

August 3, 1995

Mr James P Cole
Assistant Chief
Information & Reference Division
Copyright Office
Library of Congress
Washington, D C 20559

Dear Mr Cole

The National Archives has completed its review of original and renewal applications for copyright registration from 1898-1909. The 1,766 cubic feet of records (approximately 1,114,825 applications) currently are stored in various accessions at the Washington National Records Center in Suitland, Maryland. We have determined that the records are temporary, as they do not have sufficient historical value to warrant permanent retention in the National Archives.

The Federal Record Act (44 U.S.C. Chapters 29 and 33) requires federal agencies to obtain authority from the Archivist of the United States to destroy or otherwise dispose of their records. If you require assistance in scheduling these copyright records for appropriate disposition, or have questions about records disposition procedures in the federal government, please feel free to contact us.

I enclose a copy of Nick Natanson's analysis of the records. His thorough review of the various classes of copyright applications may assist you in determining the most appropriate disposition for the records, and the information that he provides may prove useful in determining the value of the applications to other Library of Congress divisions.

Thank you for the opportunity to review and appraise these records. The background that you provided about the applications and related records in the Library's custody aided us consider

ably in our analysis. If you have any questions about this matter, please feel free to contact Larry Baume of my staff on (301) 713-7110 x234

Sincerely,

JAMES J HASTINGS
Director
Records Appraisal
and Disposition Division

Enclosure

cc James Kepler, Office Systems Services, Library of Congress

Official File - NIR
Day File - NIR

cc Job No N1-297-95-1
NCW
NIRC
Baume

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File Legislative Agencies

National Archives at College Park



8601 Adelphi Road College Park, Maryland 20740-6001

dw/rhc/95

Date July 20, 1995

Reply to
Attn of NIR

Subject Library of Congress Copyright Applications, 1898-1909

To NSC

In March, 1995, the Library of Congress Copyright Office contacted NIR and requested that we review one series of Copyright Applications dating from 1898-1909. After initial meetings with staff of the Copyright Office, NIRC formed a small group of archivists from NIR, NNS, and NSC units to review the records and determine if they were permanently valuable and suitable for transfer to the National Archives. We have completed this review, and request your formal concurrence before we notify the Copyright Office of our findings.

The attached appraisal reports indicate that the records are temporary, and do not warrant preservation in the National Archives. We will notify the Library of Congress of our decision in a letter, and indicate that prior to the destruction of the records or their transfer to another agency or institution, an SF-115 must be submitted to NARA for approval in accordance with 29 U.S.C. Chapter 33, and 36 CFR 1228.

If you agree with this appraisal, please sign the concurrence line at the bottom of this memorandum and return it to me at your earliest convenience (a copy is being routed separately to NNS for concurrence). If you have any questions, please feel free to contact Larry Baume of my staff on (301) 713-7110 x 234.

James J. Hastings
JAMES J. HASTINGS
Director
Records Appraisal
and Disposition Division

Attachment

Concurrence

Michael J. ...
Director, NSC

Date

7/23/95

National Archives at College Park



8601 Adelphi Road College Park, Maryland 20740-6001

Rec'd 7/26/95
hasting

Date July 20, 1995

Reply to
Attn of NIR

Subject Library of Congress Copyright Applications, 1898-1909

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Henry J. Hastings
JAMES HASTINGS
Director
Records Appraisal
and Disposition Division

Attachment

Concurrence. *Elizabeth C. Hill*
Acting Director, NNS

Date *7/25/95*

National Archives at College Park



8601 Adelphi Road College Park, Maryland 20740-6001

Date July 18, 1995

Reply to
Attn of Larry Baume, NIRC

Subject Library of Congress Copyright Applications, 1898-1909

To NIR

In March, 1995, the Library of Congress Copyright Office requested NARA's assistance in evaluating Copyright Applications dating from 1898-1909, and to determine if they were permanently valuable and suitable for transfer to the National Archives. The records are currently stored at WNRC, and consist of 1,766 cubic feet of original copyright applications, or approximately 11 million individual applications. The records are divided into nine classes, with other applications covering Miscellaneous, Mixed Classes, and Renewals, as listed on Attachment 1 of this report.

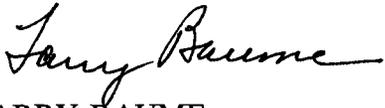
After meeting with James Cole, Assistant Chief of the Information and Reference Division of the Copyright Office, to review a small sample of the records and to discuss the Library's request, NIRC formed a team of archivists from NNSP and NSC to undertake a more thorough appraisal of the records, and to determine if specific classes of copyright applications (such as photographs, maps and charts, fine arts, and engravings) might be permanently valuable. Nick Natanson of NNSP, Martha Murphy of NSC, and I met again with James Cole in May, 1995 to discuss the records in more detail and to organize the review project.

My findings are essentially the same as those of Nick Natanson and Martha Murphy—that the information contained in these records is largely duplicated (the exception is the actual applicant's signature and numeric street address) in both copyright record books and in card indexes that are available at the Library of Congress for research. Both of these indexes serve the legal purposes of the Copyright Office, and are used by researchers to trace copyright ownership. As the original applications are not needed to determine copyright ownership, and since the copyright for all works covered by these applications has exceeded the maximum copyright limit of 75 years, it is not necessary to retain the original applications for legal reasons or to protect legal rights or interests.

The applications themselves are in deteriorating condition, and in many cases, as pointed out in the attached appraisal reports by Martha Murphy and Nick Natanson, the actual copyright deposit has been separated from the application. In other cases, the deposit item is glued to badly deteriorating paper, or the deposit includes only a portion of the actual item for which copyright was sought rather than the item itself, e.g., the title block or nameplate on a map, the masthead of a newspaper or headline of a newspaper article, or the title page of sheet music.

There is scant information of significance to researchers in the applications that cannot be found in the copyright record books or card indexes at the Library of Congress, and as the deposit items are fragmentary, the applications do not serve as the best record of copyright or other government activity that would warrant permanent preservation in the National Archives. An additional consideration is the deteriorated physical condition of the applications and the remaining deposits, which pose both reference and storage problems.

I concur with the NNSP and NSC reports that these copyright applications do not warrant permanent retention in the National Archives. The Library of Congress will be notified in writing of our findings, and that an SF-115 must be submitted to NARA for approval prior to destruction or transfer of the records in accordance with 44 U.S.C. Chapter 33, and 36 CFR 1228.

A handwritten signature in cursive script, reading "Larry Baume".

LARRY BAUME
Records Appraisal
and Disposition Division

National Archives



Washington, DC 20408

Date: June 5, 1995

Reply to
Attn. of: Martha Wagner Murphy, NSCA

Subject: Library of Congress Copyright Applications Stored at WNRC

To: Larry Baume, NIRC

The Library of Congress asked the National Archives to review the series of Copyright Applications, dating from 1898-1909, which currently reside in the Washington National Records Center (WNRC) to determine if these records are permanently valuable as a distinct series and should therefore be transferred to the National Archives as a permanent record. Larry Baume (NIRC), Nick Natanson (NNSP), and I reviewed a sampling of these applications at the Library of Congress on May 10, 1995.

Summary of Conclusions:

The applications are divided into nine classes, divided by the type of materials submitted for copyright protection. For example, Class A concerns applications for Books and Class H concerns applications for photographs. There is also a 483 foot class of documents which are "mixed" where the textual and visual copyright applications were filed together. The application files consist of a two-page application and, occasionally, depository materials such as a copy of the title page of a book or a print of a photograph.

The applications themselves are clearly not permanently valuable as all of the information contained within is captured in record books and card indexes already available to the public at the Library of Congress.

The value of these records resides, therefore, in the "depository" materials. The textual records (which include books, periodicals, music, dramas, and maps/charts) generally consist of title pages only. Therefore the value of these classes is minimal. Of more interest is the depository information contained in the applications for visual materials such as photographs, lithographs, and fine arts.

The report of Nick Natanson will more thoroughly cover the visual classes. However, it should be noted that these classes appear to have been culled through presumably by the Library of Congress staff. (We estimate that this occurred prior

to 1960). Significant photographs, in particular, appear to have been removed from their applications. Nick Natanson approximates that only 8% of the applications within the photographs class and 3% of the applications within the lithograph class have depository material attached to the applications. A larger 43% of the engravings class applications contain depository material, however, the great majority of these consist of newspaper clippings, which are literally falling apart and can be found in microfilm copies of newspapers.

It is my opinion that these records do not warrant permanent retention by the National Archives **as a series**. However, I would encourage the Copyright Office to follow up on their intention to make these records available to the appropriate custodial units of the Library of Congress for review in order to identify depository information of particular value.



MARTHA WAGNER MURPHY
Archival Programs Branch
Center for Legislative Archives

National Archives



Washington, DC 20408

Date June 20, 1995
Reply to
Attn of Nick Natanson, NNSP
Subject Library of Congress Copyright Records Offer
To Larry Baume, NIR, through NNSP, ^{ELH}NNS

Thanks again for giving NNSP the opportunity to review the Library of Congress offer of the 1898-1909 copyright registration and renewal applications that have been stored "temporarily" at the WNRC over the past 25 years.

As I observed in our conversations last month, this is an extremely unusual offer -- both in terms of the nature of the records, and the source of the records -- that raises intriguing archival and historical issues. Following our meeting with James Cole of the Library of Congress Copyright Office, and following the completion of the crucial sampling work that I performed at WNRC (with some help from my NNSP colleague, Dale Connelly), I discussed the matter with Elizabeth Hill and Ed McCarter, and we all agreed that, at least in regard to the applications relating to visual production, the National Archives should not accept these records. In short, we concur with the position that you have taken, and that Martha Murphy has taken, in earlier meetings. We also want to make our reasoning, and the sampling evidence employed for our conclusions, clear to you and to the Library.

Three key facts emerged in the course of the May 10 meeting with Cole at the Library of Congress: 1) that these 1898-1909 records have long ceased to be active as sources for copyright checking, since the products to which they relate fall well outside the 75-year copyright limit; 2) that the narrative information contained in the applications/renewals is largely duplicated in the copyright index cards and bound-volume record books readily available to researchers at the Library of Congress; and 3) that visual copyright deposits -- photographs and photo-mechanical products -- originally submitted with applications in Class F (Engravings), Class G (Chromos/Lithographs), Class H (Photographs), Class I (Fine Arts), and, before 1901, in "Mixed Classes," can still be found enclosed in some of these applications.

A fourth important consideration I gained from other sources: that the Library's Prints and Photographs Division (P-and-P) has had a long-standing practice of taking in visual deposits removed from copyright applications, adding these images to its permanent

collections, and reorganizing the deposits in the process -- distributing them among subject-oriented browsing files in the research room, or, alternatively, among photographer or artist-oriented "lots" that are catalogued accordingly. All told, the many thousands of items culled from applications over the many decades represent a key dimension of P-and-P holdings.

In regard to #4, the practice of separating deposits from their original application contexts is one upon which the National Archives has always frowned: once such a separation is made, the absence of the visual evidence from the applications greatly reduces the value of those applications for distinguishing among multiple images that may share the same creator, the same date, and similar subject-matter. At this late juncture, however, it would be impossible to restore the original configuration of all copyright records. The fact that the Library has had a system in place these many years (however problematical that system has been in archival terms) makes it easier for us to recommend that the Library complete its work vis-a-vis the 1898-1909 files (see below).

In regard to #2, it was evident at the May 10 meeting that the occasional discrepancy between the level of narrative detail provided in the applications and the level of narrative detail provided in the index cards/record books amounted to the following: in some cases, applications provided complete street addresses for copyright claimants, while the cards/record books provided only city and state; and applications also included claimant citizenship information that was lacking in the cards/record books. This discrepancy was not such as to provide justification in and of itself for retaining the applications. Researchers interested in the finer details of a photographer's or artist's residency and citizenship status could, in most cases, obtain such information from other kinds of historical sources.

In regard to #3, however, the apparent existence of some deposits (not duplicated in the card files or the record books) raised further quantitative and qualitative questions . . . How frequently do these deposits actually show up in the applications at the WNRC? Is the frequency such that these application files in the respective visual classes can be considered intact series, or are the deposits essentially leftovers in files that were previously culled for P-and-P purposes? And, if there are more-or-less-intact visual series at the WNRC, are they appropriate for the National Archives?

Answering these questions required some sustained sampling of the copyright applications at the WNRC. Although the immense volume of the records with potential still picture relevance (262 cubic feet in Classes F through I, plus the 390 cubic feet of "Mixed Class" applications), and my own time constraints, made a scientifically "correct" survey impossible, my limited sampling over the course of two days suggested some general trends. A WNRC

class-by-class breakdown follows . . .

Class F (Engravings): Out of approximately 27,500 applications, fewer than half (43% in the sampling) still contain visual deposits; with some of the applications relating to multiple images, total deposits in Class F would amount to upwards of 16,000 items. Deposits include a mixture of black-and-white and color entries, appear in a variety of sizes (from 2" X 3" to folded-up 14" X 20" items), and take a variety of forms, from woodcut-based prints to postcards to posters to cartoons and illustrations clipped from newspapers and magazines. The newspaper/magazine clips seem to be in the decided majority, with very frequent submissions from the New York World, New York Evening Telegram, and Chicago Tribune.

As many deposits as can still be found in this group, there has already been considerable culling. While I did not have time to track down the fate of specific images from specific applications, it would seem entirely logical that the culled items were added to P-and-P's extensive fine print holdings; the selection may well have occurred at a point, many decades ago, prior to the earliest records (or the earliest memories) maintained by current P-and-P staff. The fact that so many of the deposits left in the Class F file are newspaper/magazine clippings (images duplicated, whether in original form or in microfilm version, in the Library's Serials Division) would further tend to support the notion that some member of the Library staff has already gone through the file, whether in systematic or cursory fashion.

From NNSP's standpoint, what remains constitutes only a series fragment -- and one, moreover, without any content so historically or aesthetically compelling that we would be tempted to make an exception to our policy of not taking in fragments. Inasmuch as there may be scattered items of significance remaining in the file, P-and-P would be the appropriate office to do any further selecting, processing, and collection building -- completing, in effect, the job that appears to have been initiated many years ago.

Class G (Chromos/Lithographs): Out of approximately 9,400 applications in this class, only an estimated 3% still contain deposited items; taking into account multiple-image applications, the file incorporates no more than 600 items. The latter range from 1 1/2" X 1 1/2" mini-prints of U.S. state seals, to 3" X 5" prints from book illustrations, to postcards and advertising trade cards, to folded-up 11" X 27" posters; black-and-white images predominate, with a scattering of "chromo" color items. Perhaps because of its one-time color content, this file has already been heavily culled (with selections probably in the P-and-P fine prints collections), and constitutes even more of a series fragment than the Class F file. The same logic applies here: any final culling should be carried out by P-and-P, with

the fruits of such a process added to P-and-P collections.

Class H (Photographs): Out of approximately 21,750 applications in this class, only an estimated 8% overall still include deposited items (a greater concentration of deposits, average 35%, in the first nine boxes; a miniscule showing, average 5%, over the next 65 boxes). With multiple-image applications taken into account, the Class H file includes no more than 2,500 images. Virtually all black-and-whites (no hand-tinted specimens uncovered in the sampling), deposited images show a range of formats (3" X 3" to 8" X 10"), processes (gelatin developing-out photographic prints in the majority, but a healthy scattering of gelatin printing-out, platinum, and cyanotype photographic prints, along with some photo-mechanical reproductions), and content types -- individual portraits, group portraits, event coverages, landscapes and cityscapes, architectural studies, social and cultural life views.

The deposits that remain suggest something of the trends in commercial photographic output in this era, provide some intriguing local history angles (e.g., "Bird's Eye View of Schofield, Wisconsin," by Isare A. LaCorte, 1908), and hint at early-1900's cultural mind-sets, especially with regard to blacks, Indians, and other minorities (e.g., a photograph of the "Burning of the Negro, Smith," in Greenville, Texas, July, 1908, registered for copyright in -- of all forms -- a postcard version, and registered by -- of all names -- John Quincy Adams).

But while there are certainly some historically illuminating items here, this remains a file that has been heavily culled; and it is no coincidence that few of the copyright applications from the better-known photographic enterprises, such as Underwood and Underwood or Harris and Ewing, still include deposits. (Copyright applicants were supposed to submit two sample copies of each item claimed for copyright. In some cases where visual deposits remain in Class H applications that I surveyed, only one copy shows up -- raising the possibility that the other copy has already been removed and added to P-and-P collections. This possibility, in turn, would further weaken the value of the series fragment at the WNRC.) Given this fragmentary status, and given the access problems that would be raised by this file in an NNSP context (would we try to maintain the original numerical order, while the indexing remained at the Library; or would we have to reorganize the materials into what for us would be completely new and artificial categories?), the Class H file is another logical project for P-and-P.

Class I (Fine Arts): This is the one series that appears to have remained largely intact. Out of approximately 21,950 applications for copyright registration of drawings, paintings, and sculptures, an estimated 95% still include the visual deposits -- that is, photographic reproductions, or photo-mechanical reproductions, of the finished art work or of the preliminary design. All together, the Class I deposits amount to upwards of

20,800 images. Largely black-and-white, these images range from a 2" X 3" print showing the design for a painting by the well-known John La Farge of New York City, to a 6" X 8" photograph of a finished painting ("The Drummer") by little-known Bert Phillips of Taos, New Mexico, and from a 3" X 3" bookplate illustration ("Ex Libris Albert Kick") to an 8" X 8" photograph of a neo-classical sculpture model ("Rhea").

The systematic coverage of this file makes it a potentially valuable resource for art historians: here is prime evidence of early 20th Century stylistic and thematic tendencies not only among the well-known painters and sculptors but among the unknowns, and not only in the traditional centers of American art but in the hinterland, as well. In some cases, the reproduction submitted for coyright registration may well constitute the only visual record of original art pieces that have been lost or destroyed over the decades. But historically significant, and structurally intact, as it is, this file does not fit logically into the NNSP domain.

The art works documented in these deposits have no dimension of government sponsorship, no connection to government activities (as opposed, for example, to reproductions of New Deal art), and, even aside from the government vs. non-government matter, reproductions of painting and sculptural work represent only peripheral parts, at best, of NNSP holdings. Except perhaps for New Deal art investigators, few art historians interested in painting and sculpture would think of heading to NNSP for research sources. Even for those non-New Deal art historians who might find their way here, this file would raise the same access dilemmas mentioned above for Class H. P-and-P appears to have absorbed painting and sculpture-related images from post-1909 copyright applications into its holdings, and it would be logical for P-and-P to do the same with this earlier batch. If the Class I file is to end up outside the Library, an art history-oriented institution such as the Archives of American Art would be the appropriate home -- not us.

Mixed Classes: The bulk of the applications in this extensive group (390 FRC boxes) appear to be in the books, periodicals, and music classes. Out of an estimated 137,000 applications, no more than 8% relate to visual productions, and of these visually-related applications, less than half still include deposited photographs, prints, or clippings. All told, these mixed-class boxes include upwards of 6,000 images. Since visually-related applications are interfiled with applications in the other classes, the process of plowing through this huge mass and extracting whatever visual material remains would be extremely laborious. It would not be worth the effort for NNSP (for many of the same reasons indicated above for Class F, G, and H); whether it would be worthwhile for P-and-P remains for P-and-P to decide.

With regard to all of the above categories, it almost goes without saying that, if retained, the visual deposits would pose preservation problems: image fading and surface degradation (certainly not surprising, given the age, housing, and storage environment); numerous images glued into badly-deteriorated applications; and other difficulties. But the potential preservation burden is not the determining consideration in this appraisal. The more decisive factors, as indicated above, involve the relation of these files to existing Library collections, the nature of the intellectual subject-matter, and the mission of NNSP. Above all, we should not be the repository of last resort for visual materials -- whether in pristine condition or deteriorated condition, whether historically valuable or not -- that, by dint of their collection origins or their basic content, genuinely belong in another institution.

I hope the information, and reflections, above will help you in composing your summary response to the Library of Congress offer. Again, in the interests of National Archives appraisal clarity as well as eventual time-saving for the Library, we urge you to make my category-by-category statistical findings available to Cole, and, through him, to P-and-P. Should you have any further questions about any of these matters, please call me at 301-713-6625, Ext. 266.



NICK NATANSON
Archivist, NNSP



JUN 30 1995

Handwritten mark: "Heavy" with a large loop below it.

Washington, DC 20408

Date June 28, 1995
Reply to
Attn of GC
Subject Status of the Library of Congress under the Federal Records Act
To NI

This responds to your request for our opinion on whether the Federal Records Act (FRA) and related records management laws are applicable to operational records of the Library of Congress (LOC) and the Congressional Research Service (CRS), and of legislative branch support agencies in general.

We are limiting our current response to the status of the LOC and the CRS. We plan to address the status of the other legislative branch support agencies referenced in your memorandum in a separate response. In brief, however, we believe that the Congressional Budget Office, the General Accounting Office, the Government Printing Office, and the Office of Technology Assessment are probably subject to the FRA and its implementing regulations.

The LOC was established in 1800, and is currently structured by statutes located at 2 U.S.C. § 131 *et seq.* The CRS, which provides research, analysis, and informational support to the Congress, is an activity of the LOC. Statutory authority for the CRS can be found at 2 U.S.C. § 166. Because the CRS is a LOC activity, the CRS shares the LOC's status under the FRA. Based on the FRA's definition of "Federal agency," we conclude that the LOC (and the CRS) are subject to the FRA and its implementing regulations.

Records subject to the FRA are those materials:

[M]ade or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

44 U.S.C. § 3301.

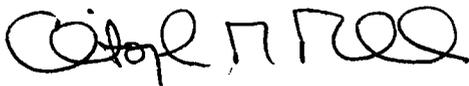
The FRA defines "Federal agency" as "any executive agency or any establishment in the legislative or judicial branch of the government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction)."

44 U.S.C. § 2901(14).¹ The LOC is a legislative branch agency and is not among the definition's listed exceptions. Therefore, the LOC is subject to the FRA and its implementing regulations.

Our conclusion is further supported by a proviso to the LOC's statutory authority to transfer materials to other libraries which states that "no records of the Federal Government shall be transferred, disposed of, or destroyed under the authority granted in this section." 2 U.S.C. § 149. According to the legislative history, this proviso was added as part of a congressional effort "to clarify existing statutes and authority governing the administration of Federal records in accordance with the provisions of the Federal Records Disposal Act of 1943 and the Federal Records Act of 1950." H.R. Rep. No. 1102, 82d Cong., 1st Sess. 1, *reprinted in* 1951 U.S.C.C.A.N. 2434.

You ask several other questions in your memorandum. First, if NARA were to accept LOC's offer to transfer certain copyright applications to NARA, should the transaction be treated as a transfer of Federal records or as a donation of non-Federal documentary material? Because the LOC is subject to the FRA, any such transfer should be treated as a transfer of Federal records. See 44 U.S.C. 2107. Second, does the LOC need to obtain disposal authority from the Archivist of the United States before disposing of copyright applications or other operational records? Again, because the LOC is subject to the FRA, the Library needs to obtain authority from the Archivist before disposing of any copyright applications or operational records. 44 U.S.C. §§ 3303a; 3314. Third, is the LOC subject to NARA's regulations in 36 C.F.R. Chapter XII, governing creation, maintenance and disposition of Federal records? NARA's regulations on agency records management programs apply to all "Federal agencies" as defined by the regulations. 36 C.F.R. § 1220.12. The regulatory definition of "Federal agency" is identical to the definition contained within the FRA; therefore, it encompasses the LOC. 36 C.F.R. 1220.14. Accordingly, the LOC is subject to NARA's regulations governing creation, maintenance and disposition of Federal records.

If you have any questions, please contact me or Laura Naide at (202) 501-5535.



CHRISTOPHER M. RUNKEL
Acting General Counsel

¹Although the FRA's definition of "records" speaks of "agenci[ies] of the United States Government," the FRA uses the term "Federal agency" to define its jurisdiction. 44 U.S.C. § 2901(14).

MAD 23 1995

Date

Reply to
Attn of NI

Subject Request for legal opinion on the status of the Library of Congress under the Federal Records Act

To GC

Our recent dealings with legislative branch support agencies have raised the issue of the applicability of the Federal Records Act and other statutes governing records management to the records of the Library of Congress (LC) and the Congressional Research Service (CRS). Over the past two years, our office, has assisted legislative branch support agencies in establishing effective records disposition programs. We helped the Congressional Budget Office (CBO), the Office of Technology Assessment (OTA), and the Government Printing Office (GPO) conduct agency-wide inventories of their records from which we prepared comprehensive schedules for their use. We are currently helping the General Accounting Office (GAO) update its records disposition manual. OTA and GPO have submitted their schedules for approval of the Archivist of the United States, and we anticipate that CBO and GAO will do the same, once they have completed internal reviews of their schedules.

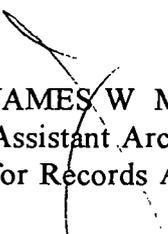
LC and CRS did not avail themselves of the aid that we offered in scheduling their records. They unilaterally compiled records schedules from records disposition authorizations based on the General Records Schedules (GRS). Enclosed are copies of the two schedules. The schedules were not submitted to NARA for approval. The disposable records are referenced to GRS items (or, in the case of Client Confidential Memoranda maintained by CRS, defined as non-record materials). The permanent records are referenced to the appraisal guidelines in our Disposition of Federal Records and slated for retention by LC or CRS itself. The general guidance accompanying each of the schedules contains no reference to NARA's role in authorizing the disposal of Federal records. Neither schedule, in fact, indicates whether the agency's records are Federal records whose disposition is governed by the Federal Records Act. The omissions on these points are probably deliberate, for the LC records officer advised us informally that opinion within the agency was divided over the applicability of Federal Records Act to the agency's records.

Although LC has retired records to WNRC since the 1960s, it was only in 1977 that NC established a formal arrangement for the storage of LC records at the center. The arrangement, which is still in effect, allows LC to store Copyright Office records at the center for 30 years, after which time the records are to be withdrawn by LC for final disposition. Enclosed

is a copy of the NC memorandum of October 7, 1977, governing the arrangement. Recently the Copyright Office requested our assistance in evaluating 1,766 cubic feet of unscheduled applications for copyright dating from 1898-1909. These records were among the first LC records retired to the center. As they have been stored at the center for a full 30 years, NCWA has asked LC to permanently withdraw them from the center. The Copyright Office is considering what to do with the records and has asked us to determine whether they have sufficient value to warrant permanent retention and transfer to the National Archives. Enclosed is a copy of the LC request of March 10, 1995.

We would appreciate your assistance in resolving these issues by determining whether the Federal Records Act and related records management laws are applicable to operational records of the LC and CRS, and of legislative branch support agencies in general. In other words, are the operational records of LC and CRS Federal records? If NARA were to accept the LC's offer of the copyright applications, should the transaction be treated as a transfer of Federal records or a donation of non-Federal documentary material? If LC wishes to dispose of the copyright applications or other operational records, does the agency need to obtain disposal authority from the Archivist of the United States? Are LC and CRS subject to the regulations that NARA has issued in 36 CFR Chapter XII, governing creation, maintenance and disposition of Federal records? Are we and the other legislative support agencies with which we have been dealing (CBO, GAO, GPO and OTA) correct in assuming that the disposition of their records is governed by the requirements of the Federal Records Act?

We look forward to your response on these issues. Please direct any specific questions regarding our dealings with the legislative branch support agencies to Henry Wolfinger on 713-7110, Ext 231.


JAMES W MOORE
Assistant Archivist
for Records Administration

Enclosures

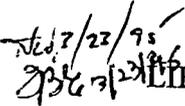
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March 10, 1995



Mr. James J. Hastings
Director, Records Appraisal and Disposition Division
Office of Records Administration
National Archives at College Park
8601 Adelphi Road
College Park, MD 20740-6001

Dear Mr. Hastings:

LIBRARY
OF
CONGRESS

The Copyright Office currently has in storage at the Washington National Records Center in Suitland, Maryland the original and renewal applications for copyright registration for the 1898 - 1909 period, (Accession # 297-64A0410 through # 297-64G0410). This body of records consists of 1,766 cubic feet containing 1,114,825 applications.

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The purpose of this letter is to request the assistance of your Office with an evaluation of these records. A brief synopsis of the background of these records may be helpful. Prior to 1898 all applications for copyright were made by letter. These records represent the first 12 year period in which application for copyright registration in the United States was made on a printed form, which was 4 pages in a leaf format. The applications contain information pertaining to the facts of copyright registration (e.g. title of the work, name of the claimant, etc.) and sometimes affixed to the application was a copy or a photograph of the work being registered or a portion of the work being registered, such as the title page of a book or the front cover of a musical composition. The applications for the 1898-1909 period represent works for which the copyright term has expired. These applications are divided into 9 classes: Class A - Books (literary compositions, in prose or verse, including newspaper articles, magazine contributions, serial stories, or single poems); Class B - Periodicals; Class C - Musical composition; Class D - Dramatic composition; Class E - Maps or Charts; Class F - Engravings, Cut or Print; Class G - Chromo or Lithograph; Class H - Photographs and Class I - Fine Arts. I have enclosed a listing of the classes with the number of cubic feet in each class and the box number ranges in the accession that contain that specific class of applications.

On July 1, 1909 the format of the printed application was significantly altered to a card form, and these application cards are in the Copyright Office public card index for use by the public in conducting searches. This card index file (covering the years 1909-1946) continues in usage to this date as the majority of these records still represent works under copyright protection.

March 10, 1995

Recently we were notified by the Washington National Records Center in Suitland that the retention period for these 1898-1909 records had expired. As a result we arranged a meeting with representatives from the Office of Records Administration to discuss these records and their eventual disposition. On Thursday, March 2, 1995 Henry Wolfinger, Chief of the Civilian Appraisal Branch and Lawrence Baume, Archivist, met with myself along with James Kepler, Head of the Library of Congress Records Management Section and Darleene Sewell-Jones, Head of the Copyright Office Records Management Section. During our meeting Mr. Wolfinger and Mr. Baume were briefed on this group of records and examined a sampling of the original applications.

Based on the above facts and our discussion with Mr. Wolfinger and Mr. Baume we are requesting that your office conduct an appraisal of these records to determine if they have permanent value and warrant continued preservation by the Government. If so deemed then these records would be eligible for transfer to the legal custody of the National Archives. Your timely consideration of this request is greatly appreciated.

I am available to provide any necessary information and assistance in this matter. I can be reached at (202) 707-6800 or by FAX at (202) 707-6859.

Sincerely,



James P. Cole
Assistant Chief, Information
and Reference Division

Enclosure

cc: Joan Doherty, Chief, I&R Division
James Kepler, Office Systems Services
Darleene Sewell-Jones, Records Management Section
Henry J. Wolfinger, Office of Records Administration
Lawrence Baume, Office of Records Administration

1898 - 1909 COPYRIGHT APPLICATIONS
(estimated 1.1 million)

<u>CLASS</u>	<u>VOLUME</u>	<u>BOX # RANGE</u>
Class A (Books)	- 413 cubic feet	# 484 - 896
Class B (Periodicals)	- 201 cubic feet	# 897 - 1097
Class C (Music)	- 302 cubic feet	# 1098 - 1399
Class D (Dramas)	- 61 cubic feet	# 1400 - 1460
Class E (Maps/charts)	- 44 cubic feet	# 1461 - 1504
Class F (Engravings)	- 83 cubic feet	# 1505 - 1587
Class G (Chromos)	- 33 cubic feet	# 1588 - 1620
Class H (Photographs)	- 74 cubic feet	# 1621 - 1694
Class I (Fine Arts)	- 67 cubic feet	# 1695 - 1771
Miscellaneous	- 5 cubic feet	# 1772 - 1776
1898-1900 Mixed classes (includes 93 feet of Renewals)	- 483 cubic feet	# 1 - 483
TOTAL	- 1,766 cubic feet	