

## MINORITY MEMORANDUM

June 25, 1942

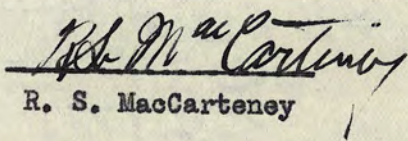
Remitter: Van Devanter, Annie W. (No Fee).

Title: "Visual Truth."

Question: Whether a notice of copyright consisting simply of the symbol C in a circle is acceptable in view of the fact that the name of the designer who is also the claimant appears upon the same sheet though separated from the notice by linear divisions.

The work in question is a print used in connection with the sale of religious posters. Representations of these posters form a border to the print in the center of which is a block of text advertising their sale. At the lower left hand corner of this central block appears the copyright symbol © by itself. At the top of the sheet under the title and separated from the copyright symbol by the entire length of the block of text and the two top posters is the statement "Designed by Anne Woodrow Van Devanter."

The Majority opinion is that since this name is the only one appearing upon the sheet it can be read into the notice of copyright and the work is, therefore, acceptable for registration. It is the Minority opinion, however, that the notice is fatally defective in that the express provisions of Section 18 of the Act have not been met. The pertinent portion of Section 18 reads as follows: " \* \* \* the notice may consist of the letter C enclosed within a circle, thus: ©, accompanied by the initials, monogram, mark or symbol of the copyright proprietor provided that on some accessible portion of such copies \* \* \* his name shall appear." The latter half of these notice requirements have been met in that the name of the claimant, qualified, however, as the designer, appears upon some portion of the copies. However, the Statute expressly requires that the symbol © be accompanied by the initials, monogram, mark or symbol of the copyright proprietor, and it is the Minority contention that in the admitted absence of the initials, monogram or mark of the claimant from the notice of copyright, the presence of the claimant's name upon a separate portion of the copy from the notice cannot be construed as accompanying the symbol in the absence of the initials. The notice of copyright is not regular and the issuance of a certificate of copyright registration implies prima facie "regularity."

  
R. S. MacCarteney

" \* \* \*. In other words, although this is a close case, there is a doubt in my mind; consequently, I think that registration should be made."

C. L. Bouvé  
June 29, 1942

## THE LIBRARY OF CONGRESS—COPYRIGHT OFFICE

## MEMORANDUM

REFERRING TO memo of June 25, 1942--division of opinion of Revisory Board in the case of "Visual Truth", remitter: Annie W. Van Devanter (No Fee):

DATE June 29, 1942.

To Mr. Richard S. MacCarteney  
Chairman, Revisory Board

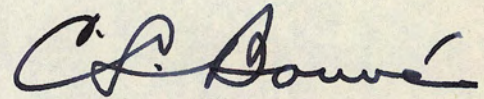
Except for the use of the word "fatally," I agree with the minority opinion "that the notice is....defective in that the express provisions of Section 18 of the Act have not been met."

However, we must hand to the writer of the minority opinion the logic of the action suggested by him. If I put the following question to myself and to every member of the Board, I believe that there is just one answer: Suppose we were dealing with a portrait and the name of the artist was in the upper right-hand corner and the © in the lower left-hand corner. I should certainly contend that a very serious doubt existed as to the propriety of action taking the form of rejection in such a case. No one would differ if the portrait were a miniature an inch tall. What good grounds for differentiating would exist if it were six inches tall or three feet tall?

The subject matter of this case is not a painting but a commercial print approximately ten inches wide and eight and one-half inches long. It all turns on the construction of the word "accompanied" in the statute; for I have no doubt if © were followed by the name of the copyright owner in the same line, no one would contend that the notice was not complete. Unless we can say that a © at the bottom of a miniature three inches tall, at the top of which the name of the painter appears, is not "accompanied" by the name of the painter, I doubt whether we could fail to reach the same conclusion if the painting were eight inches tall and the © at the bottom with the painter's name at the top.

I am well aware of the fact that in the early days of 1936 and 1937 when every effort was being strained to educate the public in the necessity of putting in a correct copyright notice a different conclusion may have been reached. I am not altogether sure that such conclusion was right. It would depend upon the circumstances of each case. Of course prints, with respect to the requirements of notice, follow paintings. In this case the © is separated from the name of the author of the subject matter covered by the advertisement by 5-1/2". I feel that here, particularly when the intention of the author seems to have been to attempt to comply with the statute, to reach the conclusion that the © is not "accompanied" by the name of the designer, while not in accordance with the first impression created by the

words of the statute, may conceivably meet the requirements of the legislator. In other words, although this is a close case, there is a doubt in my mind; consequently, I think that registration should be made.

A handwritten signature in cursive script, appearing to read "C. F. Dowd".

Register of Copyrights

cc to Mrs. Rafter