

PRINT?

MINORITY MEMORANDUM

27

June 30, 1941

Remitter: Mrs. Ruth Adele Hillard (39324)--Class ?

Title: "Daddy's Friend"

Question: Whether a pictorial illustration containing a poem in the public domain wherein the notice of copyright is inscribed directly in connection with the poem and blocked away from the pictorial content can be registered as a print.

The applicant in 1937 first applied for registration of this poem, submitting an unpublished, longhand copy. This application was naturally denied registration upon the ground that the work had not been published.

This year (1941) the applicant again applied for registration of this poem, this time based upon its publication in THE BIRMINGHAM NEWS of May 17, 1941. The poem, however, this time had been published without notice of copyright; thereby forfeiting the copyright and the application accordingly was again rejected. *but with the consent* 2

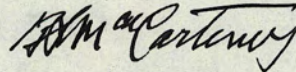
On June 16, 1941 the Office received an affidavit from the claimant stating that she wished to copyright the "said poem, together with an illustrative drawing depicting a father and a girl child, which is also her original design." It is obvious that here again the primary purpose of the claim is to secure copyright registration for her poem. On the print submitted, the poem itself is prominently displayed, printed inside of an elaborate frame. At the bottom of the poem still inside of the frame and directly in connection with the poem appears a notice of copyright reading, "Copyright, 1937, by Ruth Adele Hillard."

Mr. Wise and Mr. Smith are of the opinion that an application on form K, classifying the entire work as a print, would be acceptable. Mr. MacCarteney, on the other hand, feels that what the claimant is obviously trying to do is to protect the poem primarily since this is the third attempt she has made to secure registration. No notice of copyright appears in connection with the pictorial illustration, the only notice, as above stated, applying to the thrice rejected poem. This notice is intended for a duplicate of the notice appearing upon a printed card reproducing the poem but which was rejected because the copyright had been forfeited by publication in the newspaper without a notice. This member of the Board, therefore, is of the opinion

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that there is no notice of copyright relating to the print and since the poem is in the public domain registration for the entire work should be denied. This in effect supports the examiner.

Respectfully,



R. S. MacCarteney

Register, using copy received on June 16, on deposit of another copy with application on Form K, giving date of publication of the print. (HAH, 6-30-41)