

Remitter: Rabbi David Miller Foundation Committee

Title: JEWISH FAMILY LIFE

Question: Is the notice of copyright acceptable where the year date appears on the title page, and the word "Copyright" and the name of the copyright owner on the page immediately following?

On this question, the majority of the Board voted in the affirmative, the minority, Mr. Lasica, in the negative.

The work is a pamphlet. The year date 1942 appears on the title page and the word "Copyright" with the name of the claimant on the page immediately following. The majority opinion in this case appears to be contrary to a previous ruling of the Assistant Register on practically the same question. In that case the name of the claimant of copyright appeared on the title page and "Copyright 1942" on the verso thereof. The present minority then voting for the acceptance of the notice was overruled. In a memorandum of August 14, 1942, to the then Chairman of the Revisory Board the Assistant Register, in overruling the minority opinion, said in part:

"If the name of the copyright owner can be taken from one page and put into a notice of another page in order to complete it, the same process could be used with the other elements of the notice, to wit the year date or the word 'Copyright'. Unless we are to abandon all together the intention and effort to determine in every case whether the notice substantially complies with the copyright law, I think we should not accept a notice like the present one."

The minority has always felt that if a notice is acceptable where its elements are dispersed on a single page, whether that be a title page or the page immediately following, it should also be acceptable where these elements are dispersed over both of these pages as in the present case. The majority opinion at this time places the minority in a dilemma. He feels like the son of an Athenian mother whose conversation reputedly ran as follows: Mother: "Do not engage in public affairs; for if you do what is just men will hate you, and if you do what is unjust the gods will hate you". Son: "I ought to enter into public affairs; for if I do what is unjust men will love me, and if I do what is just the gods will love me".

If the majority felt that acceptance of the notice is warranted in the present case because only the year date appears on the reverse side, attention is called to an early case in which the court held the notice invalid when the year date was separated from the other two elements of the notice by a mere printed line on the title page of the periodical in question. (176 Fed. 156)

In view of the Office precedent, the minority feels bound to hold that the notice in controversy should be rejected.

Until judicial authority can be cited holding a notice good when some of the essential elements are on one page and some on another, the Office should not accept such a notice. I believe it has not done so under the present régime. Minority sustained.

Respectfully,

S. Lasica
S. Lasica

Member, Revisory Board

R.C.D., 2/8/43