

MUSIC
(SEE "PUBLICATION")

M E M O R A N D U M

February 3, 1941

Remitter: Virginia A. Haile (81659)--Class E.

Title: "America, Thy Temple"

Question: Has publication taken place?

Request application giving date of publication in 1940--H.A.Howell.

MP-672.

MUSIC

MINORITY MEMORANDUM

February ³/₄, 1941

Remitter: Lorenz Publishing Co. (Deposit Account)--Class E

Title: "Be Glad You're An American"

Question: Whether separate registrations should be suggested for a solo edition (with pictorial cover) and an octavo edition for unison chorus of the same work--both editions being published simultaneously.

The undersigned member of the Revisory Board disagrees with Mrs. Brady and Mr. Smith in their contention that a single application should definitely be asked for based upon the solo edition with pictorial cover. The Register of Copyrights has held (in the case of Carl Fischer) that two editions of a musical composition published simultaneously but in different keys were both subject to copyright registration upon the ground that publication of the two taking place simultaneously, neither would take precedence over the other. It is to be noted that the element of difference, that is, transposition of key, is not subject matter for copyright, and therefore to all copyright purposes the two editions, in so far as subject matter is concerned, would be identical.

In the case under consideration there are admittedly two editions of the same musical work, one for solo voice with the pictorial cover and the other an octavo edition for unison chorus. These editions are intended for different music publics. The octavo edition would be advertised and sold to choral organizations. The solo edition, on the other hand, would appear on music stands intended for the individual singer. It is felt by this member of the Board that the definite restriction to a single registration of one of these two editions intended for different publics would be unwarranted in view of the facts (1) that the two were issued simultaneously and therefore neither takes precedence over the other and (2) that in the event of a requested search, no record would be found in the Copyright Office for the octavo edition which would be the subject of interest for at least half of the inquiring public.

The undersigned is of the opinion that in view of the Register's decision that simultaneous editions of the same work are subject to registration and also in view of the difference in the music public as regards these two editions, it should be suggested to the Lorenz Publishing Co. that separate applications be filed based upon the solo edition and the choral edition, respectively, and that both be registered in the Copyright Office.

Respectfully,

R. S. MacCarteney

"The music and words are identical in both ^{quarto} ~~4th~~ and ^{octavo} ~~8th~~ editions; only one registration necessary. Use the ^{quarto} ~~4th~~ edition copies. Request new application omitting the descriptive words in parentheses following title. --H.A. Howell 2/12/41

MEMORANDUM

February 3, 1941

Remitter: Virginia A. Haile (81659)--Class E.

Title: "America, Thy Temple"

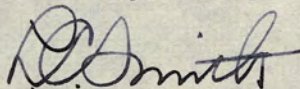
Question: Has publication taken place?

The applicant states that on December 26th of 1940 she gave copies of her printed musical composition to a few of her friends. In other words, she no doubt means that she passed out copies as Christmas gifts.

Mrs. Brady and Mr. MacCarteney are of the opinion that such distribution does not constitute publication and that applicant can only make registration now as E2 unless sometime since December 26th actual publication has taken place.

Mr. Smith is of the opinion that if there was a distribution as gifts to friends, even though few in number, there was a publication of the work. He does not endorse the application of the term "limited publication." The Act does not mention such term. If, therefore, there was any publication at all limited or otherwise, registration should be made with the use of application form E. The Office has in the past made registration of personal Christmas cards, the copyright claimant being in such instances the sender of the card rather than a card manufacturer. He suggests, therefore, that a proper application be requested giving the date of publication as December 26th. In this regard it is to be especially noted that the date in the copyright notice is 1940 and that therefore if this Office insists that there must be publication for 1941 and such date given, nothing will be gained as far as the copyright claimant is concerned unless the date is changed in the notice. Otherwise, the copyright term commences with the year date given in the notice, i.e., 1940.

Respectfully,



Acting Chairman, Revisory Board

Request application giving date of publication in 1940.--H.A.Howell