

MINORITY MEMORANDUM

NOTICE OF ©

November 4, 1941

Remitter: Maréchal and Noe (16107)

Title: "Dick Dunkel's Basketball Forecast--Schedule and Game Forecast for Week Ending Jan. 12, 1939."

Question: Whether further correspondence should be entered into concerning an antedated notice of copyright.

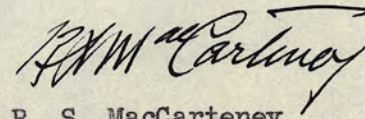
The work in question is material that was obviously intended for syndication, and which has been held in abeyance pending a decision of the mandamus actions brought against the Register of Copyrights. The character of the work is actually that of a basketball forecast governing the coast-to-coast games to be played in 1939.

Following the decision of Circuit Court of Appeals, applicant's attorneys on Sept. 18, 1941, wrote requesting reconsideration of their client's claim and the issuance of a certificate. The matter was referred to the Revisory Board, which in view of the court decision referred the application to the Examining Section for entry.

The Examining Section then discovered a variance in the year date of publication between the application and the notice. The application gave January 3, 1939 as the date, whereas the notice of copyright bore a 1936 year date. Upon the matter again being brought to the attention of the Board, Mrs. Brady and Mr. Pforzheimer would have the Office write to the applicant requesting an explanation of the variance in date.

In the view of Mr. MacCarteney no purpose would be served in further delaying registration of this claim. The registration is going to be made, since the only possible result of the antedated notice is the loss of three years copyright protection. To him it seems obvious that the year date in the notice is a typographical error, since the forecast is stated to be for the week ending January 12, 1939, in accordance with the year date of publication in the application. Actually the forecast would seem to be of absolutely no value at this time, and applicant would seem to be applying for registration on grounds of principle only. To delay further in issuing the certificate because of the technical informality presented would serve only to cause irritation to the applicant and a belief on his part that the Office was endeavoring to the utmost to postpone complying with the decision of the court.

Obviously a mistake in the year date appearing in the copyright notice since this work consists of a current basketball schedule. Register as applied for using date of publication in application. W. H. Wise 11/6/41



R. S. MacCarteney
Acting Chairman of the Revisory Board

Notice of copyright
(See page 1007 of
Minutes)

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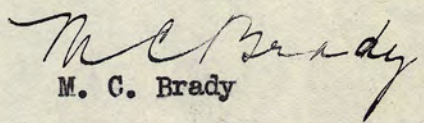
November 13, 1941

Remitter: Surrock, George C. (72103)

Title: "Loyal Copperheads of America, Inc., The Smiling Copperhead."

Question: Inclusion of the print in the protection of the pamphlet
as suggested by Mr. MacCarteney and Mr. Pforzheimer.

The undersigned dissents from the opinion of Mr. MacCarteney and Mr. Pforzheimer with respect to the inclusion of the print for which application has been made in a claim to copyright in this booklet. The booklet as such has been published with a notice of copyright. There appears at the bottom of the cover the legend, "Copyright 1941" in close proximity to the name "Loyal Copperheads of America - George C. Surrock, President - Rev. George J. Kelly, Secretary-Treasurer." This Association or these individuals may own the copyright in the pamphlet, but the print appearing thereon, for which application has been made, is obviously published with a fatally defective notice, and a claim to copyright cannot therefore be recorded either as a separate print or as a part of the pamphlet. This print, accurately identified in the application by its title, "The Smiling Copperhead," is found at the head of the title page of the pamphlet, and has in close proximity to its lower right hand border "(C) 1941," and on toward the left of the border the initials "E. M. A." These are the initials of the author of the print, E. M. Albright, as given in the application filed on November 4. The full name E. M. Albright does not appear anywhere on the title page of the pamphlet or in the copy. It is the opinion of the undersigned therefore that this Office has no authority to suggest to the remitter that the protection of the print would be secured by the registration of the claim in the booklet, when the print itself as such is obviously in the public domain by the publication thereof with the fatally defective notice.


M. C. Brady

Advise claimant that pamphlet as a whole must be registered in Class A-1, which would include the print; however, if claimant desires separate registration for print, same can be made. Notice of copyright on print is acceptable. Send Form A-1 and reject G-2 application on ground that work is already published. W. H. Wise, 11-24-41.