

LCS:cw  
6-9-43

NOTICE  
WORD "COPYRIGHT"

## MINORITY MEMORANDUM

June 9, 1943

Remitter: McGovern-Anderson Company, Inc.

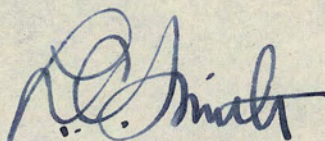
Titles: TIME IS PRECIOUS, FINISH 'EM OFF IN 1943, THE CROSS IN THE DESERT, JUST JOHNNY JONES U. S. A., AN ICE CREAM STORE FAR ACROSS THE SEA, NO GREATER DEED IS OFFERED, OUR CAUSE IS JUST, THE COTTAGE AT THE END OF THE ROAD, AMERICA IS LUCKY, HOT DOGS MALTED MILKS AND FREEDOM, THE BOY PUT ON HIS CAP, THE MASTER RACE, THE PICTURE ON THE FLOOR, SALLY SMITH U. S. A., WE'LL PUT OUR MONEY ON OUR KIDS and WILL IT STAND?.

Question: "If a deposit contains both text matter and a print, but the notice uses the abbreviated form "©" with the name of the claimant, precluding registration of a claim to the text, can a claim to the pictorial matter be registered?".

There are sixteen different works involved, each of a similar character, consisting of a single sheet, folded to form four pages. Page one consists predominantly of pictorial matter. Pages two, three and four contain nothing but text. The copyright notice, consisting of "©" and the name of the claimant, appears at the bottom of page four, and if this single sheet is spread open, the notice will be on the same side, as well as next to (that is, accompanying) the print. The print takes up all of page one, save for the title of the work and, in some cases, the name of the author. There is great doubt in the mind of the undersigned that this Office can take the position that no copyright exists in the pictorial matter, for he cannot see that anyone would be free to copy the pictorial matter without infringing a copyright covering it. The doubt existing must certainly be resolved in favor of the applicant, and a separate K application requested for each of the sixteen works.

The Majority points out that a similar question came before the Revisory Board some time ago, and the matter was brought to the attention of the Assistant Register, who, with the Majority of the Board, held that the material was a book, to which the particular copyright claim, including "©" would not apply. The position

was taken that the pictorial matter alone present in the work was not protected by the abbreviated form of the notice. The Majority feels bound by that previous action of the Board and, therefore, cannot join with the Minority, even though they feel there is merit in the arguments presented by the Minority.



L. C. SMITH

~~DECISION~~

~~Approved, see memo dated June 8, 1943~~

~~R.C.D., 6/11/43~~

DECISION:

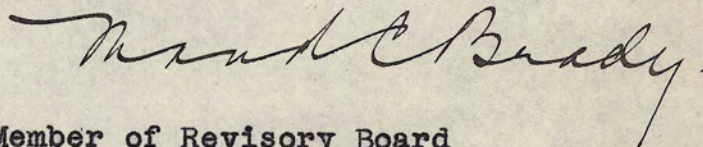
The Majority is sustained in its recommendation of rejection. See memo dated June 8, 1943.

R.C.D., 6/11/43.

covering the compilation is fatally defective and no registration is permissible. The remitter, Ruth C. Teasdale, should be so informed and allowed to file a new application showing joint ownership in the event that her statement of sole ownership was made in error.

It would seem to this member of the Revisory Board that Ruth C. Teasdale should make registrations in her own name and under their specific titles for the seven hymns found in the collection which bear separate 1942 notices in her name. Such registrations would, of course, be made under the individual titles of these hymns, followed by the analytical note, "published in 'Special Melodies, Solos and Duets'". This would be the only permissible procedure to follow if she is sole owner, as she declares in her application and her letter. The several registrations would insure better records of her claims, as the individual compositions would be properly identified upon the records of the Copyright Office. The undersigned is therefore in favor of rejecting the application at hand.

Respectfully,



Member of Revisory Board

Decision

The rule is to accept a notice as good if the name of the claimant given in the application appears on the same page with the rest of the notice. Accordingly, the notice is as good for Ruth Teasdale alone as it would be for Ellis and Ruth jointly, and entry may be made. As to the suggestion of separate entries for the separate compositions, that is another matter, not involved in the question of action on the present application.

R.C.D., 2/11/43

MEMORANDUM

June 8, 1943

Referring to applications of McGovern-Anderson Company, Inc. (28720)  
for sixteen 4-page folders ("Time is Precious" and 15 others).

These folders are applied for as "books," the name of the author being given as S. H. McGovern. They all contain a picture on the front cover and three pages of text. The notice, which is on the back of the folders at the bottom of the last page of text, reads: "© McGovern-Anderson Co., Inc. Mpls. 21." Clearly the notice is fatally defective for a book, containing neither the word "Copyright" nor the year date of publication, and is moreover not on the title page or the page following. Registration therefore cannot be made as applied for.

The suggestion of the Minority Memorandum is that the Office while rejecting the applications as filed should offer to register the pictures upon applications in Class K. I do not believe this is good policy. The notices are not on the pictures, and although they are on the same page with the picture, when the folder is opened out, this is not a case coming under the ruling of the Register that where the notice is on the same plate with the picture it can be accepted. Moreover, it is probable that S. H. McGovern, the author of the "books," is not the author of the pictures, and there is no reason for assuming that the McGovern-Anderson Company will be particularly interested in securing registration for the pictures without the text even if this were clearly permissible.

Without necessarily deciding therefore that the notice would be unacceptable if applications were filed for the prints, I do not think it expedient to call for such applications. The "book" applications should be rejected with an explanation of the reason, namely, that the notice is bad as to form and presumably as to location for the class of material applied for.

*R. L. Newell*  
Assistant Register of Copyrights.