

Teaching *The Hudson River Valley Review*

Teaching About

“Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law” –Steve Garabedian

Lesson Plan Introduction:

- Students will use the [Hudson River Valley Review \(HRVR\)](#) Article: “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law” as a model for an exemplary research paper (PDF of the full article is included in this PDF). Lesson activities will scaffold student’s understanding of the article’s theme as well as the article’s construction. This lesson concludes with an individual research paper constructed by the students using the information and resources understood in this lesson sequence. Each activity below can be adapted according to the student’s needs and abilities.

Suggested Grade Level: 11th grade US History: Regents level and AP level, 12th grade Participation in Government: Regents level and AP level.

Objective:

Students will be able to:

- Read and comprehend the provided text.
- Analyze primary documents, literary style.
- Explain and describe the theme of the article: “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law” in a comprehensive summary.
- After completing these activities students will be able to recognize effective writing styles.

Standards Addressed:

Students will:

- Use important ideas, social and cultural values, beliefs, and traditions from New York State and United States history illustrate the connections and interactions of people and events across time and from a variety of perspectives.
- Develop and test hypotheses about important events, eras, or issues in United States history, setting clear and valid criteria for judging the importance and significance of these events, eras, or issues.
- Use a variety of intellectual skills to demonstrate their understanding of major ideas, eras, themes, developments, and turning points in the history of the United States.

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Central Focus:

Students will be able to conduct their own academic primary and secondary source research surrounding a chosen or provided topic. Students will then be able to construct their own arguments and research papers using the *HRVR* article: “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law” (pages 98-114) as a model of exemplary literary style and academic research.

Time Allotment:

Three 40 minute periods

Vocabulary:

See attached glossary

Teacher Resources:

The Hudson River Valley Review article: “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law” –Steve Garabedian

Materials Used:

- *The Hudson River Valley Review* Article “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law”
- Pen/Pencil
- Paper
- HRVI Hall of Fame: <http://www.hudsonrivervalley.org/library/halloffame.html>
- Library of Congress Digital Archives (for Primary Source Research): <http://www.loc.gov/library/libarch-digital.html>
- Library of Congress Government and Law primary source portal: <http://memory.loc.gov/ammem/browse/ListSome.php?category=Government,+Law>
- Sample Library of Congress primary source collection → Abraham Lincoln Papers: Series 2 General Correspondence. 1858-1865: http://memory.loc.gov/ammem/alhtml/alser2_dates.html

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Activities Menu

Activity 1: Students will examine the literary style/introduction/and thesis of the *HRVR* article, pages 98-104, and evaluate effective writing strategies.

Procedure

- Students will begin this lesson sequence by reading pages 98-104 of the HRVR article “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law”. Students will work independently or in small groups to identify the thesis and argument of the article, and list literary elements utilized in the article. These literary elements will be defined by the students along with a description of how these elements are effectively used in a research paper/article.
- See attached glossary for challenging vocabulary.

Enrichment

- Upon conclusion of individual/small group work students will engage in a whole class discussion on the following topics: effective introductions, thesis statement/argument of the article, and how the author introduces his audience to his article.
- At this point the teacher can adopt the following activity to best fit the class curriculum. Students will then choose a research topic (teacher can provide/dictate these options) and create their own engaging introduction to what may be used as the introduction for their own research paper.
- Teachers may want to use the following web page as the option list for students when choosing research topics. The *Hudson River Valley Institute Hall of Fame* provides adequate and generally equal information for a variety of topics.
<http://www.hudsonrivervalley.org/library/halloffame.html>

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Activity 2: Students will examine the primary sources embedded within the *HRVR* article, pages 105-108, interpreting their meanings along with how to find and utilize primary sources within a research paper.

Research

- Students will read pages 105-108 of the article and examine the primary source information utilized in the article. As individuals or in small groups students will make a T-chart to distinguish between visual and textual sources. Students will discuss the effectiveness of both images and quotes that best suit their individual research projects.

Application

- Teachers will direct students to the Library of Congress digital archives and navigate through the site to display to students one method in which to obtain primary source documents that students can use in their individual research papers.
- Teachers may also want to use the following primary source collection as an example of accessing and navigating through the portal displaying- *Abraham Lincoln Papers: Series 2 General Correspondence, 1858-1865*:
http://memory.loc.gov/ammem/alhtml/alser2_dates.html
- Teachers may want to navigate through the Library of Congress site independently based on the curriculum being taught or visit the following collection related to *Government and Law* as a resource to provide students with during their research:
<http://memory.loc.gov/ammem/browse/ListSome.php?category=Government,+Law>

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Activity 3: Students will read the remainder, pages 109-114, of *HRVR* article and evaluating the conclusion, along with the theme and information dissected from the essay. Students will then begin their own research paper using the *HRVR* article as a model.

Evaluate

- Students will complete reading “Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law”, pages 109-114. Students will work independently or in small groups to evaluate how the conclusion readdresses the thesis/argument of the article. Students should compose a summary of the article and analyzing components such as: style/sources/voice/method that make this article an exemplary research paper. Students will then discuss their responses as a class, comparing individual textual examinations.

Follow Up

- After concluding article analysis teachers will then explain requirements for the students’ research papers. Students will be instructed to use the tools and methods deemed exemplary through the examination of the article, describing how individuals enacted change to a political, cultural, economic issue.
- This Lesson Sequence can be paired with any research paper assignment, to model exemplary research and composition.

Assessment

- Formative assessment of student progress and submitted work will display student comprehension and understanding of lesson objectives.
- Class discussions will also serve as formative assessment of student understanding.
- Assessment of student research papers from the follow-up activity will serve as a concrete product displaying student’s ability to apply the knowledge gained through this lesson sequence.

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Glossary

“Teaspoon Brigade: Pete Seeger, Folk Music, and International Property Law”

Term	Page #	Definition
Activism	99	A doctrine or practice that emphasizes direct vigorous action especially in support of or opposition to one side of a controversial issue.
Anthology	106	A collection of works of art or music.
Archival Materials	99	Information objects that serve as evidence of past events.
Blacklisted	105	A list of people, organizations, etc., that are disapproved of or that are to be punished or avoided.
CFCH	99	Center for Folklife and Cultural Heritage
Clearwater	99	http://www.clearwater.org/about/the-clearwater-story/ - An organization founded by Pete Seeger, focusing on environmental education and protection through hands-on learning, music, and celebration.
Commodification	107	To turn (as an intrinsic value or a work of art) into a commodity.
Compensation	106	Rewarding someone for service or by making up for someone’s loss, damage, or injury by giving the injured party an appropriate benefit.
Contempt	105	A feeling that someone or something is not worthy of any respect or approval.
Copyrighting	105	The legal right to be the only one to reproduce, publish, and sell a book, musical recording, etc., for a certain period of time.
Disempowered	102	To cause (a person or a group of people) to be less likely than others to succeed: to prevent (a person or group) from having power, authority, or influence.
Dismal	108	Showing or causing unhappiness or sad feelings: not warm, cheerful, etc.
Entreaties	99	Serious requests for something.
Ephemera	100	Things that are important or useful for only a short time: items that were not meant to have lasting value.
Exploitation	105	The action or fact of treating someone unfairly in order to benefit from their work. The action of making use of and benefiting from resources.
Folklorist	104	Someone who shares traditional stories and legends, transmitted orally (rather than in writing) from generation to generation.
Fraught	104	Causing or affected by great anxiety or stress.
Iconic	100	Widely recognized and well-established.
Indictment	105	The act of officially charging someone with a crime: the act of indicting someone.
Inequity	102	Lack of fairness: unfair treatment: something that is unfair.
Intellectual Property	99	A work or invention that is the result of creativity, such as a manuscript or a design, to which one has rights and for which one may apply for a patent, copyright, trademark, etc.

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LP's (Long Player)	104	A type of media. A vinyl recording of music. Also known as recording.
McCarthyism	103	A vociferous (loud/insistent) campaign against alleged communists in the US government and other institutions carried out under Senator Joseph McCarthy in the period 1950–54. Many of the accused were blacklisted or lost their jobs, although most did not in fact belong to the Communist Party.
Muckraking	109	The action of searching out and publicizing scandalous information about famous people in an underhanded way.
Nascent	105	(Especially of a process or organization) just coming into existence and beginning to display signs of future potential. Newly formed.
NMAH	99	National Museum of American History
NPR	103	National Public Radio
PD- Public Domain	99	The state of belonging or being available to the public as a whole without change, and therefore not subject to copyright.
Pessimistic	108	Tending to see the worst aspect of things or believe that the worst will happen.
Plagiarism	107	The practice of taking someone else's work or ideas and passing them off as one's own.
Privatization	112	The process of transferring an enterprise or industry from the public sector into private ownership. The public sector is the part of the economic system that is run by government agencies.
Profiteering	111	To make, or seeking to make, an excessive or unfair profit, especially illegally or in a black market.
Remuneration	108	Money paid for work or a service.
Repositories	100	A place, building, or receptacle where things are or may be stored.
Royalties	102	A sum of money paid to a patentee for the use of a patent or to an author or composer for each copy of a book sold or for each public performance of a work.
Semblance	107	The outward appearance or apparent form of something, especially when the reality is different.
Stipulate	102	Demand or specify (a requirement), typically as part of a bargain or agreement.
Third-World Countries	99	The underdeveloped nations of the world, especially those with widespread poverty.
Vernacular	105	The common speech or language of a place, or group of people.
WIPO	102	Modern name of WIRPO- which is the international clearing house for copyright
WIRPO	102	World Intellectual Property Rights Organization
Wry	106	Bitterly or disdainfully ironic or amusing.

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from the
HUDSON RIVER VALLEY INSTITUTE

KEY TO THE
NORTHERN COUNTRY



THE HUDSON RIVER VALLEY
IN THE AMERICAN REVOLUTION

Edited by James M. Johnson, Christopher Pryslopski & Andrew Villani

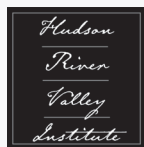
KEY TO THE NORTHERN COUNTRY
The Hudson River Valley in the American Revolution

Edited by James M. Johnson, Christopher Pryslopski, & Andrew Villani

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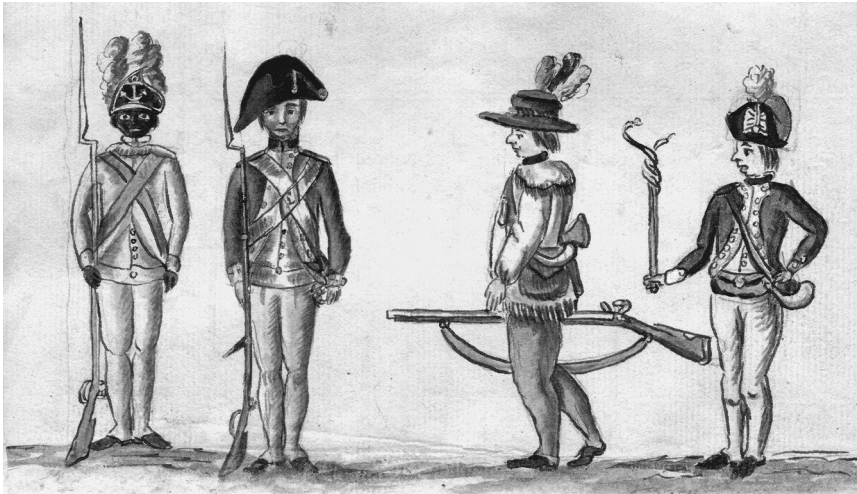
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From the Editors

With Pete Seeger's passing last year, the Hudson Valley—and the world—lost a musical and environmental icon, as well as a strong moral compass. A fascinating essay in this issue of *The Hudson River Valley Review* illustrates how Pete kept fighting, in this case for songwriters' royalties, to the very end of his life. Another article on a 1943 case involving anti-Semitism in Rockland County will acquaint readers with an equally dedicated but far less renowned civil libertarian, the lawyer Arthur Garfield Hays. Additional features cover Native and African Americans; the Dutch, Quakers, and Shakers; and two centuries of military history—making this an extremely full and historically kaleidoscopic issue.



On the cover:

Soldiers in Uniform by Jean Baptiste Antoine de Verger, 1781-1784.
Anne S.K. Brown Military Collection, Brown University Library

Jean-Baptiste Antoine de Verger (1762-1851) served in the American Revolutionary War as a member of the *Expédition Particulière*, commanded by General Jean-Baptiste Donatien de Vimeur, comte de Rochambeau. While in America, de Verger kept a journal of his wartime experiences; here he depicts a black soldier of the 1st Rhode Island Regiment, a New England militiaman, a frontier rifleman, and a French officer.

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Pete Seeger performing on the stage at Yorktown Heights High School.
Photo by James Kavallines for the *World Journal Tribune*.
Image courtesy of Library of Congress Prints and Photographs Division

Teaspoon Brigade:

Pete Seeger, Folk Music, and Intellectual Property Law

Steven Garabedian

New York's Hudson River Valley is one of the nation's folk music capitals. Premier American folk icon Pete Seeger was a Beacon local from 1949 until his passing in 2014, and for years his Clearwater Festival has showcased some of the best folk music artists in the country to raise funds for cleaning up the Hudson River and promoting environmental activism. Like the river, folk music is a public resource; it is, we might say, public music. This definition makes sense, most immediately, because much folk music of traditional origin has been formally assigned to the "public domain" as regards legal copyright. Additionally, folk music is public music because much of it has been claimed in spirit by folk music enthusiasts, like Pete Seeger, as the communal creation and common property of everyday Americans. Still, just as in the private-versus-public interest debates that emerge in other sectors of our contemporary world, questions over the "ownership" of public music have surfaced over the last half-century. When folk went commercial for the first time with groups like The Kingston Trio and Peter, Paul, and Mary in the 1950s and '60s, public music suddenly brought big money and commercial claims. From his hand-built cabin in Beacon, Pete Seeger waged a battle to make public music serve the public interest. Long before I relocated to the Hudson River Valley, I interviewed Seeger and gathered archival materials documenting a behind-the-scenes battle over the rights of folk music artists, collectors, interpreters, and audiences.

I called Pete Seeger at his home twelve years ago. I didn't expect him to answer, and I hadn't called about folk music copyright reform. I was a pre-doctoral research fellow at the Smithsonian Institution in Washington, D.C., enjoying a joint appointment split between the National Museum of American History (NMAH) and the Center for Folklife and Cultural Heritage (CFCH). I'd been given the Seegers' phone number by folk music scholar Ron Cohen, and I'd been told by Cohen that Toshi Seeger, Pete's wife, would most surely answer. She would take my name and contact info. At some point later, Pete would get in touch with me. The flood of entreaties that the Seegers received on a daily basis made this screening protocol only fitting.

Sitting in my writing cubicle that day at the NMAH, I was startled into eager action when a voice I recognized answered directly. It was Pete Seeger himself, as casual and

unassuming in his greeting as one would imagine from his iconic public reputation. I asked if he had a few minutes for some questions relating to my doctoral research on folk music collecting and scholarship; he said he was always glad to “run off at the mouth.”²¹

In 2002, I was two years away from completing my Ph.D. Seeger was a spry eighty-three years old. I had been awarded an in-residence fellowship at one of the nation’s leading public history institutions and repositories. The Smithsonian’s NMAH collected, preserved, and exhibited U.S. heritage, from George Washington’s uniform to Abraham Lincoln’s top hat to the Woolworth’s lunch counter from the first Civil Rights sit-in in Greensboro, North Carolina, in 1960. The Smithsonian’s CFCH was not a museum with public exhibitions, but it was a nerve center of American vernacular music and culture. Located off the mall in downtown Washington, the CFCH housed, among other materials, a vast sound recording archive and the full records, correspondence, music catalog, and ephemera of Moses Asch’s influential independent label, Folkways Records. With my fellowship at the Smithsonian, I was at an epicenter of U.S. public life, culture, and politics, and on this day in June, I was talking to one of the nation’s central twentieth-century shapers and resisters.

Seeger didn’t seem as taken with himself as I was. The man was not one to cultivate celebrity. If he had a good song or a good cause on his mind, he did not shrink from the spotlight. But suggestions of fandom were clearly off limits. If you got through



Pete Seeger entertaining at the opening of the Washington, D.C. United Federal Labor Canteen, sponsored by the Federal Workers of America, Congress of Industrial Organizations (CIO), 1944. Photo by Joseph A. Horne. Image courtesy of Library of Congress Prints and Photographs Division

to him and there was an opportunity to talk, he was going to make it count. On this day, we moved rather quickly from my narrow dissertation research questions to his broader ongoing concern for folk music copyright and public domain reform. I didn't know it then, but Seeger was in the midst of a new project that has since unfolded in the growing discourse on public rights and intellectual property. Seeger had something on his mind, and he had found a willing audience.

"I'm trying to get the copyright law changed now," he offered. From there, Seeger began to detail his efforts to establish the Committee for Public Domain Reform. In the past, he recounted, those artists or commercial parties who asserted legal claim as "arranger and adaptor" of traditional material in the public domain received all royalty payments. Before The Kingston Trio, Joan Baez, Bob Dylan, and Peter, Paul, and Mary in the folk music boom of the 1960s, this practice hardly mattered, however. Folk music was not in commercial currency and there was no steady revenue of any sizable degree being generated by folk music publishing, recording, or performance. Seeger's own group, The Weavers, did have several arrangements of other folks' material that became big-sellers, among them the Israeli song "Tzena, Tzena" and Lead Belly's version of the folk standard "Goodnight Irene" in 1950. But this commercial surge was short-lived. By 1952, The Weavers had been crushed by American anticommunism. Until the mass revival of the 1960s, there was no money in folk music. Few people cared about its rights and wrongs.²

By the turn of the millennium, a wealth of artistry and commerce had risen on a foundation of global traditional music and culture. The fall before I spoke with him, Seeger had issued a call in the folk music periodical *Sing Out!* via his regular column, "Appleseeds." He summoned:

Songs have been written all over the world which have fallen into public domain. These songs continue to be used by contemporary recording artists and record companies as sources of inspiration for new songs. In these cases, the new copyrights and recording masters owe a monetary debt to the original sources.

It is our quest to recognize and honor the original sources of lyric and/or music content which have and continue to be included in contemporary music.

We propose that a share of mechanical, print, and performing royalties from such new works be sent to the "public domain commission" in the country of origin. Such commissions will determine where the funds can be used.

This income will serve the cultures and countries which have helped inspire us.

Please join us in this effort.³

Seeger had followed up with a clarification that summer. Published in the June 22, 2002, installment of "Appleseeds," this was the open conversation in which he was involved when I happened to call only a few days later. What he was proposing, he elaborated, is that "when someone 'adapts and arranges' an old song which is in 'the public domain' they no longer collect 100 percent of the royalties which come in for this version." He was not calling for the abolition of "public domain," he found it nec-

essary to explain to wary readers. “Not at all,” he stressed. “What I and my publishers are recommending is finding some way to get money to Third World countries when someone puts new words to one of their ancient melodies. . . . We think that every country in the world should have a Public Domain Commission.”⁴

As Seeger told me, the point of the campaign and its practical instrument, the Public Domain Commissions, were to allot folk originators, most of them unrepresented and disempowered in this market field, “some, but not all, maybe 50/50,” of any royalties accrued from commercial adaptations.⁵ It was perhaps “just nibbling away at a huge problem that needs a worldwide solution,” he granted in his column that summer, but it was an effort toward balancing the scales after years of inequity. The international Public Domain Commissions “wouldn’t have to bother with all the tens of thousands of songs written every month,” he stipulated, “but when a song somewhere starts to earn money they’d consider it” on behalf of their own people.⁶ In our phone call, Seeger added that he had gotten his publishers, Richmond Organization and Harold Leventhal, signed on. Documents were being composed and Seeger hoped to get the movement all the way to the World Intellectual Property Rights Organization (WIPRO) of the United Nations. Headquartered in Geneva, the WIPRO (now WIPO) is the “international clearinghouse for copyright,” explained Seeger. “They are trying to standardize intel-

lectual property rights when it comes to music copyright.”⁷

These were not my pressing concerns for the dissertation and not the reason for my call, but they were certainly relevant. In fact, in the Folkways Records archives at the Center for Folklife and Cultural Heritage, I had been tracking as a side issue to my main research an early, behind-the-scenes dispute over traditional music, public domain, and intellectual property rights. The tussle involved Seeger, Folkways Records owner Moe Asch, and eminent folk music collector Alan Lomax. In public statements throughout his life, Seeger was customarily diplomatic in his mentions of Lomax and copyright. Though only four years his senior, Alan was a pivotal influence, a kind of “concerned older brother,”⁸ who mentored a young Seeger as he found his way into folk music. Lomax had



Alan Lomax playing guitar on stage at the Mountain Music Festival, Asheville, N.C., c.1940s. Image courtesy of Library of Congress, Prints & Photographs Division, Lomax Collection, [reproduction number, e.g., LC-USZ62-111157]

hired the nineteen-year-old Seeger as an assistant at the Library of Congress in 1939, and it was Lomax who had made the fateful introduction between Seeger and the worldly Woody Guthrie at a benefit in 1940.⁹ Seeger appreciated Alan's importance and was sensitive in public comments. On the evening of Lomax's passing in July 2002, Seeger was interviewed for a remembrance by NPR correspondent Lynn Neary. The reporter ventured, "He [Lomax] also could be controversial, though, couldn't he? He claimed authorship at times of some songs that really belonged to the tradition." Seeger replied directly: "No." He explained:

What happened was he found himself in England. He couldn't get a job here because of McCarthyism and the blacklist. And so he went to England, and there a recording was made of "Rock Island Line" which was making hundreds of thousands of dollars for some people over there and not one penny was going to the guy who recorded "Rock Island Line" for Alan back in Arkansas, a man named Kelly Pace. So, Alan came back to New York and went to a publisher and says, "Copyright all the songs I ever collected." That's perfectly legal if you say you've adapted and arranged it. The publisher says, "Can you say you've adapted and arranged them?" and, he says, "Of course, I've adapted and arranged everything I ever collected." And, he probably did in a way.¹⁰

The primary materials I had uncovered in the Folkways Archive, however, revealed a deeper tension. In a letter from Lomax to Seeger, undated but likely from 1960 owing to the book reference, there was a distinct note of sourness. Lomax wrote:

Dear Pete, There is no question that the copyright aspect of THE FOLK MUSIC OF NORTH AMERICA [sic] is the least important part of the book. I thought that you could see further than that. And, I am very disappointed that you cannot.... You have made your career around a large body of recordings, in which you have quoted liberally from Lomax books. At the time neither one of us saw what would be the result.... When I asked you to remedy this situation, you agreed to do this — both with the Weavers to whom you gave a repertory and with Moe to whom you gave catalogue — all without any sort of acknowledgement. So far there a lot of meetings with no results. All you have to do is to acknowledge your sources in print and see that your associates, both ex- and present, do the same. This may involve some difficulties, but then so did the collection and arrangement of these pieces. You have this obligation and I see no reason for you not to carry it out.

On this typewritten letter from Alan to Pete, Seeger had added a handwritten annotation in the upper left corner: "show to Harold and Moe." He meant music manager Harold Leventhal and Folkways owner Moses Asch. Additionally, someone else (not Seeger, judging from the script) had added a further note at the bottom of the page: "Either don't use Alan's stuff — or give a paragraph — on sources for each song — I'd make it as ridiculous as possible." The sarcasm suggested frustration.¹¹

To a degree, Seeger did work to acknowledge the Lomax claims in his recorded output for Folkways. In a letter I found in the Folkways archives dated September 6, 1958, Seeger wrote, "Dear Moe, Alan and I have been talking over the past years of recording work I have been doing for you and I wish to acknowledge in this letter to you the songs from Lomax books and Lomax sources which I have recorded for your

company.” A follow-up letter, also located in the archive, dated May 22, 1960, reiterated the point: “Dear Moe, In view of the fact that I want to go over a number of brochures for LP’s I’ve made for you and reprint them I would like to know if I can also reprint the labels of a number of these records for the following reasons.” Among Seeger’s list of rationale that followed, his first item was that “[s]ome songs need to be given copyright credit to Alan Lomax or other people from whom he has collected the songs.”¹²

Both documents reflect compliance. But it was compliance with reservations. As Peter Goldsmith relates in *Making People’s Music: Moe Asch and Folkways Records*, “[Lomax] pressed Seeger” to compose the first letter from 1958. Seeger, however, “was among those disinclined to regard genuine folk songs as property,” Goldsmith states, “and reportedly wrote Asch very reluctantly.” Asch’s reaction to the Lomax claims, moreover, was guarded at best. To Lomax’s publisher, he replied that he would not “make blanket concessions nor agree to sweeping claims without a more careful analysis of the specific material.”¹³ In confidence, Seeger appeared equally resistant. In a handwritten annotation at the top of the second dispatch, Seeger confided, “Dear Moe—have sent this formal letter to you so I can send a carbon to Alan. While I feel that many of his claims need to be questioned, I’d like to stop the pressure from him. Pete.”¹⁴

This testy backstage exchange involving three of the leading lights in the emergent folk music establishment—Seeger, Lomax, and Asch—was preceded by a private correspondence between Seeger and Lomax that was even more fraught and direct. In 1958, the year The Kingston Trio kickstarted what would become the 1960s folk boom with their hit “Tom Dooley,” Seeger heralded the fortuitous return of Alan Lomax to the United States after an eight-year political exile evading McCarthyism. In a public “Welcome Back, Alan” in *Sing Out!*, Seeger praised Lomax as perhaps the nation’s “foremost folklorist.” Lomax “left the U.S.A. as an ‘enfant terrible,’” he joked, “and he returns a legend.”¹⁵ Still, already at this early date, the copyright issue was a bother to their relationship. In a candid personal note from Seeger to Lomax, dated “c. 1957,” in the Seeger home archives, Seeger opened, “This is in no way a proper and sufficient



Alan Lomax recording the Pratcher brothers. Photograph by Shirley Collins. Image courtesy of Library of Congress, Prints & Photographs Division, Lomax Collection, [reproduction number, e.g., LC-USZ62-111157] Permission of Association of Cultural Equity

response to your letter, but I wanted to get something off without too much delay. If you will send me a list of all songs to which you are attaching copyright claim, I will be very glad to notify any record company, radio or TV station, or publisher that I use these songs with, of such claim." On the value of Lomax's fieldwork and published folk music songbooks, Seeger offered no equivocation. "I agree," he continued, "that your research has been fundamental to the present folksong revival." But on the question of collector copyright, the singer was frank and personal. Seeger stated:

If you include as coauthors your original informants such as Ironhead, Mrs. Ball, George Turner, et al, you will be on firm ground . . . If you don't do this, I feel you will be in for more trouble than you realize.

. . . [sic] You see, Alan, I feel that above all you weaken your case dreadfully by being in any way bitter yourself. . . . If you are going to be bitter about anything, be bitter about this cockeyed system where the gambling man is rich and the working man is poor. . . .

The truth is that you, and I, and others like us have been lucky, far luckier than we realize. You with stepping into a Library of Congress job when you were so young. Me for meeting you. If we realize this, and realize also that we are all just links in the human chain anyway, isn't the important thing to be a strong link rather than a long link, if I think I mean what I think I'm saying?

I'll grant you, all the city-billies are doing better than the true folk sources, such as you mention . . . Why don't you write an article: "Why I Am Now Copyrighting Folk Songs," and include in it personal accounts of some of these fine people. Also include stories on exactly what you did, in a couple of cases, to change their songs. Or would this be endangering your copyright?

Take care of yourself, Alan. A lot of us love and admire you, even when we think you are wrong, as occasionally happens, or when we think you sound condescending, which occasionally happens, too. Take it easy, but take it. Pete¹⁶

In a second private letter from the same period, Seeger further expressed that he had a "few exceptions I feel I should take" to Lomax's correspondence concerning copyright. Why, Seeger wondered, was Lomax pressing his claims now. "Yes, I'm making a better living than before," he acknowledged. But, as he reminded Lomax, "I have been for twenty years almost blacklisted from commercial work," and, Seeger continued, "[A]t the moment I have an indictment for contempt of Congress with a possible year's jail sentence and \$1,000 fine hanging over my head."¹⁷ Whose interests were served by the copyrighting of vernacular music previously unclaimed as public domain? In this nascent period, just as folk music was beginning to be discovered for its commercial potential, the letters between these two founding figures mapped out what became the common opposing currents on traditional music and intellectual property. Lomax believed he had to protect his folk music fieldwork from a seeming sudden "Wild West" of pop music exploitation, and Seeger held back to ask whose rights were really being protected.¹⁸

As the mass revival took hold by the turn of the decade, the behind-the-scenes tension over folk music copyright assumed public form in 1960 in the pages of *Sing*



Ethnomusicologist Charles Seeger seated in automobile, with family, standing, left to right: wife Constance Seeger, concert violinist, and sons Pete, Charles, and John. The family was ready to leave Washington, D.C. for their 1921 “trailer trip” musical expedition to bring classical music to rural areas.
Image courtesy of Library of Congress Prints and Photographs Division

Out! magazine. Editor Irwin Silber inaugurated an impassioned debate on the subject with an extended review he authored on folklorist Herbert Haufrecht’s *Folk Sing, A Handbook for Pickers and Singers*. Titled “Folk Songs and Copyrights,” the piece raised tough questions and angered some readers. Haufrecht’s book was the occasion for Silber’s straight talk, but the criticism branched outward. In their own folk music songbooks, asserted Silber, Alan Lomax and his father, John A., for instance had listed themselves as “co-authors” of Lead Belly songs that “were notated word for word and note for note from recordings made by Leadbelly [sic] in the years shortly before his death.”¹⁹ If Silber granted that folklorists did deserve fair credit and compensation for their crusading work collecting traditional music, his article at the same time begged the issue of what exactly is fair in a property system where folk informants, folklorists, and music industry owners and managers did not participate on even ground.

Over the course of the revival, some central figures voiced unyielding stances on traditional material and the rights of property. Late in 1960, as the issue stewed on the front burner for *Sing Out!* readers, columnist Israel “Izzy” Young, owner of the influential Folklore Center in Greenwich Village, registered his views as regards Lomax and copyright. “Alan Lomax’s new book *Folksongs of North America* . . . promises to be the greatest anthology yet of American folksong,” he wrote. “The only sour note occurs when we are warned that our heritage, so movingly described, is entirely copyrighted.”²⁰ It seemed to Young, perhaps, that his wry prediction from a year before was in fact coming true. As folk music began to climb the Hit Parade following The Kingston

Trio's version of "Tom Dooley," Young quipped that "there will be so much money to be made in Folk Music in the next two to three years that politics and personal differences will be forgotten in the desperate attempt to copyright every folk song ever written."²¹

In principle and practice, Izzy Young was opposed to the commodification of traditional music formerly assumed for the public domain. Young in 1969 was still sticking to it, even as the money flowed in to others. He asserted, "Music should be part of everything but it's not part of everything in America. It's part of the business scheme. . . . I'm living within the business system," Young acknowledged as a small business owner, "however, I've put on 400 concerts and never signed a contract with anybody, I've never owned a percentage of anybody. . . . I've never copyrighted a song."²²

A figure even closer to Pete Seeger, the respected elder statesman of folk musicology, Charles Seeger (Pete's father), similarly looked at the commercial developments of the mass revival with disappointment. He addressed the debate in a formal article in the academic journal *Western Folklore* in 1962. In "Who Owns Folklore?—A Rejoinder," Seeger questioned the very premise of intellectual property as regards traditional music. He pondered:

Perhaps the Russians have done the right thing, after all, in abolishing copyright. It is well known that conscious and unconscious appropriation, borrowing, adapting, plagiarizing and plain stealing are variously, and always have been, part and parcel of the process of artistic creation. The attempt to make sense out of copyright law reaches its limit in folk song. For here is the illustration par excellence of the Law of Plagiarism. The folk song is, by definition and, as far as we can tell, by reality, entirely a product of plagiarism.²³

At the time, the position of the father on this matter exceeded that of the son. Thus, Charles Seeger concluded:

One surely has a right to claim copyright in a table of contents, an arrangement of titles, one's headnotes, or in editorial and critical comment. But one has no right to try, thereby, to limit the normal currency of a folk song unless one has "arranged and adapted" it beyond all semblance of folk song—in which case it is a fraud to publish it as a folk song.²⁴

For Woody Guthrie, the acclaimed "communist Shakespeare in overalls"²⁵ of the folksong revival going back to its leftwing roots in the 1930s and 40s, the whole concept of music and property was just another part of the human comedy. Guthrie laughed it off all along. Referring to a contemporary, Guthrie shrugged, "Aw, he just stole from me. But I steal from everybody. Why, I'm the biggest song stealer there ever was."²⁶

As I found in my Folkways Archives research, Pete Seeger was inspired by such arguments, public and private, to seek a forum of judgments by informed insiders in music, publishing, and law. In the archive, I tracked a trail of letters responding to Seeger on the issue of public domain music and copyright. In the rush of the revival it appears that Seeger was trying to find a clear heading amidst the growing storm of voices with an interest in folk music. The responses to Seeger ranged from short to long, defeated and resigned, engaged and hopeful. One correspondent, field collector



Woody Guthrie, *World Telegram* photo by Al Aumuller. Image courtesy of Library of Congress, Prints and Photographs Division

Vance Randolph, wrote that it “never occurred to me that I ‘owned’ the songs that people were kind enough to sing for me... It is a confusing and dismal situation, but I haven’t the foggiest notion what should be done about it.”²⁷ Another letter writer, folklorist Helen Creighton of the National Museum of Canada, was similarly pessimistic: “You ask about copyright. I gave up worrying about that years ago because I couldn’t get anywhere and it seemed that I could do nothing but make bad friends.”²⁸ Herbert Haufrecht responded as well, despite the review he had received from Silber. “By my not replying in the columns of SING OUT [sic] and by this late reply to your letter,” he answered, “you might think that I am evading the issue. Not at all!” In a formal, two-page

reflection, Haufrecht laid out his position. He concluded, “As it stands now, the copyright law does not make provisions for the various types of rights of collector, arranger, compiler or editor of folksongs. The law should be amended to accommodate these varied contributions.”²⁹ Music publisher Howard Richmond answered, too. As he readily admitted at the outset of his letter, he saw things in terms of “a commercial entrepreneur” who did not want “to discuss this matter in print, under my own name, or to be quoted” because “the opening of any discussion by me makes me more vulnerable than anyone else.” As Richmond figured it, “There is a basic, common law right that everyone is entitled to have in any personal property he owns or creates.” When a folk music collector gathered “five or six variants of a folk song” and recombined elements of these variants into a whole, Richmond held, the collector had “in effect created a new original version” worthy of remuneration.³⁰

This effort at what Seeger called a “pocket-size symposium” culminated in a draft statement, “Prefatory Remarks In Column In *Sing Out* Magazine,” that the singer prepared in the winter of 1961. “In the last few issues of this magazine,” he explained, “numerous words advised and ill-advised have been printed on the general subject of the copyrighting of folk songs... This writer is interested in seeing the discussion continue because I am convinced that the present copyright law is unrealistic and unjust. Sooner or later it will have to be revised.” I found the manuscript item along with the other documents in the Folkways Archive. The draft statement included Seeger’s handwritten edits, among them “[I]s it better to print as is or to develop it,” question

mark implied, at the bottom of the page.³¹ In fact, the piece was not published “as is.” Instead, it showed up as part of a longer piece, “The Copyright Hassle,” two years later. For the time, this was Seeger’s considered position paper on the issue. He referenced his father on the Russians and abolishing copyright altogether in a “Worth Quoting” excerpt box, and wrote:

Face it: the reason so many arguments come now about the pros and cons of copyrighting folk songs is that money is being made from them. “If he gets all that money, why shouldn’t I?” Back in the thirties, when no one was making money out of folk music, this argument never came up. . . . The copyright hassle is not too different from a lot of problems we face in our modern world. Many, confronted with a bad situation, will throw up their hands and say it’s unsolvable unless you change the whole system of society. But this attitude often results in nothing being done.³²

In the remainder of the article, Seeger outlined three measures which he believed might move things forward. These included pushing for “a law saying that all recording companies should pay two cents per song per record into a PD (public domain) fund for any PD song on the record,” and establishing that this envisioned “PD fund” would “have the right to sue people who unjustly claim copyright control over folk songs.” Though a full campaign failed to materialize after this call to action, it was Seeger’s first formal attempt at public domain reform.³³

In the early 2000s, when I got him on the phone, Seeger had just resumed his campaign for copyright reform. An expose in *Rolling Stone* on the case of Solomon Linda and what became the song “Wimoweh,” or even more popularly “The Lion Sleeps Tonight,” wasn’t the cause for his renewed public effort, but it added to the momentum. Though the article, “In The Jungle” by journalist-activist Rian Malan, was critical of a host of artists and music industry figures, Seeger included, the singer applauded it as a positive. He wrote in to the magazine:

Hooray for muckraking journalists and for the journals like *Rolling Stone* that will print them. Even if Rian Malan did not get all his adjectives straight, in the main he did what was long needed. Now the way is open for reform in world copyright laws, so that someone who puts new words or a new arrangement to a public-domain melody can collect some of the royalties, but not all. . . . I hope there will now be discussions in many little “folk song” journals like *Sing Out!* In a few years there should be changed rules in the offices of “intellectual property” in Geneva, as well as in Washington, DC.³⁴

Malan’s piece traced in exacting detail the trail of exploitation by which a Zulu musician originated a now instantly-recognizable global smash-hit melody line in a recording studio in Johannesburg, South Africa, in 1939, only to die in 1962 “so poor that his widow couldn’t afford a stone for his grave.” The musician was Solomon Linda. He recorded the song “Mbube” (“the lion” in Zulu) with his group The Evening Birds. The recording was made for the local independent Gallo Records, and the song was a hit in South Africa, selling perhaps 100,000 records in its first ten years of life. As was customary, the group was paid a one-time flat fee for the effort. There was no talk of

a contract, or royalties or copyright ownership. Linda was said to have “walked out of that session with about one pound cash in his pocket.” He became a local performing superstar, in high demand nights and weekends. Beyond that, he expected no further returns from “Mbube.”³⁵

Though successful in his own community, Solomon Linda never did, as the line goes, have the security to quit his day job. Meanwhile, “Mbube” migrated to the U.S., where it really started to make money. First, The Weavers popularized it as “Wimoweh” in the early 1950s. The title had been changed not as a clever cloaking device for plagiarism, but rather more innocently because Pete Seeger misheard the wording on the scratchy 78 rpm original. In 1961, The Tokens released their global hit, “The Lion Sleeps Tonight.” The Tokens had learned the song from The Weavers. Or, as journalist Malan delineated it, “‘The Lion Sleeps Tonight’ was a reworking of ‘Wimoweh,’ which was a copy of ‘Mbube.’ Solomon Linda was buried under several layers of pop-rock stylings, but you could still see him beneath the new song’s slick surface, like a mastodon entombed in a block of clear ice.” Then, Disney featured the song in what became *The Lion King* film and theatrical sensation in 1994. By that point, Rian Malan contended, it was “the most famous melody ever to emerge from Africa, a tune that has penetrated so deep into the human consciousness over so many generations that one can truly say, here is a song the whole world knows.” In Malan’s investigations, he determined from industry analysts that royalties and related earnings from Linda’s melody could reasonably be totaled at \$15 million. In 2000, when the article came out, Solomon Linda and his family members had seen only a few thousand dollars come their way since the original recording in 1939.³⁶

The story of “Mbube” and Solomon Linda was exactly the kind of situation Pete Seeger had been trying to prevent since his original copyright reform projects in the 1960s. As Seeger told me in our phone interview in 2002, “‘In the Jungle’ was my fault, but I didn’t know it.”³⁷ He reiterated the point in an audio interview in 2007, and wrote about the case in his revised *Where Have All the Flowers Gone* in 2009 as well. When he was a younger and more trusting showbusiness newcomer with The Weavers in the late 1940s and early 1950s, Seeger had looked aside, or simply had been looking elsewhere, as his managers and publishers set about copyrighting many of the folksongs he and the group recorded. Using the same legal mechanism that Seeger came to reject, his handlers copyrighted key Weavers recordings as original interpretations deserving of any accruing commercial returns. The language used on the legal forms was “adapted and arranged,” and the rationale employed was that contemporary interpretations of traditional songfare, no matter how slight, constituted legitimate new works. On these grounds and employing fictitious monikers to conceal their identities, Howard Richmond and Al Brackman claimed the routine fifty percent publishers credit for themselves and fifty percent composer credit for The Weavers on any royalties generated by the material.³⁸

In the 1950s, as money was being earned on “Wimoweh,” Seeger tried to do right

by the song's originator. He told his management to find Solomon Linda and send a share of the royalties. A check for some \$1,000 was cut and delivered, but Seeger "didn't bother to ask exactly" what percentage was being allotted Linda, and he "assumed this was the first of many such payments, and that a standard songwriter's contract had been signed" with the singer. "Foolish me," he wrote in reflection in 2009. Ultimately, in relative terms, Solomon Linda got almost nothing in these years. Seeger had made a good-faith individual effort for it to be otherwise. However, as he recognized, piecemeal private remedies were no lasting solution to a systemic problem. Seeger had been stymied by a business system that encouraged profiteering over principle. In his 2007 audio interview, he admitted, "I didn't know how much I was involved until that article in *Rolling Stone* came out." And as he wrote in *Where Have All the Flowers Gone*, Rian Malan "did not get every fact straight, but basically he taught me how wrong I'd been to leave finances entirely in the hands of others."³⁹

By 2006, Pete Seeger had put the pieces together to finally mount an international folk music copyright campaign. A formal, two-page document had been prepared on behalf of his Committee for Public Domain Reform. It set down concrete measures to improve the legal practices concerning traditional music. It ended with five "Pete Seeger examples" of public domain misdeeds and restitution, from "Wimoweh" to the Xhosa lullaby "Abiyoyo" to "Where Have All the Flowers Gone" (inspired by a Russian folk song) to "Turn, Turn, Turn" (from The Bible) to "We Shall Overcome" (from southern African American sacred tradition).⁴⁰ Seeger had told me in our phone interview, "Twenty years ago, the Folklore Society tried to change the law, but it fell apart. Forty years ago, so did my father." In the new millennium, with the clout of a kind of universal elder statesman, he was pushing again. "Now, I've written up this proposal, and I sent it, among other places, to the WIPO office in Geneva, Switzerland. And, I got a nice letter from the man in charge," he explained. "We'll see what happens."⁴¹

Long before the passing of Pete Seeger on January 27, 2014, I had been reflecting on this side episode in my doctoral research and that fortuitous phone call in June 2002. This is not an obituary. It's not even a remembrance for things gone by. Pete Seeger's music, deeds, and ongoing campaigns remain very much alive. Today, Seeger's effort toward folk music copyright reform has indeed made its way to the international stage and the World Intellectual Property Organization. In the last years, Seeger had turned over the legwork to musician, public intellectual, and activist Mat Callahan. Originally from San Francisco, Callahan lives these days in Switzerland. He is a crusader of considerable force in his own right. Beyond advancing the practical mechanisms for copyright reform through formal channels like the WIPO, Callahan, like Seeger before him (and Seeger's father before that), questions the very premise of intellectual property in music in the first place. In his speaking and in his penetrating book, *The Trouble with Music*, Callahan calls for the same understanding of music embodied in Seeger's Old Left revival concept of "people's songs" from the 1940s. At its best, music is public and communal, not private and exclusive. Callahan argues, "Music arises

from and gives expression to relations between people. . . . Music is, above all, a social product expressing social relations. It never was and can never be the solitary expression of one person alone.”⁴² The commodification of music as private property, and its enforcement through copyright, can be situated in a historical context of privatization going back for centuries in Western market systems, Callahan writes. He elaborates:

Enclosure was the process by which common land, owned by no one and used by many for planting crops and grazing animals, was turned into units to be owned by individual lords. This process began during the late Middle Ages but became a great wave across Europe in the 18th and 19th centuries. Its function was to make private poverty of once ownerless space and to drive the peasantry off of it and into rapidly expanding industrial production. . . . Proponents of Enclosure used exactly the same arguments then as do the proponents of privatization now.⁴³

In this perspective, music copyright does not truly assign artist credit and contributions where due, and it only has really served to increase the earnings of music business insiders, corporations, and publishing companies. “The fact is that the vast majority of all music, literature and art ever made was made without copyright ‘protection,’” Callahan contends. When it comes to grassroots music made and shared in common, formerly assumed as public domain and then copyrighted since the folk revival for commercial sale, “Music that was already being composed and performed was turned into a commodity enriching a few and impoverishing a multitude.” The system must be reevaluated, says Callahan.⁴⁴

Whether reform or radical overhaul, change in this circumstance appears to be hard and slow in coming. Like the effort in the late 1950s and ’60s, the laws and practices surrounding music and property are entrenched, with vested interests behind them. Perhaps the best way to end, however, is the way Seeger himself often did. In interviews and public engagements, he frequently concluded with his “Parable of the Teaspoon Brigade.” It goes like this:

Imagine a big seesaw. One end is on the ground, held down by a bushel basket half full of rocks. The other end of the seesaw is up in the air with a bushel basket on it one-quarter full of sand. Some of us have teaspoons and are trying to fill it. Most people are scoffing, “It’s leaking out as fast as you put it in.”

But we say, “No.” We’re watching closely, and it’s a little more full than it was. And we’re getting more and more people with teaspoons. One of these days that whole seesaw will go *zoop!* in the opposite direction. People will say, “Gee, how did it happen so suddenly?”

Us and all our little teaspoons over thousands of years.

Keep in mind that we have to keep using our teaspoons, because the basket does leak. Are you in the Teaspoon Brigade?⁴⁵

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Endnotes

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