

PUBLISHED
(SEE "BOOK")

M E M O R A N D U M

December 19, 1940

Remitter: Paul & Paul (No. 72419)--Class A.

Title: "The Purchasing Check System."

Question: Date of publication given in affidavit accompanying
typewritten copies.

Question date of publication as given in application--H.A.Howell.

MEMORANDUM

December 19, 1940

Remitter: Moynihan and McKeown (77898)--Class A.

Title: "Dazzling Promise" by Kathrn Bemis

Question: Acceptability of deposits.

On December 5 the Copyright Office received application, fee, and copies from Moynihan and McKeown for registration of the above entitled work. The copies filed were paper bound and produced by means of the mimeograph process. The examiner in view of the mimeographed copies and noting that the name of the printer given in the affidavit was the Bell Syndicate, Inc., felt that publication should be questioned. A defect in the affidavit was also noted in that the date of execution had been omitted. Unfortunately the letter written was calculated to antagonize the correspondent. On December 14th a reply was received stating that a new application would be submitted correcting the defect in the affidavit and also stating that publication had taken place. The authority of the Office is questioned to solicit additional information with respect to the matter and extent of distribution. Furthermore reference is made to the King Features Syndicate v. Clement L. Bouvé case with inquiry as to whether the Office intends to abide by Judge Donoghue's decision.

In view of the facts of the case it is believed that the matter should be called to the attention of Col. Bouvé. One point of interest to note is that had the Bell Syndicate Inc., not been the printer of the work it would not have occurred to the examiner to question publication.

Respectfully,

Handwritten Signature
 Chairman, Revisory Board

Letter written Dec. 30, 1940 in accordance with Register's instructions requesting statement as to whether mimeographed copies represent best edition distributed. Applicant in letter of January 6, 1941 explains that they do. Register as applied for.

MP-637

BOOK

MINORITY MEMORANDUM

December 19, 1940

Remitter: Paul & Paul (Cash No. 72419)

Title: The Purchasing Check System

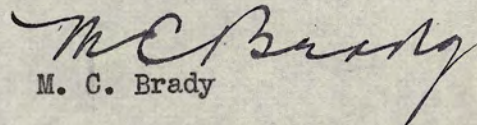
Question: Date of publication given in affidavit accompanying typewritten copies deposited Nov. 9, as applicable to mimeographed copies deposited Dec. 13.

The undersigned dissents from the opinion of Mr. Smith and Mr. Mac Carteney, that the copies received Dec. 13 in reply to Copyright Office letter of Nov. 19, were published on Oct. 24, 1940. This date Oct. 24, 1940 was given as the date of publication of the typewritten copies first deposited, in the affidavit which accompanied them.

The mimeographed copies received Dec. 13 in reply to the Copyright Office letter of Nov. 19, were the *logical* result of the information given to applicant in this letter, which reads as follows:

"There is some question as to whether this work has been published within the copyright meaning of the term in the form deposited since the copies are typewritten. Publication being the same, placing on sale, or public distribution of copies, it follows that published works are almost invariably reproduced by some multiple process such as printing, or at least mimeographing."

It is reasonable to deduce that the mimeographed copies were the result of this advice, and were not in existence at the time of the filing of the typewritten copies and the affidavit which stated that they were published on Nov. 9, 1940.


M. C. Brady

Question date of publication as given in application. 12-27-40
To Mr. MacCarteney for letter.