

Basis of CLAIM

MP-829; 1036; 1057

MINORITY MEMORANDUM

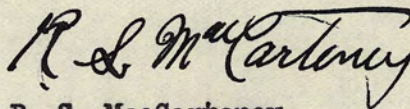
December 16, 1941

Remitter: Stone Stable Press (48574)

Title: "Dot Leetle Fur Cap"

Question: Whether an application for registration of a published poem claiming upon revision of dialect where there is probability that the original poem is an old one in the public domain may be accepted for registration in the absence of specific evidence that there has been no basic revision of such dialect.

It is the contention of the majority based upon the Assistant Attorney's statement that he has seen a copy of this poem and that it was virtually identical in text and dialect with the copy now submitted for registration that the present claim based upon "revision of dialect" is inadmissible. It is the minority view, however, that since this Office has before it no copy with which to compare the present deposit, the Office would not be justified in denying registration especially in view of the applicant's statement that "the writer had made sufficient additions to warrant copyright." In the event the applicant contested a rejection based upon the ground that there were no copyrightable changes involved in this publication, the Office could have absolutely no evidence to support its contention. It is not within the purview of this Office to go into questions of substantive right and in the absence of evidence to the contrary a claim based upon what is, prima facie, copyrightable subject matter should be accepted.



R. S. MacCarteney

Write for a better statement of the basis of the present claim.

W.H.W. 12/22/41

MAJORITY MEMORANDUM

December 16, 1941

Remitter: Stone Stable Press (48574)

Title: "Dot Leetle Fur Cap"

Question: Whether an application for registration of a published poem claiming upon revision of dialect where there is probability that the original poem is an old one in the public domain may be accepted for registration in the absence of specific evidence that there has been no basic revision of such dialect.

In a letter dated November 29, 1941, the remitters informed this Office that it was their belief that they "were the first publishers" of "Dot Leetle Fur Cap." In their letter of July 29, 1941, the remitters also stated that "we do not know that the poem has been previously published..."

Shortly after this poem was brought before the Revisory Board upon the question of obscenity, the Assistant Attorney was shown a copy of the same poem at a dinner in Fairfax County. This poem had been printed and published without any notice of copyright upon it. The person showing the poem to the Assistant Attorney, upon inquiry, stated that she had found it among her father's papers and that it had been in his possession for many years. To the best of this lady's recollection, they had had it for thirty or forty years.

The poem deposited in connection with the present application and the poem seen in Fairfax County were virtually identical. There were one or two changes in the last couplet. The poem seen by the Assistant Attorney in Fairfax County was in the identical dialect as the copy deposited in this Office, and to the best of the Assistant Attorney's recollection there were no substantial differences between the poem as deposited in this Office and the older copy seen in Fairfax County.

The lady who showed the Assistant Attorney her copy of "Dot Leetle Fur Cap" has left Fairfax for what appears to be an indefinite period. A telephoned inquiry made upon December 16 indicates some doubt as to the date of her return. Therefore, it is impossible to secure her copy of the poem.

However, in view of the fact that the Assistant Attorney has seen and examined the original copy, he is unable to subscribe to the remitter's statement that The Stone Stable Press are the "first publishers" of the poem. Although the statements in the Minority Memorandum have some weight, in view of the above the Assistant Attorney cannot subscribe to them. He is authorized to state that Mrs. Brady joins with him in this opinion.

Write for a better statement of the basis of the present claim. W.H.W. 12/22/41

*Walter L. Forzheimer*  
Asst. Atty.  
*Mrs. C. Brady*

"Dot Leetle Fur Cap"  
(See "Basis of Claim" )

MEMORANDUM

December 16, 1941

Remitter: Stone Stable Press (48574)

Title: "Dot Leetle Fur Cap"

Question: Whether an application for registration of a published poem claiming upon revision of dialect where there is probability that the original poem is an old one in the public domain may be accepted for registration in the absence of specific evidence that there has been no basic revision of such dialect.

Write for a better statement of the basis of the present claim.  
W.H.W. 12/22/41