

# ST. LOUIS LAW REVIEW

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## Editorial Notes

### CONTRIBUTOR TO THIS ISSUE

LEWIS ALLEN SIGLER, M.A., LL.B., Washington University,  
1934, contributes *The Problem of Apparently Unguided Ad-  
ministrative Discretion*. Mr. Sigler will continue his re-  
search in the field of administrative law as the holder of a  
Sterling Fellowship at Yale for the year 1934-35.

## THE SCHOOL OF LAW

The Alumni Prize for maintaining the highest scholastic average during the entire three year course of study was divided between Harry W. Jones and Lewis A. Sigler. Mr. Jones also received the Richard Wagner Brown Prize, awarded annually to the member of the graduating class who, in the estimation of the faculty, best exemplifies the qualities of scholarship, leadership and character. The Mary Hitchcock Thesis Prize was awarded to Arthur C. Gaines.

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NotesPUBLICATION AS A RELINQUISHMENT OF THE  
COMMON LAW RIGHT IN LITERARY PROPERTY

Legal recognition of creative genius and its right to protection against piracy antedates any statutory move in its behalf. The rights of an author in the unpublished manuscript of his book or play, of the artist in his sketches, of the architect in his concept reduced to blueprint—came to be regarded by the common law judges as “literary property,” and was accorded protection the same as any other personal property.<sup>1</sup> Literary property has been defined as “the right which entitles an author or his assigns to all use and profit in his composition, to which no independent right is, either by action or omission on his or their part, vested in another person.” This definition is considered an improvement on the ordinary one which is said to be “the exclusive right of a proprietor to multiply copies of a composition.” The latter is too narrow a view because the circulation of copies is only one of the ways in which the subject of literary property may be used.<sup>2</sup>

The creator’s use may be by withholding his work from the world altogether,<sup>3</sup> or by causing it to be printed and hiding away the volumes,<sup>4</sup> or by permitting a restricted use among a selected group of friends.<sup>5</sup> It is he who has right of first publication,<sup>6</sup>

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<sup>1</sup> Palmer v. DeWitt (1873) 47 N. Y. 532 at 537; Note (1922) 35 Harvard Law Rev. 600.

<sup>2</sup> 5 Words and Phrases (1st Series) 4187.

<sup>3</sup> Note (1922) 35 Harvard Law Rev. 600.

<sup>4</sup> Jewelers Merc. Agency v. Jewelers Weekly Pub. Co. (1898) 155 N. Y. 241, 49 N. E. 872.

<sup>5</sup> Palmer v. DeWitt, *supra*, at 537; Prince Albert v. Strange (1899) 2 De-Gex 652; 64 Eng. Rep. 293 at 302.

<sup>6</sup> Bobbs Merrill Co. v. Strauss (C. C. A. 2, 1906) 147 F. 15.