editor whereas the copies bear a statement that the book was prepared by a division of the Research Institute of America. In view of the Office failure to raise the question of authorship, the Board directs that the present application be accepted. The Record Section may record as follows: "Prepared by the War Economics Division of the Research Institute of America, William J. Casey, Chairman--editor, Leo M. Cherne."

5. Mock & Blum (30597)--Class I. "The Ratner Liquor Calculator." The deposit is an unpublished interacting wheel calculator. Examiner merely points out that a calculating device is not subject matter of copyright and the work is not registrable as an unpublished drawing. The Board would add that if the work is published with a notice of copyright, referring to the considerable amount of text matter on the back of the article, that registration can be had as a book with a disclaimer as to the mechanical feature.

6. Billig, Friedrich Fritz (25547)--Class A. "Billig's Philatelic Handbook, 1942." Register as applied for. The notice of copyright and the application agree in giving the claimant as "Billings Stamp Co.." The fact that Friedrich Fritz Billig is the owner of the company would not constitute any variance requiring correspondence. Billings Stamp Co. is undoubtedly the trade name.

7. General Mills, Inc. (16014)--Class A. "Betty Crocker Cook Book." The Examiner questions a variance in the statement of authorship, the copies bearing the name of Betty Crocker whereas the application gives General Mills, Inc. as the author. Applicant has explained that Betty Crocker is a trade name used to characterize and personalize a home economic service carried on by the paid employees of General Mills, Inc. To the Board this seems clear enough and accordingly recommends that registration be made as applied for.

8. Elmore, Thomas S. (19303)--Class F. "Dated Events War Map of the Pacific and Far East" and 3 others. The Office received a letter from the applicant at Toronto, Canada, stating that the copies submitted to this Office for registration represent the best editions as published and are the first editions to be copyrighted and published in the United States. Two of them have on them "Second Edition." These are second only to the first editions in Canada. The Examiner would require a new application based upon the date of publication of the maps in Canada. The Board recommends entry as applied for based upon first United States publication

which is apparently what the applicant wants. We do not question publication abroad without notice where there has been republication in this country with notice so why refer back to publication abroad in this case where applications have been filed for United States publications based upon the date of publication in this country.

9. Knollin Advertising Agency (No Fee)--Class A. "Volunteer for 'N' Day!" Applicant submits a proof sheet of what is frankly termed an "advertisement." The article at least indirectly involved is the commodity, gas. Refer to Print and Label Examiner for possible classification KK. Examiner otherwise sustained with respect to the recommendation pertaining to the symbol of the little "gas man" which appears at the top to the right of the pictorial illustration. This little character is analogous to that used by the electric industry named "Reddy Kilowatt."

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 21, 1942

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

Total time consumed, 20 mins.
Unanimous decisions, 2

1. Burndy Engineering Co., Inc. (31316)--Class A. "Electrical Connectors by Burndy for Ships and Shipyards. Catalog M-42." This is a case of acceptability of an affidavit. The Latham Process Corp. appears in the affidavit as the printer and the process indicated is by lithographic or photo-engraving. The name of the establishment is not repeated as provided for. The Examiner would request a new affidavit but upon the advice of Mr. Louis Smith, the Senior Attorney and Notary, that the affidavit is acceptable, the Board directs that entry be made as applied for.
2. Music Press, Inc. (13330)--Class E. "Concert Overture for Orchestra" by Leo Sowerby. Applicant filed two applications, one for the score and the other for the parts of this work. The score was published in December of 1941 whereas the parts did not appear until January 26, 1942. The Office incorrectly requested the filing of application form E1 for the parts. Applicant points out, however, that the publication of the parts is not a republication but an original contemporary work published now for the first time. Examiner still insists upon application form E1, basing the claim upon "parts for full orchestra." The parts of the composition, however, published separately from the score do not constitute "new matter." They simply represent the component parts of the work as a whole. If a book is first published in bound form and is later republished in the form of separately bound chapters, the separately bound chapters would not be "new copyright matter." As a matter of fact, two registrations should not have been asked for. Since the matter has proceeded this far, however, the Board directs that application on form E as applied for be accepted as a publication in new form. Applicant should be advised that in the future two registration are not necessary for the score and parts except where one contains copyright matter, that is not present in the other one. Moreover, the notice of copyright where the score and parts are musically the same should contain the same year date of copyright.

MINUTES OF THE REVISORY BOARD
Copyright Office
May 22, 1942

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

Total time consumed, 60 mins.
Unanimous decisions, 8
Divided opinions, 1

1. Whitman Publishing Co. (Deposit Account)--Class A. "Air Planes of the U.S.A. No. 747" and 23 others. These deposits are books containing entirely new text matter but with illustrations that were previously copyrighted in 1941. The Office wrote requesting forms A2, limiting the claim to text. Applicant replies, disagreeing with the Office as to the sub-classification, contending that these three books are essentially new works, differing entirely as to text matter and nature. Examiner would again request forms A2. The Board, however, is of the opinion that applications as filed on form A1 are acceptable since the claims are specifically limited. Applicant considers works as essentially new works "differing entirely as to text matter and nature." Write and explain the use of forms A1 and A2 as requested by applicant.
2. Holum, A. and Son Co. (31303)--Class A. "My Ration Book." This work is a ration card holder designed to hold up to twelve ration cards. The Examiner recommends that the small amount of text matter would be registrable, limiting the claim to such text. The Board, however, can only see the work as an article of utility that furthermore is without copyrightable text. Reject.
3. Mason, Fenwick and Lawrence (Deposit Account)--Class G. "Adolf & Co. 'Und Vot's Your Name,' etc." and "Adolf & Co. 'Missing! Missing!' etc." Two different strips of the same series were originally deposited and the Office advised that each would be the subject of a separate copyright, requiring a separate registration. The applicant's attorney replied that the application is to cover one strip only and submits a new application describing the particular strip to be registered. Enter upon the application received May 6, 1942. There is no necessity to inform the attorneys again that the second strip is also subject matter of copyright if they do not wish to register it.
4. Bangs and Rudesill (No Fee)--Class KK. "Stockmans Commission Co. and "Layest in South Dakota Mills Drugs." The point at issue is whether this Office should question publication of a print displayed upon a roadside billboard, that is whether the work has been reproduced in copies. The Examiner would enter into the question of publication. The Board is of the opinion that publication should not be questioned in view of the possible ramifications. In view of the court decisions holding that unrestricted public exhibition without notice of copyright forfeits the copyright, it is believed that the question of publication need not be raised by this Office.

5. Doubleday, Doran and Company, Inc. (Deposit Account)--Class A. "The Girl from Nowhere." This is an American edition of a book first published abroad in the English language but for which ad interim copyright was not secured due to the loss of the English copy enroute. Doubleday, Doran & Co. include their usual statement, claiming retroactive copyright to the original English publication in the absence of any unauthorized publication in this country to interfere. The Examiner requests that this statement be eliminated from the application. In view of Public Law No. 258, 77th Congress, amending Section 8 of the Act, it may well be that the copyright would be retroactive to the English publication upon the stipulated issuance of the Presidential Proclamation. Accept the statement in the application. The certificate does not contain the disputed information in any event.
6. Lawrence, Frieda (31789)--Class A. "Fire and Other Poems." The Examiner would reject this application upon the ground that the work was published with the wrong name in the copyright notice. The notice is in the name of Frieda Lawrence, the widow of the author, D. H. Lawrence. In one of Mrs. Lawrence's letters to the Office she states: "A Mr. Bender from San Francisco bought the manuscript of the poems and published them with the Grabhorn Press of San Francisco." The Examiner has apparently confused the physical object, i.e., the manuscript, with the intangible copyright. Copyright is distinct from the material object copyrighted. Section 41. The purchase of the manuscript by Mr. Bender did not entitle him to the copyright. The copyright has properly been vested in the author's widow. Return application for completion and the affidavit for execution.
7. Simon and Schuster (Deposit Account)--Class A. "War and Peace." The application for this new edition of "War and Peace" recites the authorship as "Leo Tolstoy, translated by Louise and Aylmer Maude." The Examiner would inquire whether the translation by Louise and Aylmer Maude is now published for the first time. The translation of Louise and Aylmer Maude is the famous one often before published and it is so stated in several places on the jacket and in the book itself. Request a new application on form A2, claiming on Fadiman's new introduction, the Readers' Guide, end papers, etc. and giving the authorship of such new material in line (3).
8. Brentano's Inc. (31331)--Class A. "Je Les Ai Tous Connus." The edition bears the statement "Printed in Canada" and on the foregoing title page a Brentano's New York imprint. The publication was a simultaneous one in the United States and Canada. The Examiner wishes the deposit of a copy of "the Canadian edition bearing a Canadian imprint." Such a request, the Board feels, is not in order. It is a simultaneous publication here in the United States and in Canada. There is presumably only one edition which bears the Brentano imprint and also the statement of Canadian printing in that country. The application has properly been filed upon form A3, giving both places of publication here and in Canada. The present form, however, should be returned for the completion of the place of publication abroad.
9. Herscher, Louis (31449)--Class E. "In The Land of Nod." The deposit is a so-called professional copy which bears the following typewritten statement at the top: "Note****Unpublished for copyright purpose." This copy is accompanied by an application on form E2 and the registration fee for unpublished works which is one dollar. The Board divides upon the acceptance of this

application in the absence of an explanation as to the statement before cited and a further explanation of publication. Mr. MacCarteney and Mr. Lasica would enter the work as applied for in view of the applicant's statement "Unpublished for copyright purpose." It has, moreover, been the policy of the Office to accept applicant's viewpoint on so-called "professional copies" with respect to publication. Mrs. Brady sustains the Examiner in holding that an explanation as to publication must first be secured. Appeal.

*Majority affirmed W. B. Wise 5-25-42
See memo under "Professional Copies."*

MINORITY MEMORANDUM

May 22, 1942

Remitter: Herscher, Louis (No. 31449)

Title: "In the Land of Nod"

Question: Questioning typewritten statement at head of copy
"NOTE*****Unpublished for copyright purpose."

The undersigned is in agreement with the Examiner that the question should be raised as to whether these copies have been published or not, because it has been invariably the practice of this Office to ascertain whether the applicants understand publication in such instances where professional copies have been deposited with an application for a musical composition not reproduced for sale.

These professional copies in all instances bear correct notice of copyright, followed by the statement "International Copyright Secured." Also, over the title in large type is the word "WARNING! This copy is intended for the use of Professional Singers Only, and any one found selling it or exposing it for sale, is liable to a fine or imprisonment or both, and will be prosecuted, under the Copyright law, by the Publisher." It has come to the attention of the undersigned that these professional copies are printed in large quantities (500 to a 1000) and distributed to the radio stations throughout the country. This in my opinion would be publication. The undersigned has had many personal interviews with composers and authors of songs, and has been told that copies of this type are the result of contact made through newspaper advertisements for "Song Hits." These advertisements contain the promise to have the song hits sung over the radio. Enough money is provided by the composers to pay not only the fee for the services promised, but also the price of the printing of from 500 to 1000 copies, and these copies are actually mailed out to radio stations, which the undersigned considers publication. In the present instance, I think the Office is justified in asking an explanation as to the typewritten statement on the copy, "Unpublished for copyright purpose," because publication is not understood by the public, and from the nature of the copies as above described, it is almost certain that they have been distributed. The argument introduced by Mr. MacCarteney that there may be a better edition some day if the song is a hit may apply in some instances, but usually the only publication as sheet music is in the form deposited in this instance. There is a minimum of song music sold in the music stores at the present time, since the family piano is not much in use at the present having been replaced by the radio and the phonograph. As there is no doubt that the deposit before us has been distributed in large quantities as above described, it is the opinion of the undersigned that publication should be explained and the applicants given an opportunity to have proper record made in this Office.

Majority affirmed. W.H.Wise, 5-25-42

M. C. Brady
M. C. BRADY

1291A

THE LIBRARY OF CONGRESS—COPYRIGHT OFFICE

MEMORANDUM

REFERRING TO Whitman Publishing Co. (Deposit Account).

To Assistant Register of Copyrights

DATE May 23, 1942

The Whitman Publishing Co. have requested of the Office some rule that they could follow in differentiating between the use of application forms A1 and A2. This concern, as the Assistant Register well knows, publishes a great many books from material previously published and copyrighted in one form or another. They complain that this Office is inconsistent in its policy in recommending which of the two possible application forms is the proper one to use. They state that the Office sometimes returns applications for reissued works and insists that they are new works even though they contain previously copyrighted matter; while at other times the Office does quite the opposite.

A letter has been prepared in which the following general rule is offered for their guidance:

"Where a book is published for the first time under a particular title and is made up from material previously published and copyrighted in one form or another, but the result constitutes an essentially new work, it should be registered as such and form A1 should be filed. Where, however, a work is essentially a republished book, identifiable with an earlier publication but with new copyright matter, then it should be registered as a republished book with new copyright matter and form A2 should be filed."

With the approval of the Assistant Register the letter above mentioned, together with the formulated rule will be sent to the Whitman Publishing Company.

R. S. MacCartney
R. S. MacCartney,
Associate Attorney

APPROVED: *W. H. Wise*
W. H. Wise, Assistant Register

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 25, 1942

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

Total time consumed, 90 mins.
Unanimous decisions, 8
Divided opinions, 1

1. Plymat, Wm. N. (31890)--Class ? "A Symbol of Victory." This work is described in the application as "A rectangular 'V' embraced and supported by an Egyptian propylon mounted upon an Egyptian base typifying in miniature in sculpture the early Egyptian Art." The notice of copyright is affixed by means of a sticker to the bottom of the base, the whole work being some three inches high. Question whether all copies bore sticker notice. Also, whether there is any utilitarian feature involved.
2. Johnston, Ross Lincoln (31457)--Class E. "My Picture of You." The deposit consists of words and melody with chord indications for the chorus. The Examiner would return the copy for the addition of chord indications for the verse and also for deletion of the statement "Piano-Guitar Chords in E-flat above staff." The Board holds that the copy as deposited is complete for purposes of registration. Enter as applied for.
3. Young, Young & Wright (31836)--Class A. "Fall Out for Fun." This is a printed sheet advertising the sale of a particular radio program. The copy bears the statement at the top "A Radio Script Title and Opening Format---." The opening format follows. Enter as applied for as a book without questioning publication.
4. Cate, Harold Webster (28476)--Class E. "Hail! All Hail! to Old Glory" and "America is Calling." This matter was before the Board on May 11 upon a question of publication with notice of copyright. It is understood that a few copies have been distributed but there was a pen and ink notice on those deposited in this Office. Applicant replies that he does not consider the distribution of a few copies to intimate friends and his senators as publication. Moreover, the copies so distributed did not bear notice of copyright. Examiner would reject the work as having been published without notice. The Board decides, however, that applicant should be given the benefit of the doubt since* he has not published by gift of song to a few people. Request application on form E2.
5. Brandt and Brandt (No Fee)--Class A. "Victory Savings Plan." This application was originally rejected upon the ground that the notice of copyright is not on the face of the pictorial print on the outside cover, but appeared in abbreviated form underneath the cover of what would ordinarily be the third page when opened. Examiner would again reject following an inquiry from the applicant as to the reason for original rejection. The Board feels that applicant should be given the

*he clearly feels that

benefit of the doubt by permitting a registration in Class K. There is some "print" material on the side of the folder bearing the notice, e.g., the stars. Also, the notice is sufficiently prominent---one has only to lift the face of the folder a quarter of an inch for the notice to become visible. Request form K.

6. O'Connor, Eleanor Manning (No Fee)--Class A. "Johnson O' Connor English Vocabulary Builder." Held that new matter consisting only of the correction of two typographical errors and the words "Second Printing" is not sufficient to justify the making of a new registration, notwithstanding the book is in the nature of an English "Vocabulary Builder" where the words are of importance, singly as well as in continuous text.

7. North Carolina, University Press (No Fee)--Class D. "The Fary Knight or Oberon the Second." This is a first publication of a 17th Century play attributed to Thomas Randolph. The application gives in line 3 the name of the editor, Fredson Thayer Bowers, followed by the statement that the original authorship is attributed to Thomas Randolph. The editor's citizenship follows in line (4). The Record Section would have the original author's citizenship included in the application since this is a first publication. The Board directs registration as applied for, giving the citizenship to the editor alone. The authorship of Randolph is not established. It is only "attributed."

8. Mednikoff, Patricia Benton (32197)--Class E. "Lullaby." Examiner would return copy of unpublished musical composition which bore notice of copyright jointly in the name of the composer and his wife. Actually the composer has since died and the application has been filed in the name of the widow as sole owner. The Board directs entry as applied for, using the copy as deposited. A notice of copyright is unnecessary on an unpublished copy. Moreover, it is dangerous to return copies of unpublished works seeking copyright protection since it changes the date of copyright. Only when copies are definitely incomplete should this Office venture to return them.

9. Maule, Staurt M. (20549)--Class E. "Anthem of Freedom." This song was originally published in 1934 and is now republished with a new pictorial cover, the song itself remaining substantially unchanged. The only notice of copyright appears upon the first page of music which is the back of the cover print. The application has been filed upon form E1, claiming upon the new cover design. The Board divides upon the propriety of making such registration as applied for. Mrs. Brady holds that the print has no notice and therefore cannot be registered separately as a K. Moreover, it is her contention that the notice on the music does not protect the print. She bases this contention upon the wording of the memorandum of the Assistant Register, approved by the Register on the subject of E1 applications, dated January 15, 1942. Mr. MacCarteney and Mr. Lasica would accept the edition as now presented on form E1, claiming on the new pictorial cover under the provisions of Sections 3 and 6 of the Copyright Act, the one providing that "the copyright provided by this Act shall protect all the copyrightable component parts of the work copyrighted," while the other provides "works republished with new matter shall be regarded as new works subject to copyright under the provisions of this Act." Appeal.

*Request application on form K. C. L. 13
"Classification" 6-2-42*

MAJORITY MEMORANDUM

CLASSIFICATION

May 25, 1942

Remitter: Maule, Stuart M. (20549)

Title: "Anthem of Freedom"

Question: Whether an application on form E1 giving as the statement of new matter "New Edition with new cover design" is acceptable where the cover design itself does not bear a separate notice of copyright, said notice being confined to the first page of music.

It is the opinion of the Minority that in the absence of a separate notice of copyright on the print itself, that is on the cover design, that the notice of copyright which does appear upon the music cannot be held to protect the print. The application as filed, therefore, is not acceptable to the Minority viewpoint. This decision is based upon a literal meaning of the Assistant Register's memorandum of January 15, 1942, referring to the statement of new matter in E1 applications. The first sentence of paragraph 2 of the memorandum reads in part as follows:

"Where an application is filed on form E1 for a republished musical composition with new copyright matter, and there is new musical composition upon which the claim of copyright is based, the application should not be made the subject of correspondence merely because in space 7, provided for a statement of new matter, there is listed in addition to the musical composition, a statement with respect to prefatory text, instructions, etc."

It is the Majority opinion that the memorandum in question was primarily concerned with a particular type of publication issued by a particular publisher where the contents included text matter as well as new music. The acceptance of text in addition to new music as a basis for registration is, of course, predicated upon the terms of Section 3 of the Act, which provides that copyright secured shall protect all the copyrightable component parts of the work copyrighted. In the instant case, the cover is most certainly subject matter of copyright upon its own merits, and it is a component part of the publication. As applicant's attorney states in his letter of application, "Since the song itself, both words and music, are substantially the same as in the first edition, it is believed that the present work is properly classified as 'Republished with new matter' and that accordingly Form E1 is the proper application card to use in this case. Specifically, the new matter involved is the portrait of a different individual upon the front cover, and a different arrangement of the American Flag and the Statue of Liberty."

It is the Majority opinion that fundamentally the same principle is involved in the instant case as underlay the Assistant Register's decision in the previous case. There is no attempt here to claim additional copyright on music

already under copyright protection as from 1934. Indeed, he has republished with the notice of copyright containing the original year date. The result is probably that the period of copyright protection for the print will be lessened by so much. That the print is definitely subject matter of copyright and is a component part of the publication as it issues to the public, and therefore specifically comes within the provisions of Sections 3 and 6 of the Act and is therefore worthy of registration---the Majority opinion holds is not to be doubted.


R. S. MacCarteney

Request application on form K for the cover design. Notice of copyright is sufficient to cover publication as a whole. Order of C. L. Bouvé. 6-2-42.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 26, 1942

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

Total time consumed, 45 mins.
Unanimous decisions, 5

1. Whitworth, Eugene E. (30801)--Class D. "Grandma Gets Her Man." The applicant in 1941 registered the libretto of what was to be a musical comedy. He now applies for registration of the complete work, libretto and music, filing an application on form D4, and submitting one complete copy of the musical comedy including all the music. The Examiner would reject under the classification applied for inasmuch as the libretto has already been registered. She would require a separate registration for each of the inclusive new songs. The Board overrules the Examiner, holding that a dramatico-musical composition has been deposited and is therefore registrable as such. Copyright thus secured would not extend the copyright already existing in the libretto (sections 3 and 6 of the Act).
2. Delachaux and Niestlé S.A. (75559)--Class A. "Médecine de la Personne." This is a book of foreign origin in a foreign language published abroad with notice of United States copyright. The notice, however, included an advance year date--1941--the work itself having been published at Neuchâtel, Switzerland on December 10, 1940. Held that a subsequent republication of the book in France in 1941 when the notice would be correct would not remedy the fatal defect of original publication claiming a longer period of copyright protection than the law allows. Reject.
3. Waterman, M. B. & Co. (32149)--Class G. "Crucifix." The deposit is a photograph of a drawing of a crucifix. Applicant applies for registration as a "design for a work of art." Examiner overruled in holding that the application should describe the work as a "drawing." It is a design for a work of art. The title "Crucifix", however, is insufficient to describe this particular design. Return the application for a brief pictorial description, suggesting the shell motif apparent at the juncture of the arms of the cross.
4. Pritchett, Gould Thomas (32474)--Class E. "Dancing on a Moonbeam with You." The deposit consists of two sheets apparently torn from a book containing the composition. The Examiner asks the seemingly incomprehensible question "Should the page marked 29 be deleted?" The song, however, continues over three pages, nos. 28, 29 and 30. Why we should ask if one-third of the song should not be deleted, the Board finds it impossible to understand. Question, however, an apparent variance in claim and whether two complete copies of the book from which these pages have been torn should not be deposited.
5. Kincaid, Rae (32511)--Class E. "Little Sleepy Head." The application gives the name of the author of the words as Mrs. Rae Kincaid. The copy bears the statement "Words by Rae Kincaid." The Examiner purports to see a variance in the authorship as between the application and the copy. There is no variance. Rae is a female. Enter.

1289M

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 27, 1942

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

Total time consumed, 60 mins.
Unanimous decisions, 7
Divided opinions, 0

1. Evans, Winter, Hebb, Inc. (32321)--Class K. "We're At War." This deposit is a large lithograph bearing the superscription "We're At War" in glaring white letters at the top with the word "War" framed in more or less artistic script. The sheet is divided into two portions with the statement "Work To Keep 'Em Fighting" printed in the bottom portion. The background of the entire work is a rather brilliant red. Examiner would reject upon the ground that slogans are not registrable and that there is no pictorial matter for registration in Class K. The Board overrules the Examiner in view of the Register's decision in the "America" case. This is after all a color print and there seems to be some originality as to form, concept and arrangement on the part of the claimant. Enter as applied for on Form K.
2. Editorial Tecnica Unida (77421)--Class A. "Nomenclatura de Terminos Aeronauticos." This work is a Spanish translation of an English publication by Douglas H. Nelson. The notice of copyright is in the Spanish language and, therefore, is not acceptable for purposes of United States copyright registration. The applicant filed an application on Form A-1 giving a date of publication and the Examiner rightly rejected upon the ground of publication in the United States with an incorrect notice. The Board observes that this is a Spanish translation of a work originally written in English and it seems possible that publication of the edition would be confined to one of the Spanish speaking countries. If that is the case, the notice of copyright may be corrected and registration subsequently applied for based upon publication in the country or countries where such publication is intended. Inquire and explain publication.
3. Dennis, Lorraine Durand (25312)--Class A. "The Sword - The Cross." This application was originally rejected upon the ground that there was no notice of copyright. The applicant replies that "The distribution was entirely private and very limited." The Examiner would still reject holding that statutory publication had been effected. The Board is of the opinion that the applicant should be given the benefit of the doubt inasmuch as he does not believe that he has published the work. Reject, however, at this time and refund. Explain subsequent procedure following publication with the prescribed notice.

4. Jesuit Seminary Aid Association (25554)--Class A. "A Soldier's Evening Prayer to Christ." Registration was originally withheld upon a question of authorship. The work, a card, on one side shows a pictorial illustration while on the other is text constituting the prayer described in the title. Applicant advises that there are two authors of the card, one the author of the text and the other the author of the illustration, i.e. the illustrator. Both names are given in the application but without specific differentiation. The Examiner would write again suggesting that the application in line 3 be amended to read "Text by G. P. Klubertanz, Illustration by Wm. L. Doyle." The Board directs entry upon the application at hand. The copy differentiates the authorship involved. The Index Section may clarify further if it deems such action necessary.

5. Jordan, John C. (32522)--Class K. "Remember Pearl Harbor, Remember Manila." This print was originally rejected inasmuch as it was published with a faulty notice of copyright lacking the name of the claimant and even the claimant's initials. A new print was subsequently received, this time with a pictorial border of stars on a blue field at the top and red and white stripes on the other three sides. The pictorial print remained an exact duplicate of the one originally received and rejected. The Examiner would reject the new print upon the ground that the ornamental border was insufficient to set up a new claim. The Board recommends that registration may be made for the new pictorial matter upon receipt of an application limiting the claim and giving the date of publication of the new edition.

6. McNeil, J. Chas. (E unpub. 292971)--Class E. "Spring." The remitter, who was also the composer, filed this application in the name of the author of the words, Betty Morton Lipscombe. The application was passed as apparently in order and numbered but before it could be recorded, the Office received a letter from the claimant stating that she was dissatisfied with the musical composition and requesting this Office to withhold action in issuing the certificate. The Office wrote to both parties; i.e., the claimant and the remitter-composer, but a month has intervened and no reply from either party has been received. In the absence of such reply, the Board recommends to the Assistant Register that the claim be cancelled and the claimant so advised. She, as claimant of the copyright, has the right to register or not as she may see fit, the work being in unpublished form.

7. Weyhe, Erhard (30525)--Class A. "Georges Rouault." This book is by a foreign author in a foreign language but published in the United States with a notice of United States copyright. The Office is advised that the book was not to be for sale in Paris where it was printed. The Examiner apparently misunderstands the provisions of Section 15 of the Act since she recommends that the application be rejected upon the ground that United States manufacture is necessary in the absence of publication abroad. Such is not the case. The work is in a language other than English--the author is a foreign citizen not domiciled in the United States. Registration can accordingly be made under the so-called "Manufacturing Clause." Request application on Form A-3 amended to read "Published in the United States" in the heading. The date of publication and place of publication in the United States should be given in line 7.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 28, 1942

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

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

1. Clayton, H.O. (32704)--Class ? "Camelforms." Applicant files application for registration of this work as a commercial label, describing the nature of the merchandise as "glued bands for packing laundry." The Examiner holds the work questionable for entry as applied for since the description in line (7) of the application indicates it (the work submitted) is for use as a glued band for packing laundry. The Board finds upon examination that the deposit for which registration is desired is not the glued band for packing laundry, but is the label to be pasted on the box of bands. Thus the work is a label for a box of tags; the headings "size" and "quantity" on the label refer to the contents of the box. Enter as applied for as a label.
2. Munn, Liddy, Glaccum & Kane (33107)--Class A. "The Medical Aspect of Occupational Adjustment." Examiner sustained in recommending that since the deposit consists of three different parts, each with a different form number and separate copyright notice, an explanation should be afforded as to whether each part is not actually a separate publication requiring a separate registration.
3. Donnelley, Reuben H. Corp. (32584)--Class A. "St. Joseph Telephone Directory, May, 1942." The notice of copyright on this work appears on page 6 under the title heading at the head of the actual directory of names and telephone numbers which is the essential material to be copyrighted. The foregoing pages contain simply general information which probably is repeated on all other directories that the publisher publishes. Enter as applied for disregarding the five foregoing pages as regards the placement of the notice.
4. Wabash Music Co. (32639)--Class E. "It's a Low Down Shame." Examiner would question the completion of the copy deposited inasmuch as the extra verses typed beneath the words and music and first verse and chorus all end with the word "etc." The Board upon examination finds the copy complete. The "etc." is the chorus, beginning with the words "It's a darn right rotten, Low down dirty shame." Enter as applied for.
5. Edelman, Dudley (32932)--Class A. "Mutual Benefit Health and Accident Association applications for Insurance." Correspondence involving these claims has been drawn out over a year during which time the original copyright claimant has assigned his rights to a buyer of the concern. This Office as of May 5 again pressed for completion of the registrations by the original proprietor. On May 19 the Office re-

RSM.

ceived a very definite reply, stating that the original claimant did not intend to complete the registrations and that this Office could either refund the money or turn it over into the national defense fund if it saw fit. The Revisory Board decided upon refunding the money since the original remitter is not the present copyright owner and this Office, therefore, had no right to hold his funds. It comes to light, however, that the applications which were to be returned to the remitter on May 5 for his guidance in preparing new forms are essentially in order. The affidavits are not fatally defective merely because the status of the affiant as the claimant has not been checked. Enter as applied for upon these applications now and close the case.

6. Van Dyne, Walter John (33214)--Class E. "Seven Oh First." Line (1) of the applications gives the name of the copyright owner as Walter John Van Dyke. The name of the composer of the music, however, appears upon the copy and in line (3) as Walter Johns Van Dyke. As one of the authors of the words, line (6) of the application gives the spelling as Walter J. Van Dyke which is in agreement with the statement on the copy. The Board divides upon the necessity of inquiring as to the correct spelling of the middle name. Mr. MacCarteney and Mr. Lasica hold that no explanation is necessary and that the spelling Johns is quite obviously intentional since the letter "s" has definitely been written above an erasure on the application and is repeated on the copy. It is the Majority's belief that the claimant, Walter John Van Dyke, simply wishes to compose under the name of Walter Johns Van Dyke. Mrs. Brady, constituting the minority opinion, agrees with the Examiner in requesting the correct spelling of the middle name because of a search made by her which shows, she reports, that all previous entries give the composer as Walter John Van Dyke (without the "s"). Appeal.

*Register as appeal for. W. H. W.
5-29-42
See Memo.
Pseudonyms*

MINORITY MEMORANDUM

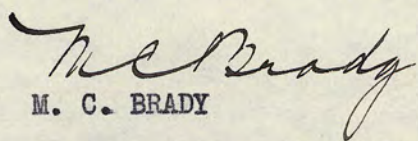
May 28, 1942

Remitter: Van Dyke, Walter John (33244)

Title: "Seven Oh First"

Question: The correct form of the name of the claimant of copyright and the composer of the music to be recorded in this Office.

This composer's legal name is Walter John Van Dyke, as it is given in lines (1), (8) and (9) of the application filed. Numerous registrations of his musical compositions have been made in the past six years in which his legal name has been recorded as above, and his pseudonym has been given in the composer line of the application and on the deposit as Walter Johns. In the deposit and application now before us, he has through an inadvertence, I should judge, used a form of his name ~~of this name~~ which is neither his legal name nor his hitherto accepted pseudonym. The name is given in this instance as Walter Johns Van Dyke instead of Walter John Van Dyke, the correct name used in line (1) of the application. It appears to the undersigned that an application and deposit giving two different forms of the name of the person who is both copyright owner and composer of the music must result in an unintelligible record and certificate. In her opinion, the filing of such an application and deposit was an inadvertence which should be called to the attention of the depositer, as it is a departure from his invariable practice consistently maintained over a number of years, and would result in a record and certificate which would confuse the identity of the owner of the copyright and the composer. The suggestion should be made that a new application be filed using as formerly the legal name in line (1), Walter John Van Dyke, and the pseudonym in line (3) as follows: "Walter Johns, pseud. of Walter John Van Dyke." Permission could also be asked to amend the copy by erasing the letter s in Johns in the statement, "Music by Walter Johns Van Dyke." The resulting permanent records retained in the Copyright Office would be perfectly clear, as well as the certificate of copyright provided for in Section 55 in the statute and admissible in any court as prima facie evidence of the facts stated therein. Variances such as in the instant case result in difficulties in completing renewal records in the future as well as searches made in the interim.



M. C. BRADY

Majority sustained. Register as applied for--follow application and copy. W. H. Wise, May 29, 1942.

MINUTES OF THE REVISORY BOARD
COPYRIGHT OFFICE
May 29, 1942

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

Total time consumed, 30 mins.
Unanimous decisions, 3

1. The Borden Company (28250)--Class K. "Design of Cow (cream pitcher) and "Drawing of Animals." This print embodying six designs of the famous Borden animal characters has been withheld from registration pending submission of an identifying title. The Office has now received an application giving the title in line (6) as "6 Designs of Borden Animals 'Elsie,' 'Elmer,' and 'Beulah.'" The Examiner still considers this insufficient but the Board feels that there is sufficient identification and directs entry to be made on the application received on May 21, 1942.
2. Hitt, Annie E. (W. R. 40356)--Class ? "Write Your Mother." Applicant advises that copies of a printed poem submitted for registration are from her loose-leaf book of poems which has not been published but printed solely for her family and friends. The copies incidentally bear notice of copyright. Examiner would consider this distribution as constituting publication with the resultant loss of the copyright. The Board rules that this is a limited rather than a general publication and suggests that applicant recall all copies distributed to her friends and relatives. The notice of copyright may then be added and following publication in the statutory sense, registration may properly be applied for. Refund at this time.
3. Thompson, Elizabeth Jane (32478)--Class E. "Grand March." Applicant wishes to copyright a new method of orchestration for a childrens' toy symphony performance. The copy submitted represents an orchestration for toy symphony of the Grand March from "Norma". Examiner states that the work is not copyrightable in that the conventional musical notation has not been supplied. It is clear, however, that for a toy symphony there would be no conventional musical notation since the musical effect is not produced by changing pitch but by rhythmic striking of various percussion instruments including even household utensils such a large saucepan, etc. The copy deposited is in a form of notation which can be read by one familiar with the notation and a performance rendered therefrom. It is therefore acceptable as a copy of a musical arrangement employing new symbols. Request an application on form E3, claiming upon orchestration for toy symphony. Applicant should, of course, be advised that the particular method is not copyrightable.

1280M