

Cites & Insights

Crawford at Large

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Bibs & Blather

It's still here. I'm still here.

Those may be the most significant things to say about the current state of *Cites & Insights*—indeed, they may be the *only* useful things to say. It's still around, and you will note that this issue has a single-month date, suggesting that I anticipate doing another one next month.

At this point, given various circumstances, *Cites & Insights* goes back to a lower priority level among my activities than it's had for some time. Circumstances surrounding one particular essay (where I really did think I was adding value to a discussion that, as it happens, is by no means over—but the collective yawn with which the essay was met says to me that pretty much nobody else thought I was adding value) certainly help push *C&I's* priority down—as does a general lack of links to essays and issues, or mention of them, elsewhere on the web. That's not a complaint; it's reality.

The issues are still being read—or at least viewed and downloaded. I won't bore you with loads of statistics, but when I look at 2011 (through July 15), I see more than 44,000 issue downloads and more than 92,000 article views (for articles, that is, excluding site overhead and others). I see more than 13,000 IP addresses among the (nearly) 75,000 sessions. The most frequently viewed article this year, oddly enough, is from 2008: [an old media/new media perspective](#) from Volume 8, Issue 4, “Thinking about Kindle and Ebooks.” Second, much less oddly, is the five-year followup on Library 2.0. (My experiment in turning the Library 2.0 essays into [a very inexpensive paperback](#) and PDF, yielding \$4 for *C&I's* ongoing health? Five copies to date—two paperback, three downloads. And it appears that only seven people were sufficiently interested in the Library 2.0 essays to get the relocated PDF versions, even

though hundreds have linked to the original, now essentially empty, versions.) Third is a golden oldie on conference speaking; fourth, the 2006 “great middle” liblog study. And fifth, making any further analysis entirely useless, is the OFFTOPIC PERSPECTIVE on the first six discs of the 60-disc Mystery Collection of 250 old movies. Go figure.

What gets higher priority, other than family life? Work that pays—specifically, the book I'm finishing up for one publisher and the book (involving loads of research this Fall) that's due to another publisher next March. Also my remaining column and any new paid writing gigs. I anticipate working on ideas for other books (no, they don't get as many readers as *C&I* articles do—but, you know, they hang around for a while and I get a few bucks from writing them) after the March 2012 submission. I'm *hoping* I might get a few speaking engagements based on the next couple of books, but we'll see how that goes.

After family, writing that pays, reading and relaxing, and hanging out online with LSW and others, there's likely to be energy enough for *Cites & Insights*. Possibly with less regularity. Probably with less intensity. That may turn out to be a good thing. We shall see.

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Odds of reaching Issue 144 (one goal of sorts): Nearly 100%, barring disasters. Odds of reaching Issue 150 (another goal of sorts): Probably greater than 95%. Odds of reaching the 20th anniversary of “this thing” (where “this thing” includes *C&I's* predecessor in *Library Hi Tech News*): That's still a few years away (the end of 2014 or early 2015), so I won't speculate.

Changes

After all my posts and the feedback I've received, here are the current changes in *Cites & Insights*:

- HTML versions *will* have hyperlinks for cited sources, beginning with this issue—and to the extent that PDF supports hyperlinks, so will the PDF. One consequence: I won't repeat the URLs as plain text.
- I will be using the new & improved “Web” template in Word to produce the HTML versions from now on.
- The change in layout initiated last issue will continue. So far, nobody's told me they know what that change is, so it's clearly not something most people notice.

If I get energetic (beyond writing some essays for future issues), I might convert some previous issues to the new HTML template. If I do that, I might also do retrospective blog posts for each “restored” essay.

Copyright Comments

Talking About the Public Domain

Ah, the public domain: Where creative work is *supposed* to wind up after a limited period during which the creator has exclusive control over distribution and copying. An ever-growing pool of literature, music, photography, video and art that we can use not only as inspiration but also as the direct basis for new works, annotating, deriving or just plain redistributing.

What a wonderful thing.

Too bad it's basically been frozen for quite a few years now, with almost nothing new entering the pool (except government publications—which *start* in the public domain) and things tagged with the Creative Commons CCo license. Oh, and probably a few cases where a creator's been dead more than 70 years and has works produced since 1923.

Not only has it been frozen in the U.S., there are laws and treaties that would appear to *shrink* the public domain pool—which should, by any rational reading of the Constitution, be flatly unconstitutional.

I won't dignify this set of notes with either a “Perspective” label or a claim of currency (note the flag: COPYRIGHT COMMENTS, not COPYRIGHT CURRENTS). These are just some notes on items that have accumulated over the years, with commentary where I think it's useful.

Can You Remove Material from the Public Domain?

As constant readers should know, I've been watching “old movies” published in large, cheap, VHS-quality DVD collections by Mill Creek Entertainment for quite a few years now. Although there are exceptions—TV movies and productions where the publisher could apparently arrange free or cheap licensing—most of these movies are in the public domain. In most cases, you could watch them from the Internet Archive or other sources; I find MCE's packages worthwhile and reasonably priced. When I complete a disc (typically four movies), I post a set of mini-reviews to [Walt at Random](#). When I get through half a typical collection (six discs) or, for smaller collections, the full collection (or, for one massive 60-disc set, six discs), I publish an OFFTOPIC PERSPECTIVE in this ejournal. (That's the other essay in this short issue, for example.)

One smaller collection, given to me by Mill Creek Entertainment as part of a remarkably generous correction for a tiny problem, was *Alfred Hitchcock: The Legend Begins*—a four-DVD set containing 18 of Hitchcock's pre-Hollywood films, two episodes of *Alfred Hitchcock Presents* and a great 55-minute extra: a collection of trailers, mostly from Hitchcock's Hollywood era. I [wrote up that collection](#) in the [September 2009 Cites & Insights](#).

When I posted reviews of the first disc's movies, I got a long comment from a British reader saying that this set was legally questionable (not the term used)...because the early Hitchcock movies, *clearly in the public domain in the U.S. at one point*, had copyright “restored” by the Uruguay Round of IP agreements and the 1996 copyright law in the U.S...and wouldn't re-enter the public domain until at least 2050.

I removed the first version of the comment, and paragraphs of a second version, because of legal claims that simply didn't belong in my blog. But that left the issue: Was—*Is*—Mill Creek Entertainment flagrantly infringing copyright? The four-disc set is still available from Amazon, if you're willing to lay out \$5.49. Except for the trailers (an unfortunate omission), it's also all contained within one of MCE's 50-packs, *Legends of Horror* (probably the weakest collection I've encountered, but it's \$10 or so if you're interested).

If these are gross infringements, you'd think they'd disappear.

I [commented on this situation](#) after posting the final set of reviews—and that comment appeared during the brief period when *Walt at Random* was part of ScienceBlogs, so the formatting on the post is unfortunate (migrating posts back to WordPress from TypePad “simplified” some formatting and had a nasty habit of turning paragraph breaks into line breaks). Here's part of what I had to say at the time:

Legitimate?

...Was I watching a legitimate packaged set of old movies or is this set “dodgy”?

A couple of key points up front:

I am not a lawyer. I'm interested in copyright and have written about it, but always from a semi-informed layperson's point of view. Let me say that again: **I am not a lawyer. This is not legal advice.**

Mill Creek Entertainment, successor to TreeLine Films, has been around for a while. The company—a division of DigitalStop—has a street address. It is possible to contact them. The Hitchcock set's been for sale for at least two years, through such obscure distributors as [Amazon](#).

Anyway...

When I posted my off-the-cuff reviews for Disc 1, one of my online correspondents from the UK objected strongly—that these movies were not in the public domain and that Mill Creek wasn't a known licensee. The post came from someone I respect, but I had to edit the comment, as it made legal claims I wasn't going to get in the middle of.

On the other hand, the post did alert me to something I'd never heard of before: Copyright restoration. Apparently, thanks to the wonders of international treaties, some UK material that was definitely in the public domain within the U.S. (and maybe even in the UK) had copyright restored retroactively—with a clause allowing distributors, who had released the PD material in good faith, to sell out existing stocks for a year after being notified by copyright-holders that the works were now once again protected.

So, well, other than saying “that's appalling if true”—as it seems to violate not only the spirit of U.S. law but also the Constitutional basis for copyright—I could only fall back on the second point above: The material's being sold openly by a legitimate company with a known U.S. address; if there's a problem, it's up to the copyright-holders to address it.

But wait! There's more!

More recently, I heard about *Golan v. Holder*, a case in the U.S. District Court for the District of Colorado, decided on April 3, 2009.

Briefly, the 10th District Court found that the copyright restoration (Section 514 of the Uruguay Round Agreements) was unconstitutional.

Which would appear to put these movies (back?) in the public domain. At least for now. At least in the 10th district. Subject to appeal, of course. And to possible new Congressional acts—but it's getting a little tougher for Congress to keep imposing longer and tougher copyright in the assumption that nobody's looking.

Why the licensees might step back

I don't believe it should be legitimate to restore copyright in materials that legally, properly fell into the public domain. I believe copyright is too long in the U.S. anyway—and this particular restoration means that materials created by non-U.S. citizens actually have an advantage over U.S. creations, within the U.S. (The act didn't restore any native-U.S. materials to copyright.) That also seems odd.

But there's another issue to consider—namely, that for movies, at least, proper license holders with actual access to original materials shouldn't worry too much about public domain versions. Why?

Because the license holders can offer something the PD vendors can't: Fully-restored DVDs created from the masters, rather than from whatever prints happen to be available. The movie may be in the public domain, but the masters continue to be the physical property of whoever owns them.

Having watched the Mill Creek set of 18 movies, 2 TV episodes, and 19 trailers (the 19 trailers being one of the most charming aspects), I would think that any true Hitchcock enthusiast would spend the \$156 extra to get the “proper” versions of ten of the 18 movies from Criterion, Lions Gate or MGM after spending the \$8 for this set. You'd presumably get better print quality, extras and expert commentary. (Not that these prints are all terrible—most of them are actually pretty good.)

Would I pay the extra money? No, because I've realized I'm never going to be a great fan of early Hitchcock. But I wouldn't have paid that money anyway—and at least I've been exposed to some interesting flicks I'd have never heard of otherwise.

More on the April 2009 Situation

I probably picked up my information from an *ars technica* story from April 2009, “[Court: Congress](#)”

[can't put public domain back into copyright](#)," written by Nate Anderson. Excerpts:

In 1994, Congress jammed a batch of foreign books and movies back into the copyright closet. They had previously fallen into the public domain for a variety of technical reasons (the author hadn't renewed the rights with the US Copyright Office, the authors of older works hadn't included a copyright notice, etc.) and companies and individuals had already started reusing the newly public works. Did Congress have the right to put a stop to this activity by shoving the works back into copyright? On Friday, a federal court said no...

Lawrence Lessig and a team from Stanford have been arguing for years in *Golan v. Gonzales* (now *Golan v. Holder*) that Congress overstepped its authority when it [restored copyright in these works]. A federal court disagreed and issued a summary judgment against *Golan*, a music teacher who had been freely using Prokofiev sheet music before it reverted back into copyright. But the 10th Circuit Court of Appeals said back in 2007 that the case should be reconsidered on First Amendment grounds. Last week, the federal judge who oversaw the trial changed his ruling and agreed that URAA violated the First Amendment....

In the new ruling, Judge Lewis Babcock conducted his First Amendment analysis and concluded that URAA did change the "traditional contours of copyright" in one important sense: it meant that the copyright sequence no longer moves only from protection to public domain. Indeed, at the whim of Congress, public domain works can now migrate into copyright. "Such an alteration is inconsistent with the copyright scheme as designed by the Framers and as implemented by Congress in the ensuing years," wrote Babcock...

While further appeals are likely in such a prominent case, Lessig & Co. can at least take some momentary comfort from confounding the naysayers and finding the edge of Congressional authority to tinker with copyrights.

Groklaw also had [an item on this holding](#), published April 6, 2009, including the text of the decision itself and links to some other commentaries and resources. A key sentence about the decision: "I read it as saying that nothing, not any treaty, not even the Berne Convention, can trump the US Constitution." You might find the rest of the item worth reading. Do note that the case is about scores for musical works, not old movies—but it applies to a great many works created outside the U.S., including the Hitchcock flicks.

Win Some, Lose Some...for Now

The decision was, of course, appealed—and on June 22, 2010, Mike Masnick published [this item](#) at *techdirt*: "Terrible News: Court Says It's Okay To Remove Content From The Public Domain And Put It Back Under Copyright." Excerpts:

Warning: this one is depressing if you believe in the public domain. You may recall that last year, a district court made a very important ruling on what appeared to be a minor part of copyright law. The "*Golan*" case asked a simple question: once something is officially in the public domain, can Congress pull it out and put it back under copyright?... Getting a second crack at this, the district court got it right -- and was the first court to point out that massively expanded copyright law can, in fact, violate the First Amendment.

But, of course, it couldn't last.

On Monday, the appeals court reversed the lower court's ruling and said there's no problem with the First Amendment because copyright law "addresses a substantial or important governmental interest." This is, plainly speaking, ridiculous. The argument effectively says that the government can violate the basic principles of the First Amendment any time it wants, so long as it shows a "substantial or important government interest." But that makes no sense. The whole point of the First Amendment was to protect citizens' interests against situations where the government's interests went against citizens' interests. It should never make sense to judge a First Amendment claim on whether the government has "substantial or important" interests.

On top of that, the court basically said "Congress knows best" on this issue. Again, this seems to go against the entire point of the First Amendment and the important judicial protections of the First Amendment. The whole point of court oversight of Congress is because Congress doesn't always know best. But here, the court has no problem deferring entirely to Congress...

Most worrying of all? The court says that it should keep out of this discussion because it involves international relations and international treaties. See why you should be scared to death of ACTA? The courts are effectively admitting that once you get these "international obligations" in place, the courts should mostly stay out of the discussion, even if it violates the basic tenets of US law. That's downright scary. The court gives a lip service defense to this, saying that it can still review international agreements to make sure they abide by the First Amendment... but... for the most part, it'll just defer to Congress....

In this particular case, a very serious issue was raised: works that clearly were in the public domain, and which some publishers were relying on as public domain documents suddenly are no longer in the public domain. If you have any respect at all for the core notion of copyright -- which was originally supposed to be about getting more works into the public domain -- the idea that you can then take works back out of the public domain is downright ludicrous. It goes beyond being a violation of the basic contours of copyright law. It goes against the very Constitutional principles behind copyright law -- and does so in a way that is a clear violation of the First Amendment.

Which part of "**Congress shall make no law... abridging the freedom of speech**" does this court not understand?

All in all this is an incredibly frustrating ruling. It feels like the court didn't actually want to address the admittedly difficult question of how the First Amendment and copyright law come into conflict, so it just punted and said "well Congress knows best, so it's okay." The case will almost certainly be appealed, potentially for an en banc (full appeals court review) or directly to the Supreme Court. So this most certainly is not over yet. But after a reasonable ruling last year to this year's reversal, it's definitely a step backwards for anyone who believes in the importance and sanctity of the public domain....

There's quite a bit more to the post, including some other arguments and a viewable version of the decision itself. You might even want to read the 161 comments—or maybe not.

The good news? As reported by Marc Perry in a [May 29, 2011 Chronicle of Higher Education](#) article, "Supreme Court Takes Up Scholars' Rights." Which is to say: The Supremes did agree to hear this case. It's an interesting article, focusing primarily on plaintiff Lawrence Golan, who conducts the University of Denver's student orchestra (he's a tenured professor) and relies on scores in the public domain to stretch the group's tiny budget. A key excerpt:

The change was surprising from a philosophical point of view: Under copyright law, the Constitution grants authors a limited monopoly over their works as an incentive to promote creativity. Over the years, Congress has often delayed the passage of works into the public domain by lengthening the duration of copyright terms. But removing pieces already there was different, Mr. Golan's lawyers argue, a radical

change in what one scholar describes as the basic "physics" of the public domain.

That may sound abstract, but the impact on Mr. Golan was direct. When a work is in the public domain—that Puccini opera, say—an orchestra can buy the sheet music. Symphonies typically cost about \$150. And the orchestra can keep those pages forever, preserving the instructions that librarians laboriously pencil into scores. But works under copyright are typically available only for rent. And the cost is significantly higher: about \$600 for one performance. With the flip of a switch, the new law restored copyright to thousands of pieces.

Golan's group gets about \$4,000 a year to rent and buy music—and many colleges have a lot less than that to spend on music, sometimes as little as \$500. "When the Conductors Guild surveyed its 1,600 members, 70 percent of respondents said they were now priced out of performing pieces previously in the public domain." Again, there's a lot worth reading in the full *CHE* article—and, sigh, comments that are in some cases exactly what you'd expect, including those from copyright extremists, although there are also some thoughtful comments.

This situation isn't unique to the U.S. There is an [International Music Score Library Project](#), a Wiki offering scores that were in the public domain in Canada—because Canada has a term of life plus 50 years, not the life plus 70 years of the U.S. and some European countries. According to "The Public Domain is Offline," [posted October 21, 2007](#) at *copy this blog*, the Wiki was shut down after Universal Edition, a European music publisher, sent IMSLP a cease & desist letter to stop offering scores from publishers within that 20-year window (and some who'd been dead more than 70 years). "There are many issues brought up by this situation. One of the most worrying is that the most restrictive copyright law in the world can potentially become the de facto copyright law of the Internet, particularly for those with few resources." In fact, the library (the Petrucci Music Library) is still there, with nearly 100,000 scores from more than 5,800 composers (as well as more than 2,500 recordings), but it's fair to assume that a fair amount of stuff was removed. Still, even reduced, IMSLP is a good example of what the public domain can do for you—as is, of course, the Internet Archive. Returning PD material to

copyright does nothing to increase creativity but does much to mess things up in general.

Where will this end? Possibly in this year's Supreme Court decisions—and given the current court's attitudes regarding corporations and citizens, I'm less than sanguine about the outcome.

Copyfraud and the Public Domain

Here's a topic that deserves a big, fat, controversial essay by somebody who's done the research and isn't afraid to call a spade a bloody shovel. I'm not that person, but here are a few posts related to one big aspect of copyfraud: Claiming that public domain material is actually under copyright.

Special collections and the public domain

Steve Lawson posted [this discussion](#) at *See Also...* on February 5, 2009. He links to a post on Sage Ross's blog—but that blog's moved. Here's [a link to the current home](#) of “Libraries and copyfraud,” posted January 30, 2009.

The situation: Sage Ross, a Wikipedian, was working on a list of portraits of Darwin for Darwin Day 2009, and ran across a photograph at the Huntington Library taken in 1881 and “possibly the last [photo] before Darwin's death.”

Press releases and exhibition descriptions invite people to contact the Huntington to request images, so I requested the Darwin photo. The response I got was typical of how libraries and archives deal with digital copies of rare public domain material.

The Huntington quoted distribution fees for the digital files (different sizes, different prices), and also asked for specific descriptions of how the image would be used, so that the library could give explicit permission for each use. Had I wanted to use it for more than just publicity (e.g., in a publication) more fees would apply. Apparently the curators were not used to the kind of response they got back from me: I politely but forcefully called them out for abusing the public domain and called their policy of attempting to exert copyright control over a public domain image “unconscionable.”

The post continues regarding Ross's exchange with the Huntington, wherein he argued that, while charging fees for distribution itself is fine, the library “has neither the moral nor legal right to pretend authority over the image”—and that

“everybody does it” isn't a defense. In the end, Ross was told to contact Yale libraries and museums to see whether they do things differently—again the “everybody does it” defense for what Ross considers copyfraud.

Unfortunately, the Curator is right that copyfraud is standard operating procedure for libraries and archives. Still, I think it's productive to point out the problem each time one encounters it; sooner or later, these institutions will start to get with the program.

In this case, there's *clearly* no question about the status of the image. The photograph was taken in 1881. The photographer died in 1896. The version at the Huntington is from a postcard published around 1908. By any standard, this is public domain material. Oh, and by the way, “Everybody does it” with a finger pointed at Yale turned out to be the wrong response: Yale's libraries and archives (as noted in comments) understand the distinctions.

One of the more interesting copyright court cases—and one of the few that's been on the side of broader usage—shows up here: *Bridgeman Art Library v. Corel Corp.* [You can read about it at Wikipedia](#). In brief, the decision ruled that *exact* photographic copies of public domain images are not protected by copyright: They lack originality. By inference, an exact digital copy of a public domain item should also be in the public domain. (How did Corel get involved? Corel used to sell CD-ROMs containing excellent high-resolution photographs of artworks, obtained from a company that's since disappeared—and Bridgeman Art Library, which licenses copies of similar photos of artworks, sued Corel, claiming that the photos could only have come from Bridgeman and were therefore copyright infringements.)

I'll leave Lawson's post for you to read on your own, if only because I don't find that I have much to say about his comments.

With some trepidation, I'll point to [“Copyfraud: Poisoning the public domain”](#) posted on June 26, 2009 at *The Register* by Charles Eicher. Why trepidation? Because it's *The Register*, for one—but also because I'm not at all sure that Eicher isn't confusing copyfraud (“plundering the public domain”) with legitimate enhancement—that is, building new works based on public domain works. Eicher certainly asserts that the examples he gives are “nothing but excerpts” of public domain material and that Google Books is

complicit with copyfraud by suppressing access to the PD originals. (How is it that Google Books can be legally required to make scanned material available?) There are some interesting links in Eicher's piece and it's worth reading—but I do believe a distinction needs to be made between pure reproduction and new editions of public domain works. A new edition adds value, even if that value is only in the new cover and the typography used. Yes, if the publisher claims copyright over the original text, that's copyfraud—but I think that's a subtler issue.

Otherwise—if we claim that *any* work based on public domain material is itself public domain—there's another slippery slope: There's no economic motive for someone to produce new work based on PD material. That would be an odd perversion of the whole idea of the public domain.

An [April 5, 2009 post](#) by Jason Griffey at *Pattern Recognition*, "Ebooks, copyright, and the University of Virginia," appears to deal with a situation similar to Sage Ross's—a reasonably pure case of claiming copyright where copyright probably can't be claimed. Part of the conditions of use for UV's ebooks collection:

While many of these items are made publicly-accessible, they are not all public domain — the vast majority of the images, and a number of the texts, including all of those from the University of Virginia Special Collections Department, are copyrighted to the University of Virginia Library, for example, and a number of other texts are still copyrighted to their original print publishers and made available here with permission.

Griffey has "no qualms with the texts that are copyrighted by their original publishers" but is taken aback by the rest of the claim.

Really?

I had my suspicions here...it's not like the UVA Special Collections Department are writing books, right? After look around, I found this text: [Po' Sandy](#) by Charles W. Chestnutt. Published in 1888 in the *Atlantic Monthly* in New York, it is clearly in the public domain in the United States. But there it is, in the front matter:

Copyright 1999, by the Rector and Visitors of the University of Virginia

Looking around just a bit, it looks like this shows up on all sorts of texts that UVA digitized. My favorite is *The Autobiography of Benjamin Franklin*, completed in 1788 by Franklin but [the particular](#)

[version](#) republished by UVA was published in 1909 by P. F. Collier & Son Company in New York. Also, without any doubt, in the Public Domain in the US. It also has the note:

Copyright 1999, by the Rector and Visitors of the University of Virginia

What gives UVA the right to claim copyright on these texts? They couldn't have legally digitized them if they weren't in the Public Domain at the time of their digitization, and changing the form of something doesn't give you the right to claim a copyright, especially on the bits that make the work up. Even stranger, they aren't just claiming copyright, but including a EULA!

After a couple of other questions, Griffey ends: "Can anyone explain to me how they could possibly have legitimate copyright claims on things that they didn't create and are beyond the time limit for copyright protection in the US?" The handful of comments—one of which notes the Corel decision—doesn't provide any satisfactory answer, and none seems to have emerged from UVA.

A Bunch of Interesting Items

There's your organizing principle: These are all about the public domain, but don't necessarily have much else in common, so the "roughly chronological" organizing method applies. First, though, there's one I'd *like* to link to but can't: John Wilkins' "Discovering the Undiscovered Public Domain." It's from 2008 and about a modest University of Michigan project to determine the copyright status of works published between 1923 and 1963—but Wilkins prunes his blog, and I can't find this post anywhere. Too bad: It was an interesting project, and I was mostly going to say "Go read it."

Copyright Term and the Public Domain in the United States

You *can* go read and use [this piece](#), by Peter Hirtle at Cornell, which I flagged in 2009 but which has been updated as recently as January 1, 2011. It's a heavily-footnoted table that shows where each *category* of material should stand—starting with the strangest case, "Never Published, Never Registered Works" (which can be protected for as long as *120 years* from the date of creation in some conditions).

I can but point and say "This is good stuff," available as an HTML page or printable PDF

version. A key point: If a work was first *published* in the U.S. *without a copyright notice* between 1923 and 1977, it's in the public domain—but that “first published in the U.S.” had better be certain. Oh, and think 120 years is bad? Sound recordings published prior to February 15, 1972 won't fully enter the public domain until February 2067! So, for a recording published in 1923 (the equivalent of a book that's definitely PD), that's 144 years of protection...and sound recordings go back quite a few years before 1923.

Thank you for giving me the opportunity to explain this to you

This one's by Mark Pilgrim, [posted October 19, 2009](#) at *dive into mark*. Technically, it's *not* about public domain—but the GNU Free Documentation License has similar effects. It's a form of “copyleft” that allows for republication and derivation but requires that the new work carry the same terms.

The situation: Pilgrim wrote a book *Dive Into Python*, published by Apress. The book has always been [freely available online](#) in several forms and as a priced print paperback (and, now, not at all free Kindle ebook). Somebody else published their own version of the book and got it on Amazon.

This apparently caused a small firestorm within Apress, the exact details of which I am not privy to, but which (I am told) became a somewhat larger firestorm after the Apress executives realized they had no legal recourse, and asked my opinion on the matter.

His opinion, in brief: He deliberately used a Free Software/Free Culture license, so there's no real issue here.

Still, there's a qualitative difference between letting people download your own work from your own site, and watching other people try to profit from it. But it is precisely this difference that strikes at the heart of the Free Software/Free Culture ethos. Part of choosing a Free license for your own work is accepting that people may use it in ways you disapprove of. There are no “field of use” restrictions, and there are no “commercial use” restrictions either. In fact, those are two of the fundamental tenets of the “Free” in Free Software. If “others profiting from my work” is something you seek to avoid, then Free Software is not for you. Opt for a Creative Commons “Non-Commercial” license, or a “personal use only” freeware license, or a traditional End User License Agreement. Free Software doesn't have “end users.” That's kind of the point.

You'll find Price's response to Apress interesting. As to the “anonymous soul” who published another edition of the same book? “I am grateful...” and he explains why:

Grateful, because it afforded me the opportunity to remind myself why I chose a Free license in the first place. My Zen teacher once told me that, when people try to do you harm, you should thank them for giving you the opportunity to forgive them. In this case it's even simpler, because there's nothing to forgive, just explain. She's redistributing the work that I explicitly made redistributable. She's kind of the point.

The comments are also interesting—including the “unfortunate side of this story:” At Apress's request, Amazon took the “mystery publisher's edition” off its market.

This may be a useful lesson for those using CCo (explicitly placing work in the public domain) or most other CC licenses—and for fair use issues as well: People *will* use your material in ways you may not entirely like, and you need to be able to deal with that. Pilgrim does this admirably.

A Defense of the Public Domain:

A Scholarly Essay

Laura N. Gassaway wrote [this article](#), which appeared in the Fall 2009 *Law Library Journal* in revised form. The link takes you to an abstract, where there's a Download button for the 39-page (double-spaced) PDF itself. Here's the abstract:

Much has been written for librarians about copyright law. Despite the importance of the public domain, it has attracted much less scholarly attention than has copyright law generally, and yet a healthy and robust public domain is crucial to our society. It provides the building blocks for authors, composers, artists and movie makers who can borrow from public domain works without seeking permission of copyright owners. Unfortunately, the public domain is under attack from expanding the term of copyright, to making it more difficult for works to enter the public domain in the United States. Some librarians have asked if vigorous application of fair use cannot substitute for the shrinking public domain. It cannot. Fair use is a defense to copyright infringement and is very fact determinate. A court's finding of fair use applies only to the two parties to the litigation while the public domain is available to everyone from individual users of works, to artists and authors and to publishers and producers. It is crucial that the public domain be energetically defended. Today, it

is not clear whether an author can even place his or her work in the public domain since copyright attaches automatically. A statutory method must be developed for authors to place their works in the public domain.

I would like to assure you that I've read this in great detail, fully understand every point Gassaway is making, and can offer comments on areas as appropriate. That would, unfortunately, be a pack of lies. I've skimmed the article. Gassaway is a respected copyright scholar; I'm not likely to critique her assertions. The article's definitely worth reading. I do wonder about her seeming assertion that CCo does *not*, in fact, place works in the public domain—but here again, where someone with her expertise is involved, “do wonder” is as far as I'm likely to go.

Shedding light on images in the public domain

This post by John Mark Ockerbloom [appeared February 8, 2010](#) at *Everybody's Libraries*. Ockerbloom notes cases in which he gets requests for licenses to reproduce images (in the University of Pennsylvania Libraries) from books published more than a century ago.

In those cases, I respond that the image is in the public domain (and our digitization, which adds no originality, is also in the public domain), so no license is necessary or appropriate.

Usually that response receives a thankful reply, sometimes with signs of surprise that an image can be reused without permission. But sometimes I'll get back a more alarmed reply. “My publisher says I need a license for every image in my book, or I can't use it,” it might say, followed by a plea for help in tracking down some long-defunct 19th century publisher.

There's quite a bit more to this post—leading up to Ockerbloom's announcement of [scans for all active copyright renewals for artwork](#). (That link is to a page that includes links for year-by-year scans and original copyright registrations and some summaries and indexes.) Ockerbloom notes that less than 1% of images with copyright registered in 1923 were renewed in 1951, when they came up for renewal. With these new tools, it's plausible to expand the range of images demonstrably in the public domain.

So we have a rich treasure trove of images in the public domain that's been largely buried under presumptions and uncertainties about copyright. By finding and sharing information about their

copyrights, we can protect and enjoy these images in the commons of the public domain, where they can be viewed freely, included in new works, and reused in any way we can imagine. If you find this prospect intriguing, I hope you'll help bring these images to light.

No real comment other than “good stuff.”

The search for the oldest copyrighted work in the U.S. goes on...

Mary Minow's [April 8, 2010 post](#) at *LibraryLaw Blog* is fascinating reading. Some 11 days earlier, Minow had posted speculations as to what copyright-protected work was oldest and what work will have the longest protection. At the time, she offered a line of reasoning that concluded that John Adams' diary from 1753 met both criteria. The second post discusses some issues as to whether that diary really is under copyright—and her best guess at this point is that it is *not*: that it's in the public domain. It's an interesting and fairly complex discussion that you need to read in the original.

Why should data be released under the CCo waiver...

That's the title of [a December 9, 2010 post](#) by John Dupuis at *Confessions of a Science Librarian*, and the ellipsis is followed by “...Instead of a different Creative Commons license, such as [CC-BY](#)? Or just with normal copyright restrictions?”

Set aside Laura Gassaway's suggestion that CCo doesn't actually waive copyright. It's still an interesting discussion—and, in some ways, an odd one, given that data as “a set of facts” is *not* protectable by copyright in the U.S. (of course, Dupuis is in Canada). Indeed, one online resource quoted concerns exactly that situation: Some jurisdictions allow copyright over database design and structure, offering an odd form of protection for facts that aren't themselves copyrightable.

Dupuis also links to items that point out why you should *not* use something like CC-BY for data itself: It just gets in the way of creating new datasets.

Public Domain Day 2011:

Will the tide be turned?

Let's close with [this generally hopeful post](#) by John Mark Ockerbloom on January 2, 2011 at *Everybody's Libraries*. Public Domain Day is the day on which a year's worth of copyrights expires—when a nation's laws allow for any expirations at all. In some nations, including

Canada, that's still life+50...although in a few others, such as Mexico, it's now extended even beyond the ridiculous life+70.

Go read the post. I like winding up on a positive note. One of these days I'll figure out how I can legally do what I'd just as soon do: Follow Ockerbloom's lead and dedicate my own writing to the public domain after it's been published for 14 years. Does anybody *want* to republish, say, *MARC for Library Use or Technical Standards: An Introduction for Librarians* or my other books up to and including *Desktop Publishing for Librarians* and *The Online Catalog Book*? If so, tell me how I can explicitly waive copyright and I'll be happy to. (That offer does *not* hold for *Future Libraries*, which has a coauthor and may still be in print. I've regained the rights to all of my earlier books, all of which are out of print.)

And, without a full discussion, I must mention Hathi Trust's work to identify items that are in the public domain. [This Library Journal story](#) provides a good starting point.

Offtopic Perspective

Mystery Collection, Part 4

Discs 19-24 of this 60-disc, 250-movie megacollection.

Disc 19

Sucker Money, 1933, b&w. Dorothy Davenport & Melville Shyer (dirs.), Mischa Auer, Phyllis Barrington, Earl McCarthy, Mona Lisa. 0:59.

The opening titles call this an exposé of phony psychics—but it's really a remarkably slow-moving B movie. Newspaper editor sees an interesting help-wanted ad, tells reporter to go undercover on what might be a human-interest story. The job turns out to be one of the actors in a swami's theatricals, as the swami works to con marks out of big money, then move on.

We get danger, hypnotism, lots of nonsense, a swami who's fond of killing as many associates as possible and an eventual happy ending. In the process, we also get some absurd acting and one of the most lethargic suspense flicks I've ever seen.

Very charitably, \$0.75.

The Chase, 1946, b&w. Arthur Ripley (dir.), Robert Cummings, Michele Morgan, Steve Cochran, Peter Lorre. 1:26 [1:22]

Down-on-his-luck navy vet, standing outside a café unable to afford a meal, finds a lost wallet at his feet. Has a meal—then, seeing the card for the wallet's owner, returns it to a posh Miami house where two suspicious servants eventually lead him to the owner. The owner's a tough guy, a successful criminal, who's impressed with the vet's honesty and takes him on as a chauffeur (firing his existing chauffeur). On the first drive, the thug shows off his trick car: He can flip a switch and take over control of the accelerator from the back seat, in this case running it up to 110MPH and seemingly racing to cross the tracks ahead of an oncoming train—before suddenly stopping.

The thug's wife (although I guess successful criminals who dress nicely are mobsters, not thugs) is desperate to leave him, enlists the chauffeur to take her to Havana...and she's killed there, with the murder pinned on the chauffeur. There's a complex chase...and we find out that it's all a hallucination/dream. Or at least part of it is. The vet takes a whole bunch of pills and calls his Navy doctor.

There's even more plot after that and a happy ending of sorts. It's an interesting piece of noir, with Lorre doing a good job as the thug's sidekick and Cummings good in a non-comedy role. Unfortunately, the print's frequently bad enough to be nearly unwatchable in night scenes, the missing four minutes could be significant, the romance makes little sense and the ending's a little too easy. On balance, I'll give it \$1.25.

Woman in the Shadows (orig. *Woman in the Dark*), 1934, b&w. Phil Rosen (dir.), Fay Wray, Ralph Bellamy, Melvyn Douglas, Roscoe Ates, Ruth Gillette, Joe King, Granville Bates. 1:09.

As we begin, a man's getting out of prison—with the warden saying he probably shouldn't have been there anyway and he needs to watch his temper. The parolee (Bellamy) gives back the money the prison provides on release—and adds some of his own, for whatever good purposes the warden finds. The man, who hit somebody in a fight and was in prison for three years for manslaughter because the other person died, is going back home to live in his deceased father's cottage and stay out of trouble.

The story seems mostly to be about attitudes. The sheriff thinks any ex-con is a criminal and to be avoided, with the ex-con's word meaning nothing. The sheriff and police think that a single woman (Wray) who's beautiful and tried to make a living as a singer must be a prostitute—and her word means nothing. And, of course, a degenerate wealthy young man (Douglas) is the Pride of the

Community, and his word is worth everything. A lawyer starts out by pawing his client and booking her into an adjacent room at a motel. Oh, and police are generally both incompetent and fully willing to violate anybody's rights.

The heart of the story comes in the last seven minutes, which makes for some odd pacing. It ends happily, I guess. Great cast, some good performances, decent print, but I found the whole somewhat unsatisfactory. (By the way, the longest IMDB review is flat-out wrong, with its "shady gangster and on the run moll.") On balance, \$1.25.

The Scar (orig. *Hollow Triumph*), 1948, b&w. Steve Sekely (dir.), Paul Henreid, Joan Bennett, Eduard Franz, Leslie Brooks. 1:23.

Here's the setup for this noir mystery: A bright guy named Muller—medical education, all that, but a habitual criminal—gets out of prison with a job reference and the expectation by the warden that he'll be back. He immediately contacts his crooked colleagues and insists on setting up a casino heist. It doesn't go quite as planned. Although Muller and one accomplice get away with \$200 grand (or something like that), four others are captured and finger him. The casino owner's known as someone who *never* gives up when he's crossed.

Muller goes to LA and takes the job, such as it is...and, delivering a parcel, is recognized. But he's recognized as someone else, the psychiatrist Dr. Bartok, and when the person (a dentist in the same building) sees him full-face, he sees the one difference: Bartok, otherwise an exact double, has a large scar on his face. Muller also encounters Bartok's secretary, who obviously had something going with Bartok.

After Muller encounters a couple of the casino owner's hoods, he decides to become Bartok. He romances the secretary and gets some of Bartok's voice records; he also takes a picture of Bartok so he can create his own scar. Except that the photo store screwed up doing the enlargement—flipping the photo.

Ah, but *nobody notices*—including the secretary, patients, the dentist and Bartok's girlfriend. (Muller's killed Bartok to assume his identity, naturally.) And so it goes, right up until the climax, which is a slight twist and has to do with Bartok's own considerable failings.

An odd story but an interesting one, well played by Henreid as both Muller and Bartok and by Bennett as the secretary, with a strong supporting cast and excellent, subtle lighting and photography. (For what it's worth, a 28-year-old Jack Webb is in the

movie—for about two minutes in a tiny uncredited part as one of the hoods.) I wouldn't call it great, but it's quite good and the print's consistently very good. Worth \$1.50.

Disc 20

The Mystery of Mr. Wong, 1939, b&w. William Nigh (dir.), Boris Karloff, Grant Withers, Dorothy Tree, Craig Reynolds, Ivan Lebedeff, Holmes Herbert, Morgan Wallace, Lotus Long, Chester Gan. 1:08 [1:10]

Since I previously discussed the oddity of Boris Karloff playing the highly cultured, highly educated Mr. Wong, I won't repeat that discussion. He's first-rate in the role, and the other Chinese-American roles in this picture all seem to be played by actual Chinese-American actors.

A collector of Asian art comes into possession of The Eye of the Daughter of the Moon, an enormous sapphire that *should* be in the Nanking Museum but disappeared during the looting of Nanking. Naturally, the stone carries a curse. The collector, who is tough on his wife (who's in love with her secretary) and whose first wife was a suicide, throws a party, specifically inviting Mr. Wong, one of the two greatest criminologists on the West Coast. (The other one's also there. San Francisco was a hotbed of criminologists!)

At the party, the wife begins a parlor game that's essentially charades with a different name, with three little playlets. In the second one—a mystery—the husband plays the wife's lover, surprised and shot by the secretary playing her husband. He's using blanks, but somehow the husband winds up dead. At this point, I was a little troubled: I was sure I hadn't seen the movie before, but that scene felt *awfully* familiar. Turns out that the answer to the charade was a 1931 mystery on Disc 10 of this set, *Murder at Midnight*, which does indeed use the same device—and this is a *much* better film.

I won't attempt to describe the rest of the plot. I found it thoroughly engrossing and well played, from Karloff on down. The print's generally very good. Even discounting a little for using a Caucasian in the lead role, this gets at least \$1.50.

Strange Illusion, 1945, b&w. Edgar G. Ulmer (dir.), Jimmy Lydon, Warren William, Sally Eilers, Regis Toomey, Charles Arnt, George Reed, Jayne Hazard, Mary McLeod. 1:27 [1:25]

We open in a misty space, which is clearly part of a dream/nightmare sequence. The young man who's caught in the nightmare wakes up, and the movie begins. The nightmare involves his mother,

his sister and a strange shrouded man-shape who claims to be (but clearly is not) his father, and includes a train wreck (his father died in a train accident) at which point the mystery man says “Just what I was waiting for.”

The young man, who is on a fishing trip with his professor friend, goes home because he feels the need to do so—to a clearly-wealthy household, where his young mother is now involved with another man. She’s charmed by the man, as is her daughter (the young man’s sister). He’s decidedly not charmed...and concludes that the nightmare is his dead father’s way of warning him about the strange man. (This is abetted by his receipt of a letter from his father, one of several that the family trust is sending him periodically, telling him it’s his responsibility to watch out for his mother.)

The rest of the film involves a sanitarium, a psychiatrist who’s in cahoots with the new suitor (who is, *of course*, the man who killed her husband in the “accident”) and lots more. It’s paced pretty well, although the young man seems far too willing to trust in situations he should know could trap him. Things all work out in the end...and we wind up in a dream that’s *not* a nightmare. Not great, not bad; let’s say \$1.25.

The Strange Love of Martha Ivers, 1946, b&w. Lewis Milestone (dir.), Barbara Stanwyck, Van Heflin, Lizabeth Scott, Kirk Douglas, Judith Anderson. 1:56.

Great cast, interesting plot, first-rate print, and a generally fine picture. The real mystery here: How did this movie fall into the public domain?

In any case, it did, and it’s a winner. The first scene is set in 1928, in Iverstown—a factory town, where the Ivers plant is the mainstay. Down at the railroad tracks, a young boy whistles his way into a boxcar where a young girl is waiting with her cat. She wants to run away with him—but the cops catch the both of them, since she’s the niece of Ms. Ivers. Who is a mean, vindictive, not nice woman who hates cats (among other failings). The mansion also holds, in addition to regular servants, a man who’s tutoring the girl—and his son, about her age, who the tutor thinks should go to Harvard if only he had the money.

Between a storm that puts out the electric lights and other things, the aunt is climbing the stairs to confront the young girl when the cat comes down the stairs and meows—and the aunt starts beating the cat with her cane. In what I’d consider perfectly reasonable reaction to such a horrific act, the girl comes down, grabs the cane, hits the aunt...who rolls to the bottom of the stairs, dead. The girl comes up with an alternative explanation (“there was a big man on the stairs”) and the tutor,

who was about to lose his job (the aunt was going to send the niece away to school), goes along with it—as does his son, who saw the whole thing.

Jump forward to 1946, as a guy (Van Heflin) in a car manages to run it into a post as he’s staring back at the new billboard for Iverstown. As it happens, this is the *other* kid—the one who wanted to help the girl escape, then fled on his own. And, he finds out, the tutor’s son, Walter, is now the niece’s wife and the District Attorney (and has become an alcoholic) By the way, the niece (Stanwyck) and only heir has made the company ten times as large and basically owns the town.

That’s just for starters. The mood is noir, the plot’s intricate and reasonable, the acting’s first-rate, the climax—well, I guess it’s a reasonable ending. Unusual to see Kirk Douglas (Walter) in such a sad sack role, but he does it well—it was his first movie. I give this one a solid \$2.00.

Man Who Cheated Himself, 1950, b&w. Felix E. Feist (dir.), Lee J. Cobb, Jane Wyatt, John Dall, Lisa Howard. 1:21 [1:20]

A rich woman’s divorcing her husband—and he’s purchased a gun and hid it from her, jimmed the lock on the outside entry to his room, then leaves for a trip to Seattle (but, while he burned the box the gun and ammo came in, the firing test receipt fell on the floor). She finds the receipt and, eventually, the gun...and makes sure her police-detective lover’s there to see it. Hubby sneaks in the jimmed door, presumably to get the hidden gun and kill her (having established that he’s at the airport as an alibi). She shoots him instead, with the cop watching.

So far, we have something that feels *almost* like self-defense...but the upstanding lieutenant, who’s also training his younger brother as a homicide detective, doesn’t see it that way: He decides to use the husband’s alibi against him.

Things get odder from there in this mystery set entirely in San Francisco. Even for 1950, it’s a little hard to believe that traffic on the Golden Gate Bridge would be so light at 11 p.m. that the cop could drive part way across, stop, and toss a gun over the side of the bridge without anyone noticing—and, later, that the husband’s supposed three hours spent at the airport before getting shot would be suspicious because he wasn’t eating or drinking at *the one and only dining or drinking place at SFO*. Really? (I’ve spent three hours at SFO without being in a dining or drinking establishment. Is that so suspicious?)

More plausible, in some ways: the mook who saw the cop drop off the body (but doesn’t recognize

the cop) described the car as a green coupe, and it's really blue...and he's colorblind but doesn't realize it. Lots of men are colorblind, but *very* few are blue-green colorblind.

Still: it's an interesting noir mystery, as the younger brother realizes that his older brother's apparently guilty of something (just what is never quite clear). Cobb (the older brother), Wyatt (the rich socialite) and Dall (the younger brother) are all very good, as is the younger brother's new wife (Howard). Unfortunately, the sound's distorted at times and at least one scene—a conversation between the two brothers that might have been significant—is garbled because of missing footage. On balance, I'll give it \$1.50.

Disc 21

Cause for Alarm!, 1951, b&w. Tay Garnett (dir.), Loretta Young, Barry Sullivan, Bruce Cowling, Irving Bacon. 1:15.

Part near-real-time mystery, part melodrama, and more effective than I'd expect. Woman's husband has some unstated but wholly debilitating heart disease—but he's convinced that she and their doctor (who his wife was acquainted with before marriage) are trying to kill him. He sets up a frame (e.g., spilling most of his heart medicine so he can claim overdose), then writes a letter detailing it all to the DA... which she mails (not knowing it's the DA, and of course she's innocent). Then, increasingly crazed, he decides to shoot her—but has a fatal heart attack in the process.

Most of the movie has to do with whether or not she can retrieve the letter, since she's convinced that (although innocent) she'll fry if it gets to the DA. I won't mention the ending. There's a fair amount of tension, and the lovely Loretta Young is quite effective and Barry Sullivan is convincingly nuts—and Irving Bacon may be the world's greatest whining postman. Not a great movie, but not bad at all. \$1.25.

Woman on the Run, 1950, b&w. Norman Foster (dir.), Ann Sheridan, Dennis O'Keefe, Robert Keith, Ross Elliott. 1:17.

This one's noir, San Francisco...and surprisingly effective. A man's out walking the dog at night on one of SF's many stair/street combinations. He sees a car above him pull to the side, hears a shot, sees a body come out of a door, hears another shot...and finds that somebody's shooting at him. Cops arrive, identify the victim as a witness for a forthcoming trial of a mobster, spot two bullet holes indicating that the shooter must have aimed at the witness's shadow and note that he saw the shooter directly under a street lamp.

Meanwhile, as they're dealing with something else (and getting his semi-estranged wife from their nearby apartment), he decides he doesn't want to get involved and disappears. That sets things in motion. The wife wants to find the husband—more so when she discovers that he really does still love her and has a heart condition requiring prescription medicine. The cops want to find both of them, since the husband's the only real witness against the shooter. And a reporter teams up with the wife to get a big story...or is he a reporter?

Very well done, with excellent dialogue, a fair amount of tension and good use of SF atmospherics. Sheridan (the wife) and O'Keefe (the "reporter") are both effective, as are most secondary players. Not quite a classic, but pretty close: I'll give it \$1.75.

A Life at Stake, 1954, b&w. Paul Guilfoyle (dir.), Angela Lansbury, Keith Andes, Douglass Dumbrille, Claudia Barrett. 1:18 [1:14]

A guy's a little down on his luck: He was a successful house designer/builder, but his partner gambled away the firm's funds—including \$35,000 of life savings that friends invested in the company. So the guy keeps a framed \$1,000 bill as an odd pledge to make things right. He's visited by a lawyer who represents a couple interested in backing him in restarting the firm, to the tune of \$500,000.

He meets with the wife, a young and hot Angela Lansbury (29 at the time), who explains the deal: She sold real estate for several years before getting married, so she'll handle the real estate side while he handles the building side—and her husband will bankroll the whole thing. She also gives him every reason to believe that she's a fringe benefit.

One little problem: The husband quite reasonably insists on key-man insurance for the builder, to the tune of \$250,000 (which he talks down to \$175,000)...and the builder's become a little suspicious of their motives. He also meets the wife's younger sister, a 21-year-old charmer who makes her older sister seem like a conniving bitch.

Things progress from there. Are the couple trying to kill him to collect the insurance money—or is he paranoid? When he finds out that the family's money is mostly from a life insurance policy on the woman's *first* husband...well, that doesn't help. I won't give away the ending.

Nicely plotted and really quite well done and well acted. Good print, and I don't sense much missing. \$1.50.

Hell's House, 1932, b&w, Howard Higgin (dir.), Bette Davis, Pat O'Brien, Junior Durkin. 1:12.

Previously viewed, in *50 Movie Hollywood Legends*. What I said then:

Rural kid sees his mother get run over by a car (driver gets out, looks at victim, drives away; kid makes no move to remember license plate or, apparently, call authorities). Next scene: Kid shows up at urban home of aunt & uncle, who have a boarder who acts like a hotshot—and the uncle's out of work. Next scene: Kid asks hotshot if he knows of a job; hotshot, who's actually a bootlegger, hires kid to take phone calls but never say who he works for or where he lives. Next scene—this movie moves fast—cops show up, kid won't talk, kid gets sent to reformatory for three years.

Then there's a bunch of reformatory stuff, with a side plot of newspaper reporter trying to blow the lid off the terrible conditions there but not getting cooperation. Kid's best buddy, another kid with a heart condition, tries to smuggle letter out for kid, gets caught, won't snitch, goes to solitary, where the ticker gets worse. Kid knows this, busts out (in the outgoing garbage), pleads with hotshot bootlegger to help. Despite hotshot's not actually knowing anybody, he manages to get in to see the reporter, kid tells story—and, as the cops arrive, the bootlegger finally develops a heart and signs a confession. After which, of course, the reformatory gets cleaned up (the kid doesn't go back). Oh, his friend dies.

Pat O'Brien's the hotshot. Bette Davis is his girlfriend, who suspects he's a blowhard.

All a little too formulaic—and maybe it doesn't matter in this case. While the print's so-so visually, the soundtrack is so scratchy that I almost gave up on it several times. I can't imagine most sane people would ever listen all the way through. Given that, it can't earn more than \$0.50.

Disc 22

The order of movies on the disc is not the same as the order on the sleeve. My comments appear in the actual order on the disc.

Four Deuces, 1976, color. William H. Bushnell (dir.), Jack Palance, Carol Lynley, Warren Berlinger, Adam Roarke. 1:27 [1:24].

Previously reviewed (May 2008). Back then, the sleeve called it “a tongue-in-cheek crime melodrama”; while that's no longer true on the sleeve, the movie's clearly intended that way. Here's what I said in 2008; I didn't watch it a second time:

...It has a fine cast, with Jack Palance, Warren Berlinger and Carol Lynley (among others). It's

done comic-book style, with big color captions popping up on some scene changes. The print's pretty good, sound is fine, good Roaring 20s music, reasonably well filmed.

Maybe that's enough. It's a lively story with loads of action, double crossing, explosions, gunsels, maidens in distress... No heroes, really, but a variety of villains in what's basically an old-fashioned prohibition-era gang-vs.-gang war, with each gang having a speakeasy as headquarters. Somehow I couldn't get into it. Sure, you could say it's all comic-book violence, but it seemed as though the only ways to move the plot forward were machine guns and arson. I don't know about tongue-in-cheek, but I found it offputting. You might think it's great good fun. I didn't, and wind up with (charitably) \$1.00.

The Limping Man, 1953, b&w. Cy Endfield and Charles De la Tour (dir.), Lloyd Bridges, Moira Lister, Alan Wheatley, Leslie Philips, Helene Cordet. 1:16.

The movie begins on an airplane with Lloyd Bridges returning to his seat, asking the person next to him what happened to the magazine he was reading, being told that the person behind him borrowed it, and then settling in for the remaining hour of a flight to London.

Once he gets off in London, things get strange: A person right behind him in line is shot by a sniper; the police ask questions; he can't reach the woman who was supposed to meet him...and we spiral into an odd and complex mystery involving illicit goods, two musical numbers, a dead man who may not be, mixed motives and an ending that...

Well, I guess the scriptwriters had trouble with the ending. I won't give away what they finally did, but fans of Bob Newhart or certain movies set in and above Kansas might guess. Let's say it's a real comedown from the rest of the film that cheapens the whole business. (The feature review at IMDB calls it a “moronic ending,” and I think that's about right. That *and* a damaged print reduce an otherwise serviceable (if perhaps overly complex) semi-noir mystery to \$1.00.

Trapped, 1949, b&w. Richard Fleischer (dir.), Lloyd Bridges, Barbara Payton, John Hoyt, James Todd. 1:18.

Lloyd Bridges once more—this time as a forger who's in prison when his masterpiece \$20 bills start showing up on the street. With staged escapes, lots of ambiguity and a fair amount of double-crossing, it's a nice little adventure/mystery. (This time, Hoyt plays a hero—a government agent—and Bridges is a villain.)

The major drawback I saw was the opening six minutes and closing two minutes, essentially an advertorial for the Treasury Department. It's all very stirring and informative, but once you get to the plot it's clear that no Treasury person will ever be less than wholly moral and clean, and I think that weakens the movie somewhat. Even so, it's a well-done film with great atmosphere, good writing and some nice little twists, easily worth \$1.50.

The Pay Off, 1930, b&w. Lowell Sherman (dir.), Lowell Sherman, Marian Nixon, Hugh Trevor, William Janney. 1:05 [1:10]

Here's an odd one that, despite its 1:10 length, feels more like a vignette than a movie. We open on a city park around midnight, with two cops walking the beat and a young couple asleep on a park bench. One cop wakes the couple, who start discussing their plans to marry the next day on the \$230 the young man's saved from his job as an assistant to an apartment super. A bad guy overhears the \$230 mentioned, robs them, and sets the plot in motion—because the young man's been to one particular apartment where some folks play high-stakes poker. As things progress, the couple tries to hold up the folks in the apartment and recognize that one of them is the robber, but they only want their \$230 back. Naturally, the bad guys turn the tables on the good guys, but...

Well, the robber's a young punk who is part of a gang run by another guest (Lowell Sherman, director and lead), a mastermind who specifically tries to avoid gunplay and is quite suave. The mastermind views the young couple as an opportunity, takes them back to his apartment, treats them well...and, eventually, the young punk manages to involve them in a jewel theft where the punk shoots the jeweler. Later, the mastermind shoots the punk in self-defense—but his former girlfriend (or moll), now attached to the punk, decides that he's Guilty and should be Shot. This leads us to the gang's meeting room inside the nightclub that the mastermind set up...and, as he's trying to make his case, the cops arrive (with everybody but the young couple fleeing the scene).

And yet, this doesn't feel like much. It all comes down to a DA claiming he can fry the young man because he was, somehow, involved in the jewel theft/murder as an accessory and whether the mastermind will 'fess up, condemning himself to save them. Can there be any question? All very heartwarming, all very improbable. All in all, I can't give this more than \$1.00.

Disc 23

The Great Flamarian, 1945, b&w. Anthony Mann (dir.), Erich von Stroheim, Mary Beth Hughes, Dan Duryea, Steve Barclay. 1:18.

We begin in a theater in Mexico City (1936), where an odd act with a guy swirling a cloth is ending and one with a clown is beginning. Suddenly, shots ring out... The woman in a husband-and-wife team is dead, the husband's the obvious suspect, but we've seen somebody climbing up into the rafters and hiding. We soon find that the woman was strangled, not shot—but the husband's still the obvious suspect because, you know, *he's the husband*. It doesn't help that the wife apparently had eyes (and whatever) for others within the troupe.

As the police leave and the clown closes down the theater, we hear a thump, as the guy in the rafters falls to the stage, almost but not quite dead—he was the recipient of the shots. He tells the clown that he'll be dead by the time the police arrive and tells his tale: The rest of the movie, told as flashback. The guy (von Stroheim) is *The Great Flamarian*, a remarkable trick-shot artist with a little act built on him catching his (stage) wife with her (stage) lover. The woman (Mary Beth Hughes) is a gold-digger out for herself. Her husband at the time (and lover in the act), Dan Duryea, is increasingly a drunk but knows she was a petty crook until they got married.

We have a tale of conniving, an innocent man who lives only for his work, and the results you'd expect—death and betrayal. It's quite a story, and although it's short of greatness, it's good noir, well acted and done well enough to get \$1.75.

Parole, Inc., 1948, b&w. Alfred Zeider (dir.), Michael O'Shea, Turban Bey, Evelyn Ankers, Virginia Lee, Charles Bradstreet, Lyle Talbot. 1:11.

Based on the opening title, this is propaganda for tough parole laws and boards, with the implication that parole boards are commonly releasing dangerous criminals. The actual film is sort of a potboiler, with a federal agent going undercover to prove that one state's parole board is being bribed to let people out. Good cast, but to me, the whole thing felt a little forced—and, frankly, I don't believe a real undercover agent in this situation would tell the three men setting him up for the sting what his cover name was going to be, since he'd have no way of being sure one of *them* wasn't corrupted and it's information they don't need.

Good cast, mixed acting. Overall, OK, but it didn't quite ring true for me. And, of course, there's no real mystery, since the movie's all flashbacks while

the injured agent's dictating his report from a hospital bed—where if things had really gone bad, he wouldn't be dictating any report \$1.00.

Baby Face Morgan, 1942, b&w. Arthur Dreifuss (dir.), Richard Cromwell, Mary Carlisle, Robert Armstrong, Chick Chandler, Warren Hymer. 1:03 [0:59]

We open with telegrams being delivered to cheap grifters in four different areas—and, separately, a cute scene with a soda jerk/waiter and his somewhat more worldly cousin and the cousin's girlfriend (a remarkably vapid girl who's never heard from again). Then the plots converge: The telegrams are bringing the grifters back to re-form the mob that had once ruled Central City with a protection racket, back before their boss, Big Mike Morgan, was killed. One smart guy's decided to rebuild the racket, using Big Mike's son as a front (without his knowledge). First, though, he wants to check out the son—who turns out to be the soda jerk and who, thanks to an overheard and wildly misinterpreted phone conversation (his boss's initials are DA, he dropped off some pineapples—which the mobsters assumed to be grenades—at the sheriff's office, and he picked up bill payments from some customers), is assumed to be a hardass criminal and immediately nicknamed Baby Face Morgan (he does indeed have a baby face), although he doesn't know that.

That's the start of what could be film noir but is, in fact, a nicely done little comedy—as the son & cousin, set up as heads of the shell Acme Protection Agency, get bored doing nothing (they have no idea what's actually going on) and start selling insurance to local business owners, beginning with one cute young woman (a trucking company owner) who's resisting the racketeers. The racketeers blow up one of her trucks; the Acme Protection Agency immediately writes a check to cover it—that check, unknown to them, being funded by the protection money—and we're off. Rabbits play a role as well. The close is a little improbable, but it's an interesting blend of noir and comedy. Despite its short length, I'll give it \$1.25.

The Woman Condemned, 1934, b&w. Dorothy Davenport (dir.—credited as “Mrs. Wallace Reid” in the film itself), Claudia Dell, Lola Lane, Richard Hemingway, Jason Robards (Sr.), Paul Ellis, Douglas Congrove, Mischa Auer. 1:06 [1:01]

I'm not sure what to make of this one—part noir mystery, part romantic comedy, part farce (I guess), and for most of its length, a short movie that seems

very slow, as though it was written as a 15-minute sketch and expanded to a one-hour movie.

The plot involves a woman singer who takes a “vacation,” tells her boss & would-be fiancée that she doesn't know when she'll be back, and tells her maid to tell everyone she doesn't know where she is. There's a phone conversation with a mysterious and evil-looking man who points out that, while something is expensive, she wants to be free to live her life—and he doesn't take checks. (A contract murder?) There's a female detective from out of town, hired by the boss to find out what's going on—a detective with truly lousy skills at being unnoticed. And there's a wisenheimer reporter (or something) who hangs around night court and, thanks to an even more wisenheimer judge, winds up married to this detective he's never met before. Oh, and identical twins are crucial to the plot.

That's just the start of a complex plot. There is an actual murder, which if this is intended as a comedy makes it a bit less amusing. Everything gets resolved, more or less, in a final eight minutes that almost makes up for the lethargic pace of the rest of the movie. All in all, though, it felt underdone and confused. Charitably, \$0.75.

Disc 24

Four of these are Studio One episodes from the heyday of live b&w TV drama—thus, they're kinescopes (filmed from the TV), presented including Westinghouse's ads. The live format and limited resources of the time can result in somewhat claustrophobic dramas, but it's at least interesting historically. In a way, viewing these with contemporary equipment is unfair. They were made to be viewed on screens probably no larger than 15" diagonal (thus 9" by 12"); viewing them on the 4x3 portion of a 54" screen—which is to say an area 27" by 36", or *nine times* the area—warps the original staging expectations.

There Was a Crooked Man, 1950, b&w (TV). Paul Nickell (dir.), Robert Sterling, Charles Korvin, Virginia Gilmore, Richard Purdy, Robert Emhardt. 0:56.

A small boarding house with eclectic—even strange—tenants: One young man who avoids everybody, an eccentric professor supposedly writing a 12-volume history of education, a young woman waiting for her husband to return, another young woman in a similar situation (both of them, apparently, working in the rare book room of a library), the woman whose house it is, who's

expecting her husband to return after six years away, and an upstairs boarder who's room-bound thanks to an accident but called on by all sorts of people.

And who winds up dead. Suspicion falls on the professor, but there are reasons to believe it must be somebody impersonating him: His beard and hair were bushier when he was encountered just after the crime, and he was wearing high-heeled shoes, which he doesn't normally do. Lots more plot, including the arrival of one woman's husband, the truly eccentric husband of the owner (who was actually a few blocks away and claims to have long-term amnesia), and a conclusion that leaves a whole bunch of questions unanswered. Some scenery chewing, too much plot for the time, but not bad as a mini-mystery. Note that the running time includes two lengthy Westinghouse commercials (one for a big screen TV—well, big for the time, I guess); it's probably around 52 minutes of actual program. \$0.75.

Two Sharp Knives, 1949, b&w (TV). Franklin J. Schaffner (dir.), Stanley Ridges, Wynne Gibson, Theodore Newton, Abe Vigoda. 0:59.

A surprisingly ambitious live drama, with scenes set in a (patently phony) train, police station, railroad station and cheap hotel—and an intriguing script by Dashiell Hammett. A father and his daughter are on their way to a small town to meet the mother, who the daughter really doesn't know at all—and, when they arrive, the father's detained because the police just received a "Wanted for Murder" message with his photo on it. The father's never heard of the supposed victim and has no idea what's going on... The police chief's daughter (who's engaged to a police detective) takes the little girl home with her, while the police chief, detective and suspect go to the hotel where he expected to meet his wife—who isn't there and nobody's heard of.

Next thing we know, the father's apparently hung himself in his cell—and the police have discovered that the wanted message was a forgery and the supposed victim doesn't exist. Although the coroner tells reporters that it was a suicide (in part because a conniving DA is gunning for the police chief), he tells the police chief that it was clearly murder (oh, there's politics at play too). The plot continues from there, and it's a tight plot for the 50-52 minutes of actual program. (Ads this time are for the Westinghouse Laundromat and Dryer, with the pitch that your Westinghouse dealer will be happy to wash and dry a load of your clothes to show how great they are—and a prominent "damp" setting on the dryer, for those clothes needing ironing.) Note: I mention Abe Vigoda because he became so well

known; as with all but three actors, his only credit was a voice-over at the end of the episode. He was 28 at the time; this was one of his first two roles.)

Well done, well-acted; since it's also well under an hour, I'll give it \$1.00.

The Inner Circle, 1946, b&w. Philip Ford (dir.), Adele Mara, Warren Douglas, William Frawley, Ricardo Cortez, Virginia Christine, Ken Niles, Will Wright. 0:57.

This one's *not* a Studio One kinescope—it's a B film, humorous, fast-moving, complicated and thoroughly enjoyable. A private detective, Johnny Strange, Action, Inc., starts to call in an ad for a private secretary (young, blonde, good-looking, etc.), when the phone's removed by...well, a young woman (Adele Mara, a stunner) who more than meets his criteria and says she's there for the job. Before you know it, she's calling to get his office cleaned—and on his other line there's a call, which she answers (the first call's busy), by a new client who informs the secretary that Johnny is to meet her in front of a jeweler at 7:30 that night.

This leads to a dead body, Strange being knocked over the head, the gun placed in his hand and the police showing up—and the secretary giving a thoroughly false story to clear him. He wants to know what's actually going on, and that takes us through a bunch of characters, the secretary's socialite sister (who the secretary thinks might be the *real* murderer)...and eventually a re-creation of portions of the murder scene during a radio broadcast (the victim had a gossip radio show, with a side of blackmail). All fast, with snappy dialogue, the natural love interest between the private dick and the beautiful secretary. William Frawley—yes, *that* William Frawley (later of *I Love Lucy*, *The Lucy-Desi Comedy Hour*, and *My Three Sons*) does a fine job as the police detective lieutenant pursuing the case. Great stuff—light-hearted and well-done. It's only 57 minutes (actually just over 56), so I can't give it more than \$1.25.

Things Happen At Night, 1947, b&w. Francis Searle (dir.), Gordon Harker, Alfred Drayton, Robertson Hare, Gwynneth Vaughan. 1:19 [0:56]

The biggest mystery here is why this odd little farce is in the Mystery Collection rather than being filler in a comedy megapack. The plot, such as it is, involves a poltergeist who's possessing the daughter in a too-big house and causing all sorts of mischief. An insurance investigator (Gordon Harker) arrives to evaluate a claim for a hole in a rug (caused by a burning cinder in a room where the fireplace wasn't used and had a grille that

wouldn't have allowed the cinder to escape in any case) and, somehow, becomes an overnight guest, formal dress and all. A "scientist" also arrives to photograph the poltergeist (?).

Mostly the plot is an excuse for cheap special effects and lots of Gordon Harker's odd expressions, and whether you'll enjoy it depends on whether you think Harker is side-splitting. Since I don't, I mostly found this to be a wasted hour. (Harker was *much* better in *The Farmer's Wife* both because it was one of Alfred Hitchcock's rare comedies and because there was a script, something that's lacking here.) Maybe the missing 23 minutes would make this better, but the flick seemed overlong as it is. Add to the missing script sometimes-sketchy video quality (bleached at times) and some odd filming, and I'm being extremely generous to give this \$0.75.

Flowers from a Stranger, 1949, b&w (TV). Paul Nickell (dir.), John Conte, Felicia Montealegre, Yul Brynner, Robert Duke, Lois Nettleton. 0:59.

The beautiful young wife of a psychiatrist has trouble sleeping, mostly because she keeps thinking about a tune that she can't quite place—and that may be evil. As a typical young professional couple, they of course have a housekeeper/maid, and she's having friends to dinner—an odd number, and suggests her husband invite someone. He thinks of an older colleague, a famous psychiatrist who survived the concentration camps and has one bad hand for it. The psychiatrist, Yul Brynner with white hair (29 years old at the time, but a credible elderly psychiatrist), accepts the invitation.

In short order, we get several dozen white carnations sent to the wife by an anonymous sender—and she *hates* white carnations. When the older doctor arrives he is, of course, wearing...a white carnation. He's charmed by her; she believes he's evil...and he refers to her by a name her husband didn't know, her stage name when she was giving piano concerts in Europe as a child. Next scene: A violent inmate escapes and, next thing you know, she's being subdued by the housekeeper. The wife concludes that the inmate was brought there by the old doctor to kill her and that the old doctor pushed her mother off a train platform...and goes in to New York to get evidence of a sort (the old doctor was briefly married to the wife's mother, and he decamped to the U.S. a few days before the death).

We get a climax in which the young woman, apparently frail and easily breakable, suddenly turns into a victim-turned-pursuer, breaking down the older psychiatrist. I found this scene so wholly unbelievable that it compromises what's otherwise a

minor psychodrama. For some reason, I was more aware on this little drama that doctors are portrayed as all being smoking fiends: It was a different time! Overall, I'm being generous with \$0.75.

Plan For Escape, 1952, b&w (TV). Paul Nickell (dir.), Peggy Ann Garner, Frank Overton, Jean Carson. 0:59.

Another Studio One presentation, this time with Betty Furness doing the ads (one of them for a Westinghouse sunlamp so you can get your tan in winter, back when tanning was supposed to be as healthy as smoking). The plot: A very young (21 years old) trophy wife of a gangster hates being a bird in a gilded cage, wants out...and sees her chance when her husband's gunned down. But her minder (who's in cahoots with the gangster who shot her husband) is on her trail, since she could rat on the killer. She winds up in a tiny town on the rail line, befriended by a handsome young mail clerk who's deeply philosophical. Her problem with him: He's not Somebody, being more interested in living a good life than in being a big financial success.

Lots of talk, then more plot leading to a shootout of sorts. Will the girl-woman ever grow up? Perhaps... This one's fairly well done, but I still can't give it more than \$0.75.

Summing up this segment, I see one real winner (*The Strange Love of Martha Ivers*) and two that come close (*Woman on the Run* and *The Great Flamarian*). Add five that are also worth rewatching at \$1.50, six fairly good ones at \$1.25, and another five adequate at \$1.00, and we get a total value of \$25.50 ignoring the remaining seven flicks. Not bad for one-tenth of a set!

Masthead

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