

CLASSIFICATION.

## MINORITY MEMORANDUM

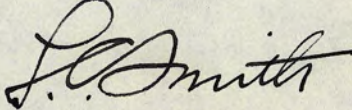
August 6, 1941

Remitter: Fritz B. Burns (52811)

Title: "Toluca Wood 'Homes at Wholesale'"

Question: Is the deposit KK material?

Deposit is a circular consisting of a single sheet folded several times. It advertises a desirable home location at "Toluca Wood". Its purpose is to sell homes in that vicinity. The Board divides, however, as to whether or not the work falls under classification KK, Mrs. Brady and Mr. MacCarteney holding that it is a "book" in that it does not advertise an article of merchandise, but rather homes securely fastened to the land, that is, real property. Mr. Smith, however, contends that the work can be considered Class KK material in that the builder suggests to prospective home owners that they should visit his huge warehouse, look over the various building materials stored there. The inference is made that such visit can result in the selection of materials to be used in the homes, such as woodwork, plumbing fixtures, hardware, roofing, and the like, in addition to landscaping. These items can be held to be articles of merchandise, and that this particular circular advertises such articles for sale in connection with the purchase of a house. Mr. Smith does not take, however, the broad view that the advertisement for sale of a house alone, that is, the finished product completely constructed and part of the real property, would constitute an article of merchandise. It is only that because the circular refers to separated parts which can be viewed and purchased prior to their attachment to the land that he considers the deposit Class KK material. In this regard, it is to be especially noted that Mrs. Brady and Mr. MacCarteney contend that it is the finished product, that is, that it is the house that is being advertised and sold, not the separate parts making up the house before they are attached to the land.

  
L. C. SMITH

House or home permanently affixed to the realty is not article of merchandise as contemplated by Copyright Act. Purpose of work deposited is to sell homes. Classification of "book" sustained.

W.H.W., 8-8-41



ADVERTISEMENT OF HOMES  
(See "Classification")

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PRINT & Label  
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