

ARSC)))))))) Newsletter

Association For Recorded Sound Collections

Number 108 • Summer 2005

2005 Conference Breaks All Records!

Our recent annual conference in Austin was a great success, and just a whole lot of fun. The weather was magnificent, the banquet outstanding, the fellowship stimulating, and the presentations were interesting and varied.

Official attendance for the Austin conference was 175, which bested our previous record by around 50 persons, and we had 75 first-timers, many of whom indicated that they would be attending future conferences.



David Hough, audio engineer for the PBS program *Austin City Limits*, on the set of the show at the KLRU studios on the UT campus.

Thanks to our Local Arrangements Committee, tours to the Lyndon B. Johnson Presidential Library and the Austin City Limits studio went without a hitch, and other than a brief Texas frog-strangler, the weather was beautiful and cooperative.

We had nearly 100 guests at the banquet at Threadgill's. The room was perfect and the presentation by the Kitchen Sisters well-received. I don't know about what anyone else had, but the chicken-fried steak, fried okra, and pecan pie were delicious!

(Continued on page 3)

Davies and Strachwitz Receive ARSC Awards

Traditional music empresario Chris Strachwitz and jazz restorer John R.T. Davies were awarded ARSC's Lifetime Achievement Award and the Distinguished Service Award at the annual conference in Austin in April. The Lifetime Achievement Award was presented to Strachwitz for his pioneering work in researching traditional musics in the Americas. Davies was honored with the Distinguished Service to Historic Recordings Award for his meticulous transfers of classic recordings of jazz and blues.

(Continued on page 4)

First-class Newsletter

At the spring Board of Directors meeting in Austin, the board voted to return to mailing the *Newsletter* first class. The *Newsletter* switched from first class to bulk in the late 1990s, but it had become increasingly difficult recently to have all of the copy ready to meet newsletter deadlines and still be pertinent when the *Newsletter* arrived.

Events

March 17-20, 2006. 40th Annual ARSC Conference, Seattle, Washington. <http://www.arsc-audio.org/>

August 13-14, 2005. **CAPS Show and Sale**, Buena Park, CA. http://www.ca-phono.org/show_and_sale.html

August 15-21, 2005. **Society of American Archivists (SAA)**, Annual Meeting, New Orleans, LA. <http://www.archivists.org/conference/index.asp>

September 11-15, 2005. **International Association of Sound and Audiovisual Archives (IASA)**, Annual Conference, Barcelona, Spain. *Archives speak: who listens?* <http://www.gencat.net/bc/iasa2005/index.htm>

October 7-10, 2005. **Audio Engineering Society (AES)**, Annual Convention, New York City. <http://www.aes.org/events/119/>

October 23, 2005. **Mechanical Music Extravaganza**. Wayne, NJ. <http://www.antique-sound.com/>

November 30-December 3, 2005. **Association of Moving Image Archivists (AMIA)**, Annual Conference, Austin, Texas. <http://www.amiaconference.com/>

Please send notices of events to the editor.

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President's Message

ARSC conferences just keep getting better and better, and Austin was no exception. From the pre-conference workshop through the final banquet, all previous attendance records were shattered. I guess everything really is bigger in Texas! For those of you who missed the conference, we will soon be mounting all of the session abstracts on the ARSC website, and conference tapes are now for sale (see page eight).

During the past year, a number of board members worked extremely hard to pull the Austin conference together. I'd like to give special thanks to Louise Spear and the Program Committee, David Hunter and the Local Arrangements Committee, Conference Manager Kurt Nauck, Anna-Maria Manuel and the Outreach Committee, as well as Education Committee Co-Chairs Sara Velez and Nancy Seeger and Technical Committee Co-Chairs Michael Casey and Adrian Cosentini. Not only did they put together a fabulous program, but they also mounted an unprecedented publicity campaign which obviously paid off. An extra measure of thanks should also go to Kurt and David, who had to work long hours during the final weeks before the conference to accommodate the large number of registrants.

At the conclusion of the annual Business Meeting in Austin, I had the great pleasure of announcing the results of the elections. Sam Brylawski was elected First Vice-President/President-Elect, and will assume the duties of president at the conclusion of the 2006 conference. Our new Second Vice-President/Program Chair is Patrick Feaster, who is familiar to many of you as an expert on the early history of recorded sound. David Seubert has moved from a Member-at-Large position on the board to that of Secretary, while Louise Spear has now assumed a position as Member-at-Large. Our other new Member-at-Large is Richard Green, who is currently running unopposed for President of IASA. I'm thrilled that Richard will be in a position to facilitate communication between ARSC and IASA. Last, but certainly not least, is Steve Ramm, who graciously agreed to run for another two-year term as Treasurer.

In addition to the board, five judges were also elected to the ARSC Blue Ribbon Awards Committee. David Hamilton will continue to serve as the classical music judge, Dan Morgenstern as the jazz judge, Bill Schurk as the popular music judge, and Dick Spottswood as a judge-at-large. Kip Lornell will be joining the committee as a judge-at-large. The committee recognized winners of the 2004 ARSC Awards for Excellence in Recorded Sound during the Austin conference, in addition to announcing winners of the 2005 Lifetime Achievement Award and Award for Distinguished Service to Historic Recordings. The committee will announce the finalists for all other 2005 ARSC Awards at the end of June, with winners to be announced in the fall *Newsletter* and recognized during the 2006 conference.

Once again I would like to thank all members of the board and the executive committee for their hard work over the past year on ARSC's behalf. Our record-breaking conference attendance and the frequency of postings and detailed discussions on the ARSCList indicates that ARSC is becoming increasingly relevant to collectors, archivists, and audio engineers. I hope to work with all of you during the next year to build upon this momentum.

Brenda Nelson-Strauss, ARSC President

ARSC Newsletter

Issue 108 Summer 2005

The ARSC Newsletter is published three times a year in June, October, and January. Submissions should be addressed to the editor. Submissions by email are encouraged.

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Conference *(Continued from page 1)*

As always, ARSC members spent a lot of time in the exhibits room, which remained lively throughout the conference. The following companies and individuals were represented:

Audio Turntable Ltd. • Chace Productions • Joe Hickerson • Mainspring Press • Nauck's Vintage Records • Oxford University Press • Revenant Records • Routledge - Taylor & Francis • Safe Sound Archive • University of Illinois Press

The silent auction was also very successful, in terms of items received and bidder interest. Sales totaled over \$1,600, with all revenue going to ARSC's general fund.

For the first time, we passed out response cards to registrants; here are some of the comments received:

- I find the eclectic mix one of the most rewarding aspects of ARSC.
- I've been to many conferences, and ARSC was by far the most beneficial and enjoyable.
- The presentations tactfully balanced material for beginners and for professionals.
- This was the best conference ever!
- Stimulating, validating, inspiring—who could ask for more?

Most of the comments centered around the presentations and program. It appears that everyone enjoyed the diversity of lectures and found several of them to be outstanding.

It takes many dedicated, hard-working people to put on a conference. I would like to recognize our Local Arrangements Committee: David Hunter, Sarah Cunningham, Gary Beckman, and Aaron Russell. Louise Spear did an excellent job assembling the program, Bill Klinger and Anna-Maria Manuel handled publicity (obviously quite successfully), and Brenda Nelson-Strauss was the string-puller who made it all happen.

I would also like to thank our conference sponsors for their generous and continued support:

Chace Productions • Cube-Tec • Cutting Corporation • Gary Thal Music • Metal Edge • Nauck's Vintage Records • Revenant Records • Safe Sound Archive

By all accounts it was a grand event, and I am already looking forward to next year in Seattle. See you then!

Kurt Nauck, Conference Manager

ARSC Elects New Board

The results of the election of a new board of directors were announced at the annual conference in Austin. Sam Brylawski (brylawki@library.ucsb.edu), now editor of the Encyclopedic Discography of Victor Records at UC Santa Barbara, was elected to the position of First Vice-President/President-Elect, where he will serve for one year before assuming the post of President. Richard Green (richard.green@lac-bac.gc.ca) of Library and Archives Canada also joins the board as a Member-At-Large. Patrick Feaster (pfeaster@indiana.edu) of Indiana University joins the ARSC board as Second Vice President/Program Chair.

Members re-elected to the board include Program Chair Louise Spear (LouiseS@grammy.com) of the Grammy Foundation, who was elected to the other Member-At-Large position. David Seubert (seubert@library.ucsb.edu), formerly Member-At-Large, assumes the post of Secretary. Keeping ARSC's finances in good hands is Steve Ramm (stevenramm@aol.com), who was elected to his seventh consecutive term as Treasurer.



ARSC's Board of Directors (left to right) Peter Shambarger, Vincent Pelote, Jim Farrington, Samuel Brylawski, Steve Ramm, Brenda-Nelson Strauss, David Seubert, Richard Green, Louise Spear.

Leaving the board after two years of service are Vincent Pelote of the Institute of Jazz Studies, who served for two years as Member-At-Large; Esther Gillie, who served as Secretary; and Jim Farrington, who ably served in the succession of posts that make up the position of President.

Brenda Nelson-Strauss (bnelsons@indiana.edu) remains on the board as President until she steps down to assume the post of Immediate Past-President in 2006.

The board always welcomes the input of the membership and encourages members to become involved in the organization.

Awards *(Continued from page 1)*

Chris Strachwitz

When post-war events whisked young Chris from



Chris Strachwitz (left) receiving the Lifetime Achievement award from Tim Brooks

Lower Silesia to Reno, Nevada in 1947, he soon discovered America's vibrant musical styles. Radio introduced him to country, swing, pop, and R&B. A love of record collecting quickly followed, along with exposure to jazz, blues, Norteno, Cajun, and Gospel music. Chris

embraced it all and wanted to reproduce and disseminate great music from his adopted country around the planet. Arhoolie Records was created in 1960 to accomplish the task, and it's survived much, much longer than most independent labels, morphing smoothly into the CD era with a catalog containing hundreds of great sets, most of them produced by Chris himself.

In 1995 Chris established the not-for-profit Arhoolie Foundation with the hope of helping to preserve the most rare parts of his by-then vast collection of commercial recordings. Its Frontera Collection of 30,000 plus Mexican and Mexican-American recordings is being cataloged and digitized for eventual on-line display with the help of the UCLA library system and the Los Tigres Del Norte Foundation as primary financiers. Chris continues to work and travel tirelessly with few, if any, thoughts of retirement.

Dick Spottswood

John R.T. Davies

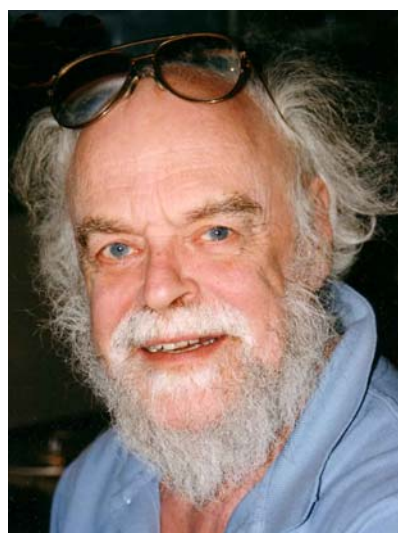
John R.T. Davies, who died May 25, 2004, was considered by many to be the world's leading specialist in the art of sound restoration. He was also a multi-instrumentalist who had a passion for classic jazz. Davies played sax (under the pseudonym Sheik Haroun Wadi El Yadouinir) in a group called the Temperance Seven when their hit recording "You're Driving Me

Crazy" climbed the top of the UK music charts in the early 1960s. His love of jazz recorded between 1917 and 1940 led him to collect 78 rpm recordings, and he amassed an impressive collection that included many rare items.

John Ross Twiston Davies (known to family and friends as "Ristic") was born on March 10, 1927 in Wivelsfield, Sussex. He attended Dartington Hall School in the 1940s and at a very early age was fascinated with recording gadgets. His first instruments were guitar and banjo but he soon added trombone and saxophone (courtesy of his fiancée, Sue) to his arsenal of instruments.

In 1952 Davies acquired a disc-cutting lathe and an early magnetic tape recorder, signaling the start of his career in the field of recorded sound. He worked for Doug Dobell's 77 Records label, formed his own "Ristic" label, and was the driving force behind Retrieval records.

It is for his work in the area of sound restoration that Davies is receiving the ARSC Award for Distinguished Service to Historic Recordings. Using a controversial method of sound restoration that included scraping tiny notches of oxide from magnetic tape, Davies diligently worked his way through the recordings of



John R.T. Davies (photo courtesy of Sue Davies and Mike Thomson)

King Oliver, Jelly Roll Morton, Louis Armstrong, Bix Beiderbecke, The New Orleans Rhythm Kings, Jimmie Noone, The Chicagoans, Eddie Lang and Joe Venuti, the great big bands of the 1920s and 1930s, and blues singers. His transfers were universally applauded for presenting the music of the giants of jazz in the best possible sound. His work appeared on small jazz labels like Frog,

Hep, JSP, Retrieval, Timeless, Cygnet, and Jazz Oracle. In the last 15 years of his life he supplemented his analog restoration methods with digital ones, being careful never to indulge in the all too common practice of over-using the digital noise reduction systems. To John R.T. Davies the music always came first.

Vincent Pelote

Copyright and Fair Use Committee

ARSC members who have long been mystified by the purpose of the "Fair Practices Committee" will be pleased to learn that the committee's name has been changed to the more descriptive "Copyright and Fair Use Committee." This committee seeks to keep members informed on the latest developments in copyright, and welcomes input regarding your experiences with copyright matters. It is currently developing a formal ARSC position regarding copyright that will put the organization on record as supporting laws that encourage both owner's rights and the preservation and dissemination of historic recordings.

European members should be aware that the European Union is currently considering lengthening its 50-year copyright term for recordings to "conform" it to the much longer 95-year term in the U.S. According to an article in the June 11, 2005 issue of *Billboard*, an early staff report was skeptical of such a move, but international copyright holders are now conducting a major lobbying drive to convince regulators to give them longer terms. The article also suggests that there has so far been little effective opposition. If those affected by

this new assault on the public domain do not speak up, loudly and soon, they will likely get the same kind of restrictive climate that exists in the U.S. A decision is expected in 2006.

The U.S. Copyright Office is currently conducting an important inquiry into the issue of "orphan works," copyrighted works whose use is discouraged because their owners are difficult or impossible to locate. Depending on the outcome, the Office could recommend legislation to loosen some of the restrictions now preventing the use of such works. For more information, including public comments pro and con by numerous parties (including myself), see the Inquiry website at <http://www.copyright.gov/orphan/>.

Members are urged to submit their questions on copyright for consideration by attorney Erach Screwala, who will answer them in the copyright column in the *ARSC Journal*. For additional resources visit the committee's page at <http://www.arsc-audio.org/>.

Tim Brooks, Chair, Copyright and Fair Use Committee

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Commentary: Our Recorded Heritage Deserves to Be Heard

[Editor's note: This commentary was originally published in Billboard, May 14, 2005 (and reproduced here with the permission of the author), accompanying an article by Bill Holland on "orphan works." The study will be published later in the year by the Council on Library and Information Resources.]

By Tim Brooks



Record companies have long treated catalog product—whether created by them or inherited from companies they acquire—as an asset they could exploit or ignore at will. Most have ignored it, reissuing a tiny percentage and locking the rest away.

What has also been ignored is the social harm this can do. In researching a book about the earliest African-American recording artists, I was able to identify about 400 commercial recordings black artists made before 1920 that a rights holder still owns today. Of those 400, rights owners have reissued exactly two (one-half of one percent) during the entire CD era. This is a scandalous suppression of our history in the name of "rights."

Another study indicates that of all the historically important recordings issued in the United States before 1965 that are still owned by someone, only 14% have been made available or licensed by the rights holders—and most of those date from the 1950s and early 1960s.

Record companies may be forced to change this "lock it up" approach. The failure of rights owners to make older recordings available has led to a vibrant underground reissue business, spurred by the easy manufacture of CDs. More important, it has led to a growing roster of foreign labels—not subject to our laws—that are reissuing older American material and selling it in the United States. Thanks to the Internet, this field is exploding. While U.S. rights holders have reissued only 14% of important pre-1965 recordings, nonlicensed and foreign companies have made available nearly twice that number—without paying the "owners." Foreign companies are literally selling our culture back to us. Jobs and profits are being shipped overseas.

Control is illusory. For example, even if the Euro-

pean Union lengthens its copyright term for recordings beyond the current 50 years (which is uncertain), it will not make it retroactive. Pre-1955 material is lost there. The way I see it, one of three things will happen.

1. The status quo continues. U.S. companies continue to refuse to reissue older material, or allow others do so on reasonable terms (reasonable, that is, to the users). Exploitation of this material moves overseas. Small operators and websites in Europe and Canada are very happy. U.S. companies get nothing, except perhaps grief in Washington about the unfair situation they have created in which Americans have to buy from foreign countries in order to access their own culture.

2. Under pressure from archivists and others, the United States enacts a "use it or lose it" law that strips companies of older material that they won't make available. Don't think it can't happen.

3. The United States enacts compulsory licensing for older (and perhaps also for more recent) recordings that are out-of-print. Anyone would be able to reissue them on payment of a set fee.

The last option could be surprisingly beneficial to U.S. rights holders. They would not have to spend millions trying to push through more and more legal restrictions in every corner of the world. (This only makes the lawyers rich and does little to stem the digital tide.) They would not incur the considerable costs of marketing low-volume back catalog that will never pay for them, even with Internet distribution; but they would get a steady stream of revenue from small operators in the U.S., including institutions that have the passion and small scale necessary to make such distribution work. Plus, a lot of Americans would learn to appreciate our recorded heritage, which can only be good for the business.

Record companies should embrace a system that produces maximum profits for minimum investment on assets they don't even use.

For once, shouldn't the U.S. recording industry get ahead of change, rather than letting the lawyers and lobbyists lead it into another Little Big Horn?

Tim Brooks is the author of Lost Sounds: Blacks and the Birth of the Recording Industry and is Chair of ARSC's Copyright and Fair Use Committee. He can be reached at (tbroo@aol.com).

If you would like to submit a commentary piece to the Newsletter, please contact the editor.

Grammy Grants Awarded

The Grammy Foundation recently announced funding for fifteen organizations to preserve their recorded sound collections. With funding provided by The Recording Academy, the program works to support efforts that advance the archiving and preservation of the music and recorded sound heritage of the Americas for future generations.

Grant applications for 2006 are available at <http://www.grammyfoundation/grants/> and are due October 1, 2005.

Arhoolie Foundation, El Cerrito, California—To digitize the Arhoolie Foundation's Strachwitz Frontera Collection of Mexican-American Recordings and make it accessible through the University of California Digital Library System. (\$40,000)

Beale Street Caravan, Inc., Memphis, Tennessee—To archive and catalogue the source materials of its weekly, internationally syndicated, non-commercial radio program, consisting of live performances by artists in the blues and related fields. (\$20,000)

Columbia College/Center for Black Music Research, Chicago, Illinois—To catalogue and preserve interviews conducted by Sue Cassidy Clark in the 1960s and 1970s with major soul musicians, including Jerry Butler, Al Green, Isaac Hayes, the Impressions, B.B. King, Gladys Knight, Little Richard, Wilson Pickett, Smokey Robinson, Sly Stone, and Stevie Wonder. (\$19,574)

Educational Broadcasting Corporation, New York, New York—To preserve 22 music programs produced during the 1970s for the "Great Performances" series, now in its 32nd year of production; to catalog them on Thirteen/WNET's Web site and make them available for viewing in its reference library. (\$20,000)

Library of Congress, Washington, DC—To restore, preserve, and make accessible sound recordings held by the American Folklife Center at the Library of Congress, including devotional and instrumental music, folk songs and musical traditions from the Western hemisphere. Online presentations will feature streaming audio files, searchable databases of information on the recordings, and accompanying text and graphic materials. (\$38,414)

Monterey Jazz Festival, Monterey, California—To preserve the first decade of audio recordings of the Monterey Jazz Festival: 1958-1969, an American treasure of unique and irreplaceable recordings of performances by the greatest jazz musicians of the second half of the 20th century. (\$40,000)

Museum of Modern Art, New York, New York—To preserve and create access to a collection of music recordings, films, and printed material, held in its Celeste Bartos International Film Study Center, documenting the relationship be-

tween popular music and motion pictures from the 1890s through 1931. (\$29,600)

Museum of Television & Radio, New York, New York—To transfer and catalogue surviving episodes of "American Musical Theater," "Dial M For Music," "Our Musical Heritage," and "A Contemporary Memorial" that aired in the 1960s, capturing interviews and performances by Richard Rodgers, Stephen Sondheim, Barbara Cook, Alan Jay Lerner, Gwen Verdon, Duke Ellington, and Louis Armstrong, among many others. (\$20,550)

Naropa University, Boulder, Colorado—To preserve 100 hours of live recordings of leading writers, musicians, and other performance artists who have participated in Naropa University's Jack Kerouac School of Disembodied Poetics. (\$39,000)

National Organization for Traditional Artists Exchange, Kihei, Hawaii—To conserve the Lewiston Archive's historically and culturally significant traditional music field recordings, including recordings from South America, Guatemala, and southern Mexico, which have been produced by David Lewiston over the past four decades. (\$20,000)

Poets House, New York, New York—To digitize the contents of its multimedia archive in order to ensure their preservation and provide patrons with access to recordings such as radio broadcasts of the 1950s through 1970s, including poets like Ezra Pound, Gertrude Stein, and Dorothy Parker. (\$30,000)

University of New Orleans/American Routes, New Orleans, Louisiana—To archive and preserve the interview and concert collection now in the American Routes library, which includes conversations and ritual performances from Native American communities, zydeco musicians and the Creole community, and interviews and music recorded by noted folklorist Nick Spitzer, including Jerry Garcia, Carl Perkins, and Little Milton. (\$36,584)

University of North Carolina, Chapel Hill, North Carolina—To preserve and provide access to recordings relating to the Carter Family and the Sons Of The Pioneers in the Ed Kahn and Eugene Earle Collections in the Southern Folklife Collection, Manuscripts Department, at the University of North Carolina at Chapel Hill. (\$37,606)

Western Folklife Center, Elko, Nevada—To transfer approximately 1,200 hours of spoken word and music content that documents grassroots western American poetry, folklore, and traditional and interpretive folk music performed at the National Cowboy Poetry Gathering in Elko, Nev. (\$24,500)

Yale University for Oral History, American Music (OHAM), New Haven, Connecticut—To preserve the entire OHAM collection, which contains oral and video memoirs of some of the most creative musicians of our time, including Aaron Copland, John Cage, Charles Mingus, and Frank Zappa. (\$20,000)

2005 Conference CDs Available

Recordings of selected sessions from the 2005 ARSC Conference in Austin are now available for purchase. CDs are \$10 each and cassette tapes are \$12. Double-length sessions (2005-29A/B) are \$20 for a CD, \$24 for a cassette. Please refer to the online conference program at <http://www.arsc-audio.org/program2005.html> for complete descriptions.

- 2005-1 Sellin' the Blues: The History of Blues Advertising in the '20s and '30s. John Tefteller, Blues Images and The World's Rarest Records, Grants Pass, OR
- 2005-2 Vernon Dalhart: From Opera to Country Recordings. Jack Palmer, Battle Creek, MI
- 2005-3 Discography of Texan Jazz. Dave Oliphant, UT Austin
- 2005-4 Recorded Sound in the Center for American History. John Wheat, UT Austin
- 2005-5 Texas Music Museum, Austin. Clay Shorkey, UT Austin
- 2005-6 The Crossroads of Texas Music. Curtis Peoples, Texas Tech University, Lubbock, TX
- 2005-7 Texas Record Labels and Their Role in Recording Vernacular Mexican-American Music. Chris Strachwitz and Tom Diamant, Arhoolie Foundation, El Cerrito, CA
- 2005-8 In the Trenches: Surveying the Groove. George Brock-Nannestad, Gentofte, DK, and Bill Klinger, Chardon, OH
- 2005-9 Correction of Wow and Flutter Artifacts: Theoretical Implications for Analog Signal Degradation. Robert Heiber, Chace Audio, Burbank, CA
- 2005-10 The Invisibility of Music in the Age of Recording. Mark Katz, Johns Hopkins University, Baltimore, MD
- 2005-11 The Gramophone Company in Central Asia: Social History through Discography. Will Prentice, British Library Sound Archive, London, UK
- 2005-12 Rediscovering "Toscanini: The Man Behind the Legend." Susannah Cleveland and Mark McKnight, UNT
- 2005-13 Rosetta Reitz—Rediscovering Women in Jazz & Blues. Ava Lawrence, Northeastern University, Boston, MA

- 2005-14 Jimmy Giuffre: *Unsung Avant-Garde Jazz Composer and Improviser*. Peter Johnston, York University, Toronto, ON
- 2005-15 Naropa University Archive Project: *Preserving, Reformatting, and Cataloging 20th Century American Literary Culture*. Tim Hawkins, Kristen Andersen, and Joe Conway, Naropa University, Boulder, CO
- 2005-16 *Folk Music on the Radio: Forgotten Roots of the Revival*. Matthew Barton, American Folklife Center, Library of Congress, Washington, DC
- 2005-17 "Pass the Biscuits, Pappy"—W. Lee O'Daniel or How to Win an Election with No Substance But a Lot of Entertainment Value. Cary Ginell, Thousand Oaks, CA
- 2005-18 *Outlaw Country: Godfather to the Muzik Mafia*. Nancy A. Jacobson, University of Michigan, Detroit
- 2005-19 *Ben Botkin and Folklore of the Badman*. Mary Ellen Ducey and Peterson E. Brink, University of Nebraska
- 2005-20 *A Brief Introduction to the Sheldon Harris Blues Collection*. Greg Johnson, University of Mississippi
- 2005-21 *A Tour of Nauck's Vintage Records*. Joe Salerno, Houston, TX
- 2005-22 *Wann geht der naechste Schwann?—A History of the Schwann Catalog*. Michael Biel, Morehead State University, Morehead, KY
- 2005-23 *Sound Recording Reissue Practices Under Current U.S. Copyright Law*. Tim Brooks, Greenwich, CT, Steve Smolian, Frederick, MD, and Samuel Brylawski, UCSB
- 2005-24 *Preservation Metrics for Audio Collections*. Michael Olson, Stanford University, Stanford, CA
- 2005-25 *A Comparison of Software Based Digital Audio Restoration Methods*. Mark Sarisky, UT Austin
- 2005-26 *More Than We Can Chew? Audio Preservation Digitization and Small Non-Profit Institutions*. Andy Kolovos, Vermont Folklife Center, Middlebury, VT
- 2005-27 *WRVA Radio, the "Voice of Virginia."* Jay Gaidmore, The Library of Virginia, Richmond, Virginia. Also written by James Sam, Ryan Davis, and Anji Cornette, The Cutting Corporation, Bethesda, MD
- 2005-28A/B *After the Converter: Moving Forward with Enduring Preservation of Audio* (ARCS Technical Committee)

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Tape Number	Session Title	Format	Quantity	Cost
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Capitol v. Naxos Update

NY Court of Appeals Breathes New Life Into Old Copyrights

In an unprecedented ruling, the New York Court of Appeals has recently ruled (2005 WL 756591 (N.Y.)) that New York common law extends perpetual copyright protection to sound recordings fixed prior to February 15, 1972. This expansive decision comes in the case of *Capitol Records, Inc. v. Naxos of America, Inc.*, a case involving Naxos' modern reissues of English recordings from the 1930s of Bach and Elgar by Pablo Casals, Yehudi Menuhin, and Edwin Fischer, Capitol being the corporate successor of the original UK copyright owner. Although the underlying dispute is by no means over, the ruling has broad implications for the creation and marketing of restorations of older sound recordings.

The Court of Appeals began its analysis by reviewing the evolution of copyright law in England and the United States. The Court of Appeals noted that as early as the late 17th century, English courts recognized an author's right to perpetual copyright protection. The establishment of common law copyright protection, which extended only to literary works, was carried forward to America.

The drafters of the United States Constitution determined that a consistent federal copyright system would be preferable to potentially contradictory rules in each of the thirteen states and included intellectual property protection in the United States Constitution. Sound recordings were finally brought under federal statutory protection in 1972. However, this statutory protection was prospective only. Therefore, no federal copyright subsisted for sound recordings fixed prior to 1972. According to the Court of Appeals, Congress once again left the question of copyright protection for pre-1972 sound recordings to the states.

Having concluded that there exists no impediment to common law protection for pre-1972 sound recordings, the Court of Appeals then considered the scope of such protection under New York law. First, the Court of Appeals pointed out the first New York State Constitution, adopted in 1777, carried forward English common law, including perpetual common law copyright protection. The Court of Appeals thus concluded that New York common law extends copyright protection to pre-1972 sound recordings until February 15, 2067.

The Court of Appeals then rejected Naxos' argument that New York common law copyright does not extend to the recordings at issue inasmuch as the statutory protections in the United Kingdom had expired before the alleged acts of infringement. Here, the Court of Appeals discussed the "Rule of the Shorter Term," a concept in international copyright law that essentially provides that the copyright term in the country of origin would apply even in jurisdictions where a longer period would be available. The Court of Appeals argued that the various international treaties that contain this rule do not apply it to sound recordings. In the absence of any requirement to the contrary, therefore, the Court of Appeals concluded that the Rule of the Shorter Term would not apply.

The Court of Appeals' ruling does not signal the end of the case for Naxos, since its claim of waiver must now be addressed by the Second Circuit. The ruling does, however, have broader implications for the ability to create and market restorations of pre-1972 sound recordings. To begin with, no restorations may be made or sold in New York without permission from the original owner of the copyright. In addition, to the extent that other jurisdictions have the historical predicate, the potential exists for those states to adopt the reasoning set forth by the Court of Appeals, thereby requiring permission of the original owners to create restorations in those jurisdictions as well. Therefore, it seems prudent to assess sound recording ownership in all such restoration projects.

Erach F. Screwvala, Esq.

Court Decision Unprecedented

As a practicing New York lawyer, I was appalled to read the April 5, 2005 decision by the N.Y. Court of Appeals (our highest state court), establishing an incredibly overbroad view of New York common law copyright relating to historical sound recordings. This sweeping decision effectively holds that a perpetual New York common law copyright attaches to any musical performance recorded pre-1972, so the sale in New York of a modern, improved-sounding version using the latest restoration techniques will still violate the owner's legal rights under New York state law. Only preemption by federal law that will occur starting February 15, 2067 will put an end this nonsense—a law that thus benefits only a small group of presently living persons old enough to read this.

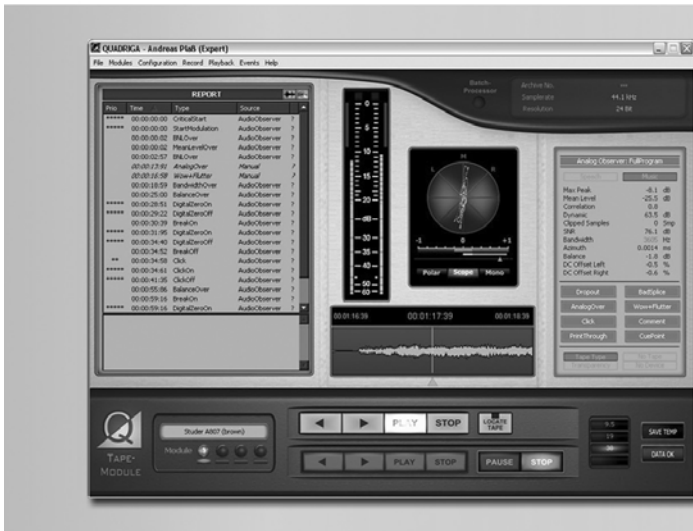
At the trial court level, the federal judge sensibly held for Naxos, refusing to push New York common law to the absurd length of allowing a state law infringe-

(Continued on page 13)

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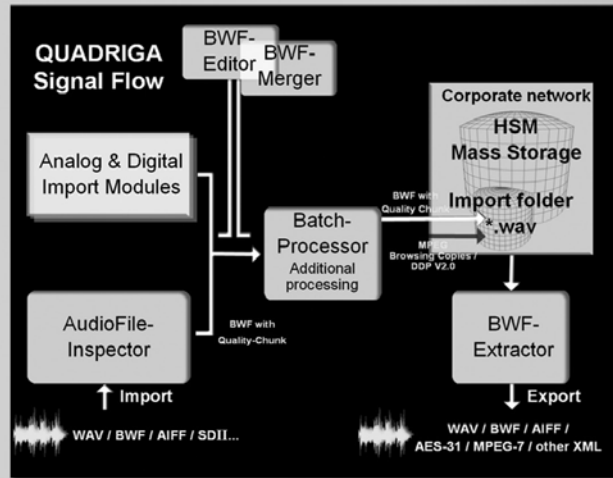
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2005 National Recording Registry

Librarian of Congress James H. Billington announced the third annual selection of fifty sound recordings for the National Recording Registry on April 5, 2005. Included in the inductees were recordings spanning nearly one hundred years of recorded-sound history, including the most modern entry added to the registry to date, Nirvana's groundbreaking 1991 album *Nevermind*. The public nominates recordings for the registry, and a group of advisors, including ARSC's representatives Bill Klinger and David Hamilton, meet in Washington to make recommendations to the Librarian of Congress on which recordings to add to the registry.

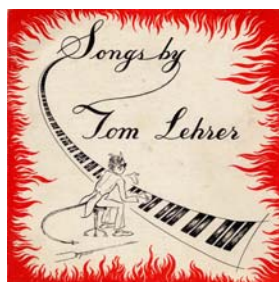
This year's list reflects the wide diversity of music in American culture and aims to bring public awareness to the need to preserve and recognize important American recordings.

2004 Registry List

1. "Gypsy Love Song." Eugene Cowles. (1898)
2. "Some of These Days." Sophie Tucker. (1911)
3. "The Castles in Europe One-Step (Castle House Rag)." Europe's Society Orchestra. (1914)
4. "Swanee." Al Jolson. (1920)
5. Armistice Day broadcast by Woodrow Wilson. (1923)
6. "See See Rider Blues." Gertrude "Ma" Rainey. (1923)
7. "Charleston." Golden Gate Orchestra. (1925)
8. "Fascinating Rhythm" from *Lady, Be Good!* Fred and Adele Astaire; George Gershwin, piano. (1926)
9. NBC radio broadcast coverage of Charles A. Lindbergh's arrival and reception in Washington, D.C. (1927)
10. "Stardust." Hoagy Carmichael. (1927)
11. "Blue Yodel (T for Texas)." Jimmie Rodgers. (1927)
12. "Ain't Misbehavin'." Thomas "Fats" Waller. (1929)
13. "Gregorio Cortez." Trovadores Regionales. (1929)
14. Sergei Rachmaninoff. Piano Concerto No. 2 in C minor. Sergei Rachmaninoff, piano; Leopold Stokowski, conductor. Philadelphia Orchestra. (1929)
15. "The Suncook Town Tragedy." Mabel Wilson Tatro of Springfield, VT. (July 1930)
16. Rosina Cohen oral narrative from the Lorenzo D. Turner Collection. (1932)
17. "Stormy Weather." Ethel Waters. (1933)
18. "Body and Soul." Coleman Hawkins. (1939)
19. Sergey Prokofiev. *Peter and the Wolf*. Serge Koussevitzky, conductor; Richard Hale, narrator. Boston Symphony Orchestra. (1939)
20. "In the Mood." Glenn Miller and his Orchestra. (1939)
21. Edward R. Murrow broadcast from London. (1940)



22. We Hold These Truths. Radio broadcast. (1941)
23. Peter Ilich Tchaikovsky. Piano Concerto No. 1, op. 23. Bb minor. Vladimir Horowitz, piano; Arturo Toscanini; conductor; NBC Symphony Orchestra. (1943)
24. "Down by the Riverside." Sister Rosetta Tharpe. (1944)
25. *U. S. Highball (A Musical Account of a Transcontinental Hobo Trip)*. Harry Partch; Gate 5 Ensemble. (1946)
26. *Four Saints in Three Acts*. Virgil Thomson, composer, with members of original 1934 cast. (1947)
27. "Manteca." Dizzy Gillespie Big Band with Chano Pozo. (1947)
28. Jack Benny radio program, show of March 28, 1948.
29. "Foggy Mountain Breakdown." Lester Flatt and Earl Scruggs. (1949)
30. "Lovesick Blues." Hank Williams. (1949)
31. *Guys and Dolls*. Original cast recording. (1950)
32. "Old Soldiers Never Die" (Farewell Address to Congress). General Douglas MacArthur. (1951)



33. *Songs by Tom Lehrer*. (1953)
34. "I'm Your Hoochie Coochie Man." Muddy Waters. (1954)
35. "Earth Angel (Will You Be Mine)." The Penguins. (1954)
36. *Tuskegee Institute Choir Sings Spirituals*. Directed by William L. Dawson. (1955)
37. *Messiah*. Eugene Ormandy, conductor; Richard Condie, choir director. Mormon Tabernacle Choir; Philadelphia Orchestra. (1958)
38. *Giant Steps*. John Coltrane. (1959)
39. *Drums of Passion*. Michael Babatunde Olatunji. (1960)
40. *Peace Be Still*. James Cleveland. (1962)
41. "The Girl from Ipanema." Stan Getz, Joao Gilberto, Antonio Carlos Jobim, Astrud Gilberto. (1963)
42. *Live at the Apollo*. James Brown. (1965)
43. *Pet Sounds*. The Beach Boys. (1966)
44. King James version of the Bible. Alexander Scourby. (1966)
45. Remarks by Apollo 11 astronaut Neil Armstrong broadcast from the moon. (1969)



46. *The Allman Brothers Band at Fillmore East*. (1971)
47. *Star Wars* (Soundtrack). John Williams. (1977)
48. Recordings of Asian elephants by Katharine B. Payne. (1984)
49. *Fear of a Black Planet*. Public Enemy. (1989)
50. *Nevermind*. Nirvana. (1991)

Naxos v. Capitol *(Continued from page 10)*

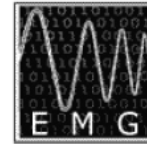
ment case to proceed when the 50-year UK copyright period had expired two decades ago, placing the involved recordings indisputably in the public domain throughout most of the world (we are talking about 70-year-old recordings here). Capitol appealed to the Second Circuit, and that court certified the issues to the N.Y. Court of Appeals, which ruled in favor of Capitol.

Despite the latter court's lengthy review of copyright law going back to 15th century England, the decision is in fact unprecedented in its breadth, effectively haunting those who would perpetuate our musical heritage with the specter of possible litigation in New York by whatever common law copyright owners might pop up. While I do not dispute the rights of property owners to reasonably exploit the rights they own, this decision attempts to cast New York into a new IP dark age by locking up the better part of a century of our aural cultural heritage recorded pre-1972, whether or not the owners are known or can even be located. As we know from the excellent research by ARSC members Tim Brooks and Steve Smolian presented at the recent ARSC conference in Austin, most of the owners of older recorded material are in fact "lost in time." What truly demonstrates the out-of-touch absurdity of the new decision is that anyone who can access the internet can figure out how to acquire the "contraband" recordings from out-of-state, so one has to hope that historically minded record companies will not be put off, apart from the nuisance to everyone involved of avoiding direct sales in New York.

John H. Haley, Esq.

The New York Court of Appeals decision can be found online at: <http://www.nycourts.gov/courts/appeals/decisions/apr05/30opn05.pdf>.

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LC Prepares for Move to Virginia

After “fire” and “flood,” the scariest words to record collectors and sound archivists might be “let’s move the collection.” Feel our pain. This fall, movers



Workers prepare new vaults at the National Audio-Visual Conservation Center in Culpeper, Virginia. (photo courtesy LC)

will begin the monumental task of relocating the collections of the Library of Congress’ Motion Picture, Broadcasting and Recorded Sound Division (MBRS), an estimated 4.5 million pieces of audio and moving-image material, 75 miles southwest of Capitol Hill to Culpeper, Virginia. There, in a structure that formerly housed the underground vaults of the Virginia Federal Reserve Bank, builders are currently installing miles of movable and fixed shelves and media cabinets into newly constructed temperature-controlled vaults.

To the surprise of no ARSC member, in virtually every phase of the move—from ordering shelving to mapping vault locations—the nearly three million sound recordings present the greatest challenges. While moving-image media and containers are uniform in size, sound recordings vary widely, even within the same format. Whereas properly housed film and video are fairly durable to shock and relatively easy to handle, much of the audio collection is extremely fragile, heavy, and awkward, requiring expert handling and customized packing containers. Think about the challenge of safely moving 400,000 shellacs and 300,000 lacquer discs, many of which are glass-based. Among professional movers and those in the know there is a helpful formula: *heavy + fragile x a whole lot = hard to move.*

Adding further to the complexity presented by the audio collection is the shelf arrangement used for the two largest commercial audio formats, LP and 78 rpm

singles. Shelved by label name and number, these collections required calculations to include intermittent growth space to allow for expansion throughout the collection. Mistakes in this process will result in either major shifts to accommodate growth, or isolated empty shelves that aren’t available for other media.

Purchasing the shelving and mapping out the vaults for the audio collection required MBRS planners to estimate the linear feet needed of 7", 10", 12", and 16" movable shelf units and CD cabinets, and organize them in the vaults. Guiding the location of the shelving required an overall organizational matrix of formats that addressed load-bearing limits, put heavy-use items at a reachable height, and made best use of varying ceiling heights in an attempt to maximize vault space.

With that phase done, the focus has shifted to the physical preparation of the collections. Operating under the Arlo Guthrie dictum that “one big pile is better than two little piles,” MBRS staffers have been furiously pulling together and organizing unprocessed collections shelved in four different buildings, inventorying and integrating them into the main format shelf sequences. This clean-up processing will continue for the next year or so until the collections move ends and the re-location of the staff begins. That should be the easy part.

Gene DeAnna, Acting Head, Recorded Sound Section, Library of Congress

**40th Annual
ARSC Conference
Seattle, Washington
May 17-20, 2006**



ARSC will be holding its 40th Annual Conference at the Red Lion Hotel in downtown Seattle, only a few blocks from the famous Pike Place Market, the waterfront district, Pioneer Square, Benaroya Hall, the new Seattle Public Library, and Westlake Center, where you can catch the Monorail to Seattle Center and the Experience Music Project (EMP).

Watch for details on the ARSC website, or contact Conference Manager Kurt Nauck at 281-288-7826 or nauck@78rpm.com for further information.

Call for Presentations

ARSC Annual Conference, Seattle, Washington, May 17–20, 2006

ARSC invites submissions of program proposals for its 40th annual conference, to be held May 17–20, 2006 in Seattle. ARSC is dedicated to the preservation and study of sound recordings—in all genres of music and speech, in all formats, and from all periods—and welcomes proposals on all aspects of recorded sound which would be of interest to our community of collectors, historians, musicians, preservationists, and archivists. Presentations on recording activities in the Seattle area are especially encouraged. In general, we seek demonstrations, papers, and panels that are informative and well organized, display a passion about the subject, and include compelling audio and/or visual content. The deadline for submissions is November 5, 2005. Notifications of acceptance will be sent out by January 2006. Following ARSC policy, presenters will be expected to register for the conference.

Name of presenter(s) _____

Institution (if applicable) _____

Address _____

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Email _____ Telephone _____ Fax _____

Title of presentation _____

Please attach an abstract of up to 250 words on a separate sheet for review and publication.

Session type: single presenter panel/roundtable

Time requested for your presentation:

- 30 minutes (20 minutes for presentation and 10 minutes for questions and discussion)
- 45 minutes (35 minutes for presentation and 10 minutes for questions and discussion)
- Other—please attach an explanation to the end of your abstract.

Audiovisual equipment requests (check all that apply):

- Audio CD player DVD player/LCD video projector
- Computer/LCD video projector—specify program (e.g., PowerPoint) and version: _____
- Overhead projector (for transparencies)
- Other**—please attach to the end of your abstract an explanation of any requests for additional equipment or a description of your planned use of any equipment (e.g., a laptop) you intend to bring yourself.

Recording and Reproduction:

- I hereby grant permission to the Association for Recorded Sound Collections (ARSC) to record and preserve the presentation described in this proposal. I understand that by giving permission to record, the recordings will become part of the ARSC Archives, and that ARSC may also distribute the recordings in the ways I have specified below. I will not be reimbursed or recompensed for any such requests. **Please initial:**
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Return this form by November 5, 2005, to:

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Mac A. Sheets

June 21, 1933–May 29, 2005

Longtime member and ARSC supporter Mac A. Sheets passed away on May 29, 2005 of a heart attack at his home in Beavercreek, Ohio. Mac was born on June 21, 1933 in Middleton, Ohio. He retired in 1989 from Wright-Patterson Air Force base where he worked as a chemical engineer. He and his wife Rosella were married for 49 years and raised four children—Patricia, Doris, David, and Judy—and have seven grandchildren. Mac and Rosie were fixtures at ARSC conferences for many years, and despite his recent health problems, Mac continued to attend, including the Austin conference.

Mac loved music of all kinds, especially early recordings. He was already an avid Dixieland Jazz fan when he met Rosie, and while dating at the University of Cincinnati, they attended several concerts together before becoming engaged and then married. Through these concerts, Rosie was introduced to jazz, and later, while living in Oak Ridge, Tennessee, they were able to listen to two wonderful classical FM stations, one from Mt. Mitchell, North Carolina, and the other from Chattanooga, and that got Mac hooked on Rosie's type of music. A couple of years after moving "home" to Ohio, Mac tuned into a local FM station sometime early in 1965 and heard "The Jolly Coppersmith"—and thus began his long journey of collecting. From that point on, no junk shop, antique store, Goodwill, Salvation Army store, or flea market was off limits. On many vacations, their four children (then pre-teenagers) sat in the car grousing and asking how long Dad was going to be in "that store." Mac loved to share his love of and knowledge of music and would often ask new acquaintances, and old friends, about their musical interests. Sooner or later, that person might get a tape—or later a CD—or even be invited to Mac's home for an evening of listening to his collection.

Services were held on June 3, 2005 at St. Andrew United Methodist Church in Beavercreek, Ohio, where his oldest daughter, Patty, played a selection from the Mozart Concerto for Clarinet in A major in his memory.

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Since 1999, the Association for Recorded Sound Collections has sponsored an unmoderated mail reflector to facilitate the exchange of information on sound archives and promote communication among those interested in preserving, documenting, and making accessible the history of recorded sound. The list is sponsored by ARSC as a service to its members and the archival community at large.

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To subscribe to the list, send an email message to:

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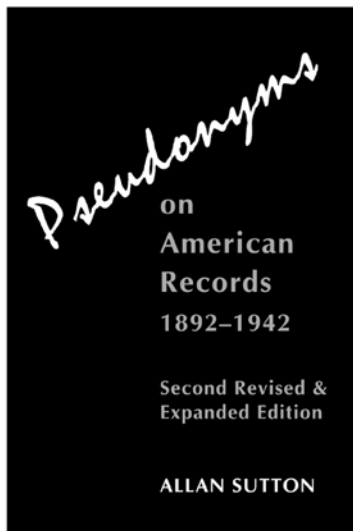
Only subscribers can post to the list.

You may also subscribe to the list via the Library of Congress website at <http://listserv.loc.gov/listarch/arsclist.html>

ARSClist Archives

The complete ARSClist archives are kept on the Conservation OnLine (CoOL) site maintained by Stanford University at <http://palimpsest.stanford.edu/byform/mailling-lists/arsclist/>. Once archived, messages become part of the historical record of discourse in this field and will not be removed from the archives. Current archives are also maintained by the Library of Congress on the above website.

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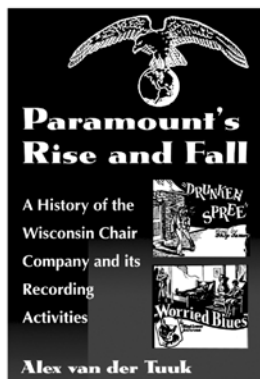
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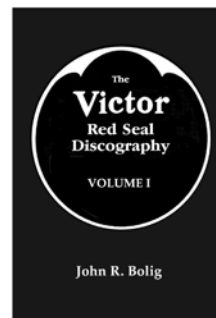
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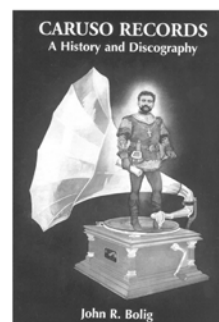
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New ARSC Members

Names and addresses of new ARSC members are not available in the online version of the newsletter.

ARSC Newsletter Submission Deadlines

No 109, Fall 2005—October 10, 2005 (advertising, October 1, 2005)
No 110, Winter 2006—January 10, 2005 (advertising, January 1, 2006)
No 111, Summer 2006—June 10, 2006 (advertising, June 1, 2006)

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Kitchen Sisters at Threadgill's



The Kitchen Sisters (Nikki Silva, left and Davia Nelson, right) of NPR's radio program *Lost and Found Sound* entertain members at the ARSC banquet at Threadgill's in Austin, Texas.