

"EILI EILI" AND ITS AUTHORSHIP.

Legal Proceedings.

Opponents Call It "Folk-song"

"Eili, Eili," the song that has appealed to the Jewish people since 1896 as representing the woes and struggles and mishaps of the race for centuries past is up before Federal Court Judge Knox of the Criminal Court, New York, for his decision regarding the song's originality or derivation.

Jacob Koppel Sandler, 72, who demands credit for the authorship of the song and who has been generally credited as such is the centre of a suit against Joseph Katz, music publisher, 181 East Broadway, for alleged publication of the song without the permission of the composer. Sandler is substantiated by his own story of the origin of the song and the testimony of persons who admit that the authorship has always been granted to Mr. Sandler. They say further that no doubt has ever been placed upon the originality of the tune inspired by a passage in the Old Testament which was used as a part of Prof. Moses Horwitz's Yiddish opera, "B'rocha," or The Jewish King of Poland.

The song is suggestive of the plaint possessed by all the ancient and modern tunes, according to Mr. Sandler, who now holds a minor position with the *New York Times*, but that it is entirely an original tune he said that he has no doubt. He repeats he would be crazy to have espoused a tune that was common and call it his own.

Sandler is opposed by Joseph Bonime who arranged a version of "Eili, Eili" for Katz and Joseph Chernniasky, assistant conductor of the New Colony Theatre and author of a recent song called "Kaddish." These men declared that "Eili, Eili," is an ancestral tune which cannot be claimed by any man. So, too, is the claim of Abraham I. Menin, attorney for Katz. Arnold J. Brock and Samuel L. Jackson are contending for Sandler.

The song which has stirred such bitter controversy was the result, according to Sandler, of a request by Horwitz for the composition of a song to be sung in "B'rocha" by a girl about to be crucified for her belief in Judaism. Sandler was then assistant musical director of the old Windsor

Theatre when Sigmund Mongulesko was the director. The play was a failure, but Rose Karp who originally sang the song received such wild applause after each rendition that the play was carried along by the success of the song. Later Rosa Raisa and other prominent singers sang it at concerts.

Publications were issued without the composer's permission, the author never dreaming of royalty on the sales. It has been estimated that 20 editions have been issued by different publishers. It was not until eight years ago that the song became a nation-wide success. That was the time when Sophie Braslau sang it in the Metropolitan Opera House. Mr. Sandler's daughter, who was present, urged her father to copyright the song. He did, in 1919, through the Maurice Richmond Music Co., Inc., now Robbins Engle, Inc. Mr. Katz published the song two years prior to the copyright. He endeavoured to show through his attorney that its true origin was in either ritual or Jewish folk lore. He also claimed that the tune is public property by reason of its dedication by the author to the public. Twenty arrangements and editions were introduced at the trial, published since 1906.

The action against Katz is for an injunction and an accounting. It is regarded as a test case after which, if victorious, Sandler will carry the same case against the other publishers. Katz sold 3,000 copies, according to a report.

Lazare Saminsky, musical director of Temple Emanu-El, New York, testified that the words and music of "Eili Eili" were submitted to an organisation of musicians and it was concluded that the composition was a folk-song. Since that time, he said, editions of the words and music had been published in Russia and Germany. Joseph Bonime, accompanist for Mischa Elman, stated that when he was a child he had often heard his father sing the melody. Charles Isaacson, a writer on musical subjects, said he is convinced that the song is entirely an original one by Sandler.

The words of the first stanza are as follows (translated):
 "God in Heaven above hast Thou abandoned Thine own?
 Almighty God, say not Thy mercy has flown!
 In tempest and flame, we have been tormented,
 Deep though our shame, Thy Will we have not resented."

Joseph Edelstein, manager of the Second Avenue Theatre who was manager of the Windsor Theatre in 1896, testified that Sandler was believed to be the author of the song. Mischa Nechamkus and Samuel Tobias, actors, testified the same.

"It is not the money," asserted Sandler, who values the hymn at £100,000 although he has received only £15 to date. "I do not mind that others have grown rich on my song while I have remained poor. But it hurts to see my beautiful "Eili Eili" butchered by people who know nothing of Jewish music."

In addition to Raisa, Karp and Braslau, the song has been sung by Alma Gluck, Isa Kremer, Nina Tarasova, Caruso, Sarah Borni and Belle Baker, and played by Jascha Heifetz and Mischa Elman.

An uncommon turn of the case was the playing of the song in the courtroom by Attorney Menin, opposing Sandler. The attorney, was first violinist at Hotel Nassau, Long Beach, before studying law.

"It (Eili Eili) is still the favourite song in the repertoire of the strolling singers who perform for pennies and nickels in the back yards of the east side; it is familiar to those who attend vaudeville and moving picture shows, and it has been heard at Carnegie Hall and Metropolitan Opera House concerts. If Mr. Sandler composed it he deserves honour for his gift of evocation, even should he fail to collect a share of that half-million which he sets as the song's price," said the New York Morning World editorially.

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