

Notice

## M E M O R A N D U M

January 27, 1939

Remitter: McCanna, Wintercorn and Morsbach (3874)--Class G

Title: "Lexington, No. 40635," "Allen No. 40631," and "Marshall No. 40644," Memorials.

Question: Division of opinion as to adequacy of copyright notice.

The Copyright Office has written question<sup>ing</sup> the adequacy of the copyright notice ~~in~~ the case of the memorial designs recently submitted. The notice consists of the letter "C" in a circle which appears on the tombstone, and  $1\frac{1}{4}$  inches therefrom appears the word Guardian. It is urged by the correspondent that the mark "Guardian" is sufficiently closely associated to the letter "C" in a circle as to constitute a copyright notice. Furthermore, it is urged that this is the mark adopted by the copyright owner.

It is the opinion of Mr. Smith, Mrs. Brady, and Mr. Pierce that the notice of copyright is fatally defective in that the mark "Guardian" is not sufficiently closely associated with the letter "C" in a circle as to constitute an acceptable notice. Furthermore, it is questioned whether Guardian actually is the mark or symbol of the copyright proprietor whose name appears on the back of the design. Mr. Wise, on the other hand, is of the opinion that there is some doubt as to the adequacy of the notice, and since there is some doubt it is his opinion that this doubt should be absolved in favor of the applicant. The correspondent should be warned that in the future the elements constituting the notice should be more closely associated.

Respectfully submitted,

*W. Harvey Eise Jr.*

Chairman, Revisory Board

"If 'Guardian' is the applicant's trademark by which it is known and identified to the trade, I see no insuperable objection to making the entry. The 'Mark' is on same plate and quite close to the symbol "C" in a circle. The name in full is on the back."--HAH 2/3/39 3 G's entered 3/7/39