

M-P, 1085

MINORITY MEMORANDUM

*Notice of Copyright*

January 6, 1942

Remitter: Osborne Company, The

Title: "The Homemakers' Calendar for 1943"

Question: Whether the presence of a notice of copyright bearing an advance year date which notice is incorrectly placed at the end, under a calendar pad would prevent the registration of the calendar which itself bears a correct notice of copyright on the title page.

The work in question is a calendar published by the Osborne Company. At the bottom of the title page of the calendar pad appears a correct notice of copyright containing the year date 1941, the date of publication according to the application. Under the calendar pad and hidden by it there is another notice of copyright containing the year date 1942. This notice is in connection with the sheet to which the calendar pad is attached and which does not bear the title of the work to be registered, i.e., "The Homemakers' Calendar for 1943." The majority holds that the presence of this second notice of copyright although it is misplaced vitiates the copyright in the calendar notwithstanding the calendar bears a correct notice. The undersigned, however, feels that the advance notice of copyright should not be considered for two reasons: (1) It is not inscribed in connection with "The Homemakers' Calendar for 1943," the title given in the application for registration; (2) Even were it to be considered as a notice referring to the work to be registered, it would have nullified itself by its placement at the end of the work to be registered (Section 19). The undersigned accordingly is for registration as applied for, based upon the presence of a correct notice of copyright on the title page of the work to be registered.

*R. S. MacCartney*

R. S. MacCartney

1. Register "Homemakers' Calendar for 1943" as applied for. A correct notice is in statutory position.
2. Request KK for "Jes' Swing It Natchel, Sonny" - a commercial print advertising "Chilean Nitrate of Soda".
3. Class K appropriate for "L'Attesa" in the name of Fratelli Branca & Co. Inc. Do not request application on Form H.

Upon order of C. L. Bouvé.

W.H.W. 1/8/42