

NEWSLETTER

BLOOMINGTON HAPPENINGS

The Music Library Association held its annual mid-winter meeting at Indiana University in Bloomington, February 1-3, 1973 in conjunction with the annual meeting of the Association for Recorded Sound Collections. Nearly 200 people attended the conference.

The first session of the meeting was a talk by Ruth Watanabe (Eastman School of Music) entitled "Budget--preparation, defense and implementation." Ms. Watanabe, presenting the point of view of a non-public (conservatory, research and archival) library, offered a composite picture of the budget. She discussed expenditures for time, materials and services, as well as how one goes about making up a budget. Salaries and staff structure were considered first. Ms. Watanabe emphasized the importance of careful job description: what are the duties of the person, for what can the person be held accountable, and to whom and for whom is the person to be responsible? Also considered here were student staffing and merit and across-the-board raises. Raises generally varied from 2 - 7 % per year for professional staff and from 4 - 5 % per year for clerical staff. Beginning the second topic, materials, with the statement, "There are lies, there are damned lies, and there are statistics," Ms. Watanabe then proceeded to present some figures based on comparative data from September-October 1971 and 1972. The price of books apparently rose by 16 % during this period and that for music by 39 %! Figures for fiscal years ending in June 1971 and June 1972 indicated the same results. Unfortunately budget increases for materials usually amounted to only 5 %. Also considered here were overspending and gifts. A third area of the budget that Ms. Watanabe covered briefly was that spent on library services and equipment other than book materials. She indicated that many of these items were financed from a general library account. In concluding Ms. Watanabe emphasized the importance of indicating in the budget proposal the results - both successes and failures - of what had been done in the past. It is also important, she said, to approach budget planning as a realist rather than a reformer. The discussion that followed the formal presentation brought out several points: that the music library collection should be considered a relatively permanent collection; that circulation figures may not effectively measure the use of the collection; and that there exists a need for a "music in print."

A second informal meeting of the convention was a "bring your own bread" lunch-hour Open Forum. The Forum was conducted by Jean Bonin (University of Virginia) and Linda Solow (Massachusetts Institute of Technology), with the third member of the steering committee, Ray Sullivan (Brooklyn College), unable to be present. With its new objectives of an informal expression and exchange of ideas among all members, especially newcomers, the Forum attracted more than 50 people. The principal topic of discussion concerned a "music in print" project. Current similar, smaller projects, and problems that might arise with respect to format, funding, publisher, etc., were discussed. It was suggested that those concerned about the need for such a project write to Leonard Feist, President of the National Music Publishers Association, 110 East 59th Street, New York, N.Y. 10022 and express their concern. A second topic of discussion dealt with the sources of funding for records and listening equipment. It was felt that a definition of what physical resources constitute the province of the Music Library is needed. A joint MLA/NASM committee is apparently working on this, although the relevance of NASM lists and recommendations was questioned. The points were made that in soliciting funds from the community, one should be careful to define the conditions under which gifts may be accepted and that one should never overlook the possibility of grants to support curriculum changes. A third discussion concerned the filing of record catalogs; should they be separate from or filed with the books and scores catalog(s)? The printing of book catalogs, the size of the collection, and the physical lay-out of the library were all mentioned as being relevant to the problem. No consensus was reached although most present admitted to having separate record catalogs in their libraries. The last point raised during the Forum dealt with selection policies. Although all felt that it was important to have a written selection policy, few present had any. A future issue of Notes will contain a survey of selection policies. Finally, a questionnaire was circulated at the Open Forum that dealt with the effectiveness of the conference as a whole. The results will appear in the Newsletter when they have been tabulated.

A number of librarians collaborating on the revision of the NASM Basic List met for lunch on Thursday, February 1, to discuss problems. Most of the sections are now represented by lists of works, but it was not recognized that there is considerable variance in the degree of comprehensiveness. The consensus seemed to be that individual collaborators should submit relatively full lists, leaving the general editor with the task of pruning where necessary.

At the Business Meeting it was announced that the new members-at-large are Lenore Coral (Univ. of Wisconsin), Kurtz Myers (Denver Public Library) and Susan Sonnet (Univ. of California, Santa Barbara), and that the summer meeting will be in Las Vegas, June 26-28. A major portion of the meeting was spent discussing the structure of MLA conferences. A questionnaire will be prepared and circulated to the membership in an attempt to determine whether there should be one or two national meetings per year, whether the meetings should last longer, and whether MLA should continue to meet with ALA or should meet with other organizations. The consensus at the Business Meeting was that there should be one meeting with another organization and one meeting alone. A second discussion concerned the practices of publishers of contemporary music whereby scores are produced in poor formats and binding. A statement against these practices was presented by Joe Boonin. Those present voted to accept a proposed resolution to urge Congress "to extend a level of financial support to the National Endowment for the Arts in the coming years..."

The Open Meeting of the Cataloging Committee occurred Thursday evening, moderated by Donald Seibert, its chairman, with Fred Bindman, the new Head of the Music Section, Descriptive Cataloging Division, Library of Congress, as an honored guest. The first part of the meeting concerned non-Library of Congress cataloging of music and phonorecords. June Gifford, editor of Music and Phonorecords, explained that this project will involve only seven "outside" libraries and apply to cataloging beginning in 1973. The Music Library Association Catalog of Printed Music, under the direction of Betty Olmsted and to be published by Roman & Littlefield, will cover non-Library of Congress cataloging from 1953-1971. (Pre-1956 Library of Congress cataloging will be covered in a separate Library of Congress publication.) It was announced that MARC for music is apparently in the "indefinite future" because higher priorities than music and records will be done first. Other items that were discussed in detail at the cataloging session will appear in a report in the Music Cataloging Bulletin.

The traditional banquet was followed by a delightful performance of Renaissance song and dance music by the Indiana University Pro Arte Ensemble under the able direction of Fiora Contino. Singers, instrumentalists, and dancers arrayed in colorful costumes contributed much toward brightening spirits at the end of a very full day.

The Committee on Professional Education held an open meeting to discuss its tentative 12-point outline concerning the skills essential to competent music librarianship. On Thursday the membership had been divided into 12 groups. Each was asked to write a statement defining what it felt a qualified music librarian ought to know in that specific area. These twelve statements were read at the meeting Friday morning and then discussed. Several points were brought out in this discussion, including the importance of knowing several foreign languages, the importance of having familiarity with the music industry, and the need for practical experience. A long discussion about administration failed to bring any consensus. The meeting concluded with the suggestion that the results of this meeting be published and made available to the membership in a later issue of the Newsletter.

Following the meeting of the Committee on Professional Education was a paper by E. T. Bryant entitled "Interlibrary loan, co-operative purchasing and discarding of sound recordings--A report on British practices." Speaking about interlibrary loan, Mr. Bryant indicated that procedures for records tended to follow those for books. The record exchanges began in 1906-07 and with the publication of the British National Bibliography in 1950 have become accepted and standardized. There is only a 50% success rate, however, because the library systems involved are small and buy the same types of materials. Mr. Bryant said that co-operative purchasing is done through a voluntary self-supporting agency called Greater London Audio Specialization Speed (GLASS). The objectives of GLASS are to have one copy of all current domestic issues of standard classical, jazz and spoken records preserved for public lending, to avoid excessive purchase of little used discs, to have each library become a discological center in its area for the type of records it specializes in, and to issue catalogs of these special collections. To achieve these goals the music librarians compile a comprehensive list based on record releases and costs and then divide it according to the book holdings in each library. Each library spends approximately \$235 on its selections. With respect to discarding records, however, there are more problems. There are widely varying standards for record conditions, but bad copies are better than no copies. The purchasing aspect of the co-operative program is more successful than interlibrary loan or discarding from the collections.

On Friday afternoon two papers on performance practice were presented. The first, by Richard Burns (Syracuse Univ.), was

entitled "Performance practice in sound archives: A university course in historical sound recordings." Mr. Burns first spoke about the problems encountered in tracing the development of performance style in the nineteenth century because of generally inaccessible recordings and bad reissues. He then went on to outline a course in performance as he teaches it. He devotes the first session to understanding the mechanics of recording media, examining early cylinders and discs as well as automatic chimes and flute clocks. The major portion of the course is concerned with listening to tapes of various performances and studying the practices involved and their historical developments. Most of this listening section is devoted to opera and opera singing, and it begins with the tradition of the castrati in the late nineteenth century. The next area that is examined is that of keyboard playing. This transition is based on the theory that the bel canto style of the opera was transplanted to the keyboard, where the phrasing resembles vocal lines. Later sessions of listening are devoted to choral and oratorio music, string playing, the orchestra and conducting, and one Wagner opera. Mr. Burns's presentation was supplemented with taped selections of the historical performances that he spoke of.

The second paper on performance practices was given by George R. Hill (Univ. of California, Irvine) who reported some results of his research into performance practice in Joseph Haydn's music. By comparing Haydn autographs with performances preserved in mechanical organs built by one of Haydn's students circa 1790, it was possible to demonstrate that a number of practices current in the middle 18th century are also applicable to Haydn. Changes in figuration, non-legato articulation, and rhythmic alteration are all to be found in the performances. Trills and appoggiaturas receive inconsistent treatment, as one might expect from reading late 18th-century method books. The fortunate existence of some pieces on two of the machines provides insight into the range of performance possibilities and the wide freedom of choice exercised by the 18th century performer.

Two papers about record librarianship were read at the session on Saturday morning. In the first paper, "Sound recording bibliography," given by Paul Jackson, three points were stressed. Mr. Jackson first discussed the gaps in existing publications. He indicated that, as no one source is comprehensive enough, each, therefore, implies that nothing is being done in the field. Mr. Jackson then spoke about the areas where information and reference services are needed, complaining about the lack of communication among the many committees and groups that have been formed. The last point in his presentation was the problem that untrained librarians have created. Mr. Jackson said that para-professionals act as "roadblocks to information" because they assume that an answer does not exist when they cannot find it.

The second paper on Saturday morning was "Knowledge required for record archivist" read by Gerald Gibson (Library of Congress). Mr. Gibson said that a record archivist needs a thorough working knowledge of selection and ordering tools and procedures, recording equipment, copyright laws and their applications, preservation and storage of sound recordings, reader services, and budget, staff and administration. The educational background of the record archivist should consist of a strong liberal education with a background and graduate degree in music. In the discussion period that followed it was pointed out that in Europe archivists are not necessarily librarians and that in England archivists are generally simply dedicated amateurs. It was further suggested that record archivist courses might be offered either in library schools or in universities that maintain archival collections.

On Sunday Robert Carneal, Chief Recording Engineer in the Music Division of the Library of Congress, reported on efforts to preserve and transfer private cylinders, leaving work on commercial cylinders to other archives for the present. Mr. Carneal described and illustrated with slides the progress made at LC toward building machines capable of playing all types of cylinders. Transfer to tape may be accomplished by either electrical or acoustical means. For certain cylinders the acoustical method appears to be preferable. The size and material of the reproducing horn are among the most crucial factors in this method. Mr. Carneal played a tape that graphically illustrated results obtainable by manipulating various parameters even though all of his examples were recorded "flat." He concluded with a transfer of 5 cylinders consecutively recorded at the Columbian Exposition in Chicago in 1893.

#### CANADIAN JEWELS

The Canadian Music Center in Toronto sponsors numerous activities of interest to librarians and welcomes names for its mailing list.

A list of Canadian publishers and agents may be obtained from the Canadian Music Publishers Association, 11 Adelaide St. W., Toronto 1, Canada.

#### RAPPING POST

Responses to the R.P.'s latest inquiry bring forth some good ideas:

"If the informal atmosphere of MLA meetings might dissolve into the reading of formal papers which have been approved by a committee, I'd like to expose a rough idea in advance. I think of Betty Olmsted's non-LC NUC project, of the reference question compilation Neil Ratliff was into for a while, and of the satisfaction of librarians' needs which has developed from ideas advanced by monomaniacs-with or without refinement from an elite committee. I'd like to hear ideas on resource lacunae which frustrate our interests in giving satisfactory service and see if anything is going to be undertaken soon to make our lives easier. I think, for example, of all those new music journals listed monthly in NST whose quality can be too often measured only by title, of reporting gaps in the ULS, of topical bibliographic and discographic control, of thematic catalogs still badly needed, of guides to those schools which really do offer special training in music librarianship.

"Perhaps-even with those ALAers who are want to drop in-it would be copasetic if Rapping Post might air these ideas in public and register the needs which get expressed in print, following this with a list of those individuals or committees who care to accept the challenges. And I'd share this information with heads of graduate studies in music and the faculties of our library science schools too."D-RdL

"In reference to (4) in the last MLA Newsletter, it is not exactly correct that MLA program committees do not review papers beforehand. The committee usually has a theme in mind and papers are solicited from people who are familiar and are known to be knowledgeable in the matter at hand. They may have heard the presentation on some other occasion. The disadvantage of this is that it leads to cliquishness. One way or another, the committee usually is aware of the quality of the program beforehand and the program does have the virtue of being unified....there is no reason not to try a mixture of the AMS and the MLA approaches. Why not announce a topic and invite papers on it? We may uncover some expertise we didn't know existed in MLA."VM

"1) Fluid structure is great. I think. We ought to do something to involve ALAers, if not meet in conjunction with them. 2) Summer meetings? These days I can't go. So in a way I wouldn't mind if they didn't happen. Yet it seems that MLA has so much to do, it would be a shame to eliminate them. I would mind missing them less if full reports of the sessions were published, rather than summaries (PMLA, anyone?). 3) Meeting with others? That would depend on how eager they were to hear about music library matters. If the music library aspects were under-emphasized I wouldn't want to go much. 4) Sure, papers would be allowed to be submitted. As long as a committee has real control!...The invitational aspect seems to be a good one, giving the chance for coherence and balance. How about a combination of invited and submitted things? Any topic would be welcomed, contributions in particular areas could be invited and selected from, specific invitations could go out if no one offers anything in needed areas. Let's keep some of the instant sessions, open forums, informal things...I usually find that the "papers" are less interesting than the panels and forums. Maybe we could allow topics, outlines, etc., to be submitted. The completely pre-written paper is much less useful than the other things, unless it's positively brilliant. 5) Have I been satisfied? ...I find the forums more satisfying than the papers, and the papers that give concrete help in running a library more satisfying than the ones that either don't treat librarianship or tell you what you can't do rather than what you can. It's comforting to know you're not alone in your difficulties, but I'd rather hear about something where there's hope...The most useful part of any meeting is the buzzing, rapping, the frantic meetings that take place during breakfast, between sessions, or even during sessions. Is there some way we could have time for small groups to buzz about practical matters?"KCS

I feel that more should be said about the subject of meetings. What was your reaction to the responses in this issue's column? Do you think that a formal survey of the membership is a good idea? What questions would you ask? Instead of jumping to another subject I shall leave the question open in the hope that others might offer us their wisdom. My deepest thanks to Dominique-René de Lerma, Vernon Martin and Kitty Skrobela for sharing their thoughts with us! Why not tell me what you think of their thoughts????!!

SO YOU KNOW GOVERNMENT DOCUMENTS... Please contact Ray Sullivan who desperately needs help. Tel. 212:780-5289 or 212:533-5868.

MLA/LAS VEGAS

June 25-28, 1973 should be days to remember: the '73. summer conference of MLA, held in conjunction with the annual ALA conference, will finally be a reality! The meeting will be held at the Sands Hotel in Las Vegas. Herewith is the preliminary program\*:

June 25	9:00 a.m.	Board Meeting
June 26	9:00 a.m.	Registration
	10:00 a.m.	Cataloging Forum
	12:00 p.m.	NOTES Staff Luncheon; Chapter Chairmen Luncheon
	2:00 p.m.	<u>Session I:</u> Source Materials on the Music of American Indians, Blacks and Chicanos
June 27	9:00 a.m.	Registration
	10:00 a.m.	<u>Session II:</u> Comedy in Music
	1:00 p.m.	MLA Luncheon
	3:00 p.m.	Business Meeting
	4:00 p.m.	Open Forum
June 28	8:30 a.m.	Breakfast for Program & Local Arrangements Chairmen
	9:00 a.m.	Registration
	9:30 a.m.	Session III: Debugging the Computers

\* Scheduling subject to change.

Don L. Roberts is Local Arrangements Chairman and Ray Sullivan is Program Chairman for the conference.

CHAPTER MEETINGS

The New England Chapter held its Fall meeting on October 28 at Brandeis University. Charles Seeger spoke first on "Ethnomusicology: Past, Present and Future." He stressed the importance of treating ethnomusicology as part of the broader field of musicology. Anthony Saletan, educator and folk-singer, presented "American Folk Music in the Library." Mr. Saletan gave a brief talk and followed it with a short concert. The program concluded with a panel discussion led by James W. Kimball of "Ethnomusicology in the Library."

The New York State Chapter held its Fall meeting October 21 at SUNY, Binghamton. "Teaching Music Bibliography," a panel presentation followed by a short discussion, was first on the program. Barbara Maxwell discussed the Introduction to Musicology course at SUNY, Binghamton; Neal Zaslaw presented Cornell's bibliography course for musicology students; and Ruth Watanabe discussed the 2-semester course at Eastman that is designed for students whose main interest is in performance and in the background of works they perform. In "The Acquisition of Canadian Music Materials," John Whitepost of the University of Toronto and Linda Ward of the University of Western Ontario presented much practical information on bibliographic services, dealers, publishers, journals, and acquisition problems. Sam Chianis of SUNY, Binghamton, concluded the program with "The Present State of Greek Folk Music," a description of his research on the island of Skyros in the north Aegean in summer 1972. SUNY Press will publish his monograph sometime next year.

The Midwest Chapter met at the University of Iowa in Iowa City on October 19-21. The first session was concerned with possible areas of cooperation among Midwest music libraries. David Fenske reported on the survey conducted by the Midwest Chapter Microfilm Committee. The committee will publish a Union List of Microform holdings in the Chapter area. Following this Don Roberts directed a discussion of special collections in the Midwest which may lead to a Directory of Special Collections in the Chapter. The Business Meeting and a tour of the University of Iowa Music Library and Music Building were held in the afternoon. After a dinner members were invited to attend a performance by the University of Iowa Camerata Singers. A cello recital and a band performance were also available. On the second and last day of the conference the opening session was conducted by Frederick Crane and concerned the use of computers in music research. Lenore Coral then presented a paper on auction and dealer catalogs. Discussion followed both sessions. A final luncheon-meeting was held at which Dr. Albert Luper from the University of Iowa spoke on Latin-American music. He included a list of composers and a bibliography of periodical materials.

The Pacific Northwest Chapter held its annual meeting on October 27-28 at the Music Building, University of British Columbia, B.C., Canada. Terrence Bailey opened the first session with a paper on the Canadian Association of University Schools of Music. Hugh McLean described his experiences last summer with the music libraries and collections in Eastern Europe. On Saturday morning Beth Barber and Randy McCary gave a presentation, "A Plaine and Easie Multi-media Introduction to Renaissance Instruments." The Business Meeting followed. David Wood reported that the Constitution had been written for the Chapter. Dean Vanderwall, Chairman of the Pacific Northwest Serials Union List Committee, gave a report. Following a luncheon, members were given a tour of the new undergraduate library.

The Northern California Chapter met at California State University, Hayward, on November 17. A tour of the Music Library was conducted by Music Librarian Ray Reeder. Garrett Bowles, the speaker for the meeting, presented a detailed explanation of the MARC format for music and phonorecords. Approximately 40 members attended.

The Southern California Chapter met at the University of California at Los Angeles on January 19. A workshop, headed by Martin Silver, on new reference works followed lunch. Members made presentations on discographies, ethnomusicology, current trends in thematic catalogs, popular music and general music bibliographies. Staff members from UCLA conducted cooks' tours of the Music Library, the music cataloging section of Technical Processes and the Ethnomusicology Archives.

REPORTS FROM COMMITTEES

The Committee on Institutes and Workshops reports that (1) data on workshops is being compiled; and (2) MLA workshops are suspended until the data is more nearly complete.

The Committee on Exchange of Music Materials reports Glenn Patton and Dorothy McAadoo as well as Robert Cunningham have been involved with a first year of organization to get opinions and ideas as to what the membership can and should do. National and Chapter discussion has surfaced some ideas which will be pursued in the coming year.

The Committee on Microforms reports David Fenske's progress on the projected Midwest Union List of Microforms (ED.: See Midwest Chapter Report). Isabel Clark has completed a draft "Review of Current Literature on Microform Equipment" and Michael A. Keller has completed an updated list of "Music Serials in Microform and Reprint Editions," both of which the Committee hopes to have published in appropriate MLA organs when space permits. Charles Lindahl's contribution on microforms will appear in the forthcoming edition of the MLA Handbook. Morris Martin, a new committee member, has prepared a "Selected Bibliography on Microform Readers" as a working document.

The Committee on Advanced Notation helped establish the Index of New Musical Notation in the Music Department of the New York Public Library at Lincoln Center. Since then the committee has convened at irregular intervals to receive progress reports, comment on them, and plan future projects and activities. During most of 1972 the details of an international working congress on new musical notation were worked out which will be convened under the joint auspices of the University of Ghent, Belgium, and the New York project. Money to defray travel expenses, etc., has been applied for. If this endeavor is successful the congress should take place in the Fall of 1974.

A Checklist of Music Library Consultants has been compiled, but more names are needed. Those interested should contact Dr. Ruth Watanabe, Library, Eastman School of Music, 26 Gibbs Street, Rochester, New York 14604, or phone 716:325-4370.

ARTICLES RELATING TO MUSIC LIBRARIANSHIP WHICH HAVE APPEARED IN LIBRARY JOURNALS

Bottle, Robert T. and William W. Chase. "Some characteristics of the literature on music and musicology." Special Libraries: v63n10, Oct 1972 (469-476).

Byrum, John D., Jr. and Judith S. Rowe. "An integrated, user-oriented system for the documentation and control of machine-readable data files." Library Resources and Technology Services: v16n3, Sum 1972 (338-346).

Massonneau, Suzanne. "Cataloging nonbook materials: Mountain or molehill?" Library Resources and Technology Services: v16n3, Sum 1972 (294-304).

Robbins, Donald C. "EDF applications to musical bibliography." Special Libraries: v63n9, Sept 1972 (373-378).

Rosenberg, Kenyon C. "Tape recorders; open reel vs. cassettes." Library Journal/School Library Journal Previews: v1n2, Oct 1972 (5-11).

Slavens, Thomas P. "Teaching special librarianship; some current approaches." Special Libraries: v63n10, Oct 1972 (477-481).

Topper, Louis. "Some problems and pointers for those introducing AV materials into the library." Wilson Library Bulletin: v47n1, Sept 1972 (42-45).

Weiths, Jean Riddle. "The standardization of cataloging rules for nonbook materials: A progress report." Library Resources and Technology Services: v16n3, Sum 1972 (305-314). (ED.: Keep those cards coming!)

Supplements to NOTES (nos. 1-36:1947-1964) is now available!!! A cumulative index to the volume, which is obtainable in paperback edition only, has been compiled by Richard L. Walker. Price to members is \$9.00 per copy; nonmembers' price is \$10.00 per copy. Send your order to MLA, 343 S. Main St., Room 205, Ann Arbor, Michigan 48108.

#### COPYRIGHT AND ARCHIVAL COLLECTIONS OF SOUND RECORDINGS

Two recent major events emphasize the timeliness of a review of proprietary rights in sound recordings that affect the uses of archival collections. On October 15, 1971, Public Law 92-140 was enacted, amending the copyright law to provide a limited copyright in sound recordings, protecting against their unauthorized reproduction. This new law applies only to sound recordings fixed and published on or after February 15, 1972.

The second event was an international conference in Geneva on October 18-29, 1971, at which representatives from fifty countries adopted a "Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms." Under this convention each participating country will protect sound records (phonograms) produced in other adhering countries against reproducing, importing, and distributing unauthorized duplicates intended for the public. This convention becomes effective when at least five countries have adhered to it.

#### Some Pertinent General Aspects of Copyright

To elucidate problems that arise in using archival collections of sound recordings, it seems necessary to outline some aspects of copyright pertaining generally to literary and musical works for which copyright concepts have been established, and to consider the extension of these concepts to the new copyright category of sound recordings.

#### Distinction Between Work Recorded and Recording

First, it is essential to note a vital distinction; the musical composition or literary script (often referred to as "the underlying work") of which a performance or rendition is recorded is one thing, but the recording of the sounds produced by the performance or rendition is distinctly another. This distinction can be illuminated by considering two different situations: (1) in a recording of a Beethoven symphony, the composer's symphony is in the public domain, but the recording of the performance may be subject to copyright protection; (2) in a recording of a recent musical composition, the composition is almost certain to be copyrighted for the benefit of the composer and publisher, while the recording of the performance may have a separate copyright for the recording company and performers.

A further distinction may be made between the performance or rendition that is recorded, and the recording as a finished product that incorporates the work of the recording technicians, editors, etc. This distinction is shown by comparing a recording of an orchestral symphony with a recording of natural or mechanical sounds, such as bird calls or traffic noises, which does not involve a performance or rendition.

#### Copyright in the Underlying Work

Literary and musical compositions have traditionally had copyright protection. For purposes of this article, the most significant uses of compositions covered by copyright are their reproduction, in printed form or in sound recordings, and their public performance for profit. This enumeration of the uses covered by the copyright in literary and musical works is not exhaustive. The copyright extends also to translations and adaptations of these works, including use in motion pictures or other media. The right of public performance, which includes broadcasting, pertains to performances by recordings as well as live. For dramatic works, this right extends to all public performances, whether for profit or not. The list of uses subject to copyright is found in 17 United States Code § 1.

The reproduction rights of the copyright owner of a literary or musical work are subject to certain limitations. Among these is the provision for a compulsory license for recording musical works. Under this provision, once the copyright owner has permitted a musical composition to be recorded, anyone may record it by giving notice of intention and paying two cents per record to the copyright owner. This compulsory license does not authorize the duplication of another maker's sound recording, it simply authorizes the use of the musical work in the licensee's own sound recording. Duplication of another maker's recording would involve use of both the musical composition and the recording itself; the latter, as mentioned, may be subject to a separate copyright.

The performance rights of the copyright owner of a literary or musical work--including performance by playing a sound recording--are confined to public performances, and, except for dramatic works, are limited to public performances for profit. Thus, playing a recording for individual listeners or for a small private group would not be restricted by copyright; playing a recording of a nondramatic work for a larger public audience would remain free of copyright restriction as long as no commercial gain was involved.

When a copy of a copyrighted work has been sold or given away, the owner of that copy is free to use or dispose of it as he or she wishes. Thus, an archival institution that has acquired ownership of copies, including recordings, may lend them to its patrons or may sell or otherwise dispose of them as it sees fit.

Perhaps the most significant limitation on the rights reserved to copyright owners of literary and musical works is the privilege of users to make "fair use" of the work. Though the doctrine of fair use is widely known and much discussed, its bounds are imprecise, and it is no more capable of precise definition than are concepts such as due care, fair play, or ethical conduct. Broadly, the fair use doctrine permits the reproduction of a reasonable portion of a work necessary for a legitimate purpose in circumstances that do not impair the copyright owner's potential market. However, no general rule of thumb can be stated as to how much of a work may be reproduced as a fair use in the great variety of situations where the doctrine might be applied.

No provision for fair use is found in the present copyright statute. The doctrine has been developed in court decisions over a long period, but these decisions have dealt primarily with quotations by authors from the works of other authors. However, the principles underlying the doctrine as enunciated by the courts are applicable to the reproduction of extracts from copyrighted works for other purposes. In the successive bills that have been in Congress for a comprehensive revision of the copyright law (currently S.644 in the 92nd Congress), fair use is explicitly provided for (§107), and mention is made of "reproduction in copies or phonorecords" as possible instances of fair use, and of "teaching, scholarship, or research" among the stated examples of purposes for fair use. This bill lists the principal criteria of fair use as extracted from the court decisions:

In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

- (1) the purpose and character of the use;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.<sup>1</sup>

Librarians have usually acted on the premise that the fair use doctrine justifies reproduction of a single copy of a portion of a copyrighted work (usually an article in a journal or a comparable portion of a book) for research use by an individual. Reproducing multiple copies for a group has generally not come within the bounds of fair use, and publishers have expressed their fear that the single-copy premise might lead to the reproduction of a number of "single copies" of the same work for many individuals. The single-copy premise is being challenged in a suit (Williams and Wilkins Co. vs. The United States) now pending in the U.S. Court of Claims involving materials copied by the National Library of Medicine from the plaintiff's copyrighted medical journals.

The pending bill for copyright law revision also contains special provisions (§108), supplementing the general fair use provisions, for the reproduction of copyrighted material by libraries. Under these special provisions, a library would be expressly permitted: (1) to make a single copy or phonorecord of an unpublished work in its collections, either for preservation or for deposit in another library; (2) to make a single copy or phonorecord of a published work to replace one that is damaged, deteriorated, lost, or stolen, when a new one is not available for purchase; and (3) to make a copy for a researcher of certain kinds of works (not including musical or audiovisual) beyond the limits of fair use, if a new copy is not available for purchase. In addition, libraries would not be liable for unsupervised public use of reproducing equipment on their premises, as long as a copyright warning was posted on the equipment.

#### Extension of Copyright to Sound Recordings

Until recently the copyright statute of the United States did not provide for protection of sound recordings as works in themselves, distinct from the musical or literary works recorded. The justice of providing for their protection against unauthorized duplication for sale has been recognized almost universally, and successive bills for general copyright law revision have provided that protection.

Enactment of the general revision bill has been held up because of other issues, but the rampant growth of "record piracy" prompted the Congress to extract from that bill, for immediate enactment in October 1971, the substance of its provisions to protect sound recordings against unauthorized duplication and distribution.

As already mentioned, the new act, Public Law 92-140, amends the copyright statute to extend protection to sound recordings fixed and published on or after February 15, 1972. It would reserve to the copyright owner--usually the company that produced the recording--the right to make and distribute duplicates. It would not preclude others from making imitative recordings of their own, although the other recorder would need to deal with the copyright owner of the musical or literary work recorded. Nor would it impose any obligation on using the recording for a public performance, although the user may need to obtain a license for the public performance of the musical or literary work embodied in the recording.

The current version of the general revision bill presently in the Senate (S.644, 92nd Cong.) proposes to require, with certain exceptions, that broadcasters and others who use the sound recordings for public performances pay royalties to the copyright owners who will share them with the performers. This is in addition to the royalties paid for public performances of the recorded music, shared by the composers and publishers. No such provision was in the general revision bill passed by the house in April 1967 (H.R.2512, 90th Cong.).

The new act protecting sound recordings against unauthorized duplication specifies that transmitting organizations may reproduce sound recordings for their own use. This parallels current practice and provisions in the general revision bill in which broadcasters make tapes of their programs where they reproduce the sound recordings to be played.

The new act requires that for a sound recording to be copyrighted, the copies published (or their labels or containers) are to bear a copyright notice consisting of the symbol (P), the year of first publication, and the name of the copyright owner. As in the case of other classes of works under the copyright law, absence of the notice can usually be taken to indicate that the sound recording is not protected by copyright.

Note must be taken, however, that for musical and literary works the copyright notice (the word "Copyright" or the symbol (C)) is required on visual copies but not on phonorecords. Thus, unless it is known that the musical or literary work embodied in a sound recording is in the public domain, it is prudent to assume, when considering uses of a sound recording, that the musical or literary work is under copyright.

What about sound recordings made before February 15, 1972 that are not covered by the copyright statute? While the question has not been firmly settled, several courts have held that their unauthorized duplication for sale is unlawful under common law principles relating to misappropriation, or is in violation of the special criminal statutes in some states.

The new act pertaining to sound recordings does not apply to the sound tracks of motion pictures. Videotapes and videocassettes are presumably to be treated as motion pictures for purposes of copyright. Motion pictures are protected under the copyright law as a separate class of works, and their protection embraces public performances as well as reproduction.

The recently completed international "Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms" corresponds closely in substance with the new law enacted in the United States. All countries adhering to the convention would protect sound recordings produced in other adhering countries against making, importing, and distributing unauthorized duplicates for sale to the public. Adhering countries would not be required to provide protection against duplication for any purpose other than public distribution. Any adhering country could, if desired, require that all authorized duplicates bear a notice such as the new U.S. law requires. The convention would permit any adhering country to limit the protection given to sound recordings in the same way as it limits the protection given to literary and musical works. The new U.S. law is in accord in all respects with the substantive provisions of the convention.

The new U.S. law specifies that it will be effective only for sound recordings made and published before January 1, 1975. It was apparently the supposition of the Congress that similar provisions for the protection of sound recordings, perhaps with modifications, would be enacted before that date, either as part of the general revision legislation or separately.

#### The Effect of Copyright on Uses of Sound Recordings in Archival Collections

A phonorecord (i.e., a disc, tape, or other physical object from which the sound recording can be played) may embody copyrighted material of two distinct kinds; the literary or musical compositions of which a performance has been recorded, and the series of sounds constituting the sound recording as a work in itself.

Perhaps the most common use made of archival collections of phonorecords is to play them for, or allow them to be played by, individual listeners or small groups. As indicated, this would not be affected in any way by copyright. For the musical or literary works embodied in the phonorecord, their performance becomes subject to copyright (in that a performing license is required) only when the performance is given for a public audience and, except in the case of a dramatic work, someone profits from the public performance. The copyright in the sound recording itself is confined to its unauthorized duplication and does not extend to its performance in any case.

As libraries may lend books containing copyrighted literary or musical works, so they are free to lend phonorecords. On this point, a report of the House Committee on the Judiciary said about the new law:

Many public libraries and some school and college libraries have long offered their patrons the service of lending sound recordings of music, dramatic readings, language instruction and similar works in the same manner in which they lend books, periodicals and other materials. Some of these nonprofit libraries may require the payment of a small sum for the use of relatively new recorded works which are, for a time, in heavy demand. It is not the intention that the limitations on lending or renting contained in proposed new Section 1(f) reach out to apply to these long-established practices by nonprofit libraries. When a library has acquired ownership of a lawful recording, the "first sale doctrine" referred to above leaves the library free to lend or otherwise dispose of that recording.<sup>2</sup>

A library that lends phonorecords may know or have reason to believe that some borrowers will make duplicates of the sound recording for their private collections. The library would not appear to incur any risk of liability on that account. The house committee report also dealt with home recording as follows:

In approving the creation of a limited copyright in sound recordings it is the intention of the Committee that this limited copyright not grant any broader rights than are accorded to other copyright proprietors under the existing title 17. Specifically, it is not the intention of the Committee to restrain the home recording, from broadcasts or from tapes or records, of recorded performances, where the home recording is for private use and with no purpose of reproducing or otherwise capitalizing commercially on it. This practice is common and unrestrained today, and the record producers and performers would be in no different position from that of the owners of copyright in recorded musical compositions over the past 20 years.<sup>3</sup>

Libraries with phonorecord collections are sometimes asked to make a duplicate of a recording, or part of a recording, for use in teaching or studying. It seems clear that the fair use doctrine would apply to sound recordings on the same basis as it does to literary and musical works. To what extent then is a library justified by this doctrine in reproducing a sound recording for such individual purposes? No specific rule would be entirely reliable. A large element of good judgment must be exercised, but some guidelines can be suggested.

One principle is that making a copy of an entire work or the major portion of a work, as a substitute for an authorized copy that is available for purchase, would almost never be considered fair use. The other extreme would be copying such a small extract that the user should not be expected to buy the entire work for that small portion. In the usual case, a relatively small extract from a sound recording is probably all that a teacher or scholar needs for educational or research purposes, and supplying a reproduction of such a portion would come well within the bounds of fair use.

Reproduction of a fairly large part of a sound recording, if needed for a legitimate purpose, could presumably be justified as a fair use where authorized copies are not available for purchase, as in the case of an older out-of-print recording. In such a case, if nothing less will serve the purpose, a library might well consider it justifiable to supply a reproduction of the entire recording.

It is difficult to conceive a situation in which the doctrine of fair use would embrace the reproduction in multiple copies of copyrighted material embodied in or consisting of a sound recording. If multiple copies are wanted, the proper course would appear to be to seek permission from the copyright owners.

A library may find it necessary to duplicate recordings in its collection for security or preservation, and this may sometimes require that a recording in one form, say on a disc, be duplicated in another form, as on tape. Here too, the availability of phonorecords in the desired form for purchase from regular sources may be decisive. If the duplicate needed for security or preservation is available for purchase, it seems reasonable to expect the library to buy it. If it cannot be purchased, the library would be warranted in making the duplicate in the form required for the security or preservation of its collections.

A few broad observations should be added about unpublished sound recordings, such as recordings of folk music and oral history, that find their way into archival collections. Because of the complexities involved when other circumstances exist, these comments are confined to a situation in which the archival institution has ac-

quired the recordings from the persons who made them or from others who are in a position to authorize their use. This assumes that these persons have obtained transfers or waivers from those whose performances or discourses have been recorded, a fact the institution will need to corroborate. Given this situation, the institution should have reached some understanding with the donors or vendors, preferably in writing, on the rights or privileges of use that may be exercised, and it should, of course, be governed by that understanding.

If the archival institution has been given ownership of the property rights in the unpublished recording, it can handle the recording as it wishes; it will make policy decisions about how many duplicates it will make or allow others to make, or about playing the recording privately or publicly.

If no restrictions were imposed by the donor, placement of the unpublished recordings with the archival institution, making them publicly accessible, could be taken to imply the donor's consent to their being handled comparably to the institution's other collections. This might include playing the recording for private listeners, reproducing extracts for teachers or scholars, and perhaps further uses in accordance with the institution's usual practices.

#### References

1. For a comprehensive discussion of fair use and how these factors would apply to the reproduction of copyrighted material, particularly for educational purposes, see House Report No. 82, 90th Congress, on H.R. 2512, pp. 29-37.

2. U.S. Congress. House Committee on the Judiciary, House Report No. 92-487, 92nd Congress, p. 7.

3. Ibid., p. 7.

Abe A. Goldman

The views expressed here are those of the author and do not necessarily reflect the views of the Copyright Office.

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IN THE TRADITION OF COOPERATION THAT CHARACTERIZES MUSIC LIBRARIANSHIP, THE MUSIC LIBRARY AT UCLA GRACIOUSLY ALLOWED STAFF MEMBERS OF A SISTER CAMPUS TO REMOVE AND COPY CARDS FROM ITS PUBLIC CATALOG. THIS GENEROSITY SAVED THE STAFF OF THE SMALLER LIBRARY SEVERAL HUNDRED HOURS OF STAFF TIME, BUT AT A COST TO UCLA STAFFERS OF WORKING OVERTIME TO REFILE THE CARDS THE SAME DAY. THANKS SHOULD GO TO RICHARD HUDSON AND MARSHA BERMAN, WHOSE ADVANCE PLANNING MATERIALLY AIDED THE PROJECT, BUT PARTICULARLY TO KAREN MILLER, ARMEN GUSELIMIAN AND SHIRLEY THOMPSON, WHOSE WILLING AND SKILLED HANDS WERE LARGELY RESPONSIBLE FOR ITS SUCCESS. BRAVO!!!!

#### BOSTON PUBLIC LIBRARY ADDITION

The new addition to the Boston Public Library was opened to the public on Tuesday, December 12, 1972. This building houses all the materials for home use, while the old building is now exclusively for reference and research. On the concourse level, along with the fine arts books, a picture collection and the audio-visual department, are the music books and scores, approximately 8,000-10,000 in number. This includes newly bought material as well as duplicates transferred from the collection in the old building. The bulk of the music materials, including the Allen A. Brown Collection, remains in the Research Division on the third floor of the old building.

FROM THE EDITOR: Yes, I am a girl with a boy's name!!

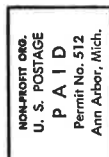
#### CHANGING FACES - CHANGING PLACES: New Appointments

Fred Bindman: Head of Music Section, Descriptive Cataloging Division, Library of Congress.

Don Leavitt: Assistant Chief of the Music Division, Library of Congress.

Charles Lindahl: Associate Librarian of the Sibley Music Library, Eastman School of Music, University of Rochester, Rochester, New York.

Karen Miller: Assistant Music Librarian, University of California at Los Angeles.



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#### MLA PLACEMENT SERVICE

As of February 12, 1973, 102 individuals were registered with the Placement Service. This figure is just 5 short of last year's peak which came in late May and early June. Eleven openings, also, were officially registered with 4 additional listings expected at any time. Since only some registered with the Placement Service are actively seeking positions, it would be most inaccurate to make the generalization that 102 people are competing for 11 or 15 jobs.

The Job List has proved to be an effective means of communication during its first year of existence. 38 jobs were advertised via the publication, a substantial number of which were filled by individuals registered with the Placement Service.

Positions may be advertised without charge. The Placement Service registration fee for individuals is \$2.00 per year. Please send correspondence to Shirley Piper Emanuel, Placement Director, and remittances to William J. Weichlein, Executive Secretary, both at the following address: Music Library Association, Inc; 343 S. Main St., Room 205, Ann Arbor, Michigan 48108.

The NEWSLETTER of the Music Library Association is published three times a year: February, July and November. Communications should be addressed to Ray Sullivan, Editor, MLA NEWSLETTER, Music Library, 375 Gerstwin Hall, Brooklyn College, Brooklyn, New York 11210. Contributing editors are Linda Solow, George R. Hill and Harriet Marshall.