

MINORITY MEMORANDUM

M.P. 1024

November 25, 1941

Remitter: Paul A. Schmitt Music Company, No. 74017, Class E.

Title: "American Flag Parade," and "Down on the Farm."

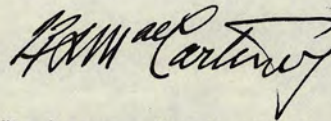
Question: Whether one or two registrations must be made in the case of a publication such as a pageant consisting of copyrightable text and music, the text being in the nature of instructions for performing the pageant together with some indicated dialogue and other directions.

In this case Mrs. Brady and Mr. Lasica, constituting the majority opinion, feel called upon to support the Examiner in her recommendation that two registrations are necessary for each publication in view of the Assistant Register's memorandum of April 30, 1941, issued in connection with certain of the applications of the Art Publication Society for registration of subject matter consisting of copyrightable text and music. They point out paragraph (3) of that memorandum reading as follows:

"A work consisting of copyrightable text and copyrightable music, each bearing its own notice of copyright, is subject to two registrations--one as a book and one as a musical composition."

Mr. MacCarteney is of the opinion that the relevant facts are somewhat different as regards the publications now in question. These works are so-called band pageants with the text and music constituting complimentary parts of a single work. Without the "instructions for staging" the pageant as conceived by the author could not be presented. Moreover while the music in each publication bears a separate notice of copyright, the main copyright notice appears on the title-page and refers to the publication as a whole. Under Section 3 of the Act, copyright secured in a published work protects all the copyrightable component parts. The undersigned is of the opinion that since the text and the music making up these publications are interdependent one upon the other, that each publication should be considered a unit work and registered as such. He suggests that a single application on Form A-1 for each of the two publications, classifying them as books, in view of the diverse subject matter; i.e., directions for performance and the music, be requested to replace the single E applications filed by the applicant himself.

Respectfully submitted



Sustained in part--Suggest separate  
E1 if desired. W.E.W, 11-26-41.

Acting Chairman, Revisory Board