
Wincor: From Ritual to Royalties: An Anatomy of Literary Property

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manual on this subject. He differs from Gray and others who considered "Law" to be the rules laid down by courts in their decisions, and asserts it to be the "aggregate and totality of the sources of law used in the legal process."

His approach to the sources of the law, which he divides into formal and informal, is also novel. The first he defines as being available "in an articulated formulation embodied in an authoritative legal document" and includes "Legislation," "Delegated or Autonomic Legislation," "Treaties and other Consensual Agreements," "Constitutions" and "Precedents." The informal sources include standards of justice, principles of reason and the nature of things, individual equity, public policies, moral convictions, social trends and customary law. The nonformal sources should be treated as genuine sources, enabling the judiciary to "discover" law and to avoid the accusation of "law-making" at every departure from the formal sources.

While conceding the necessity for the scientific method in legal reasoning, he agrees with Morris Cohen in that "The law . . . never succeeds in becoming a completely deductive system" but "ought to go beyond these immediate objectives and open up . . . the broadest horizons which can be reached in an encompassing view of the profession."

Mr. Bodeheimer is an expert in his field, equally at home with history and with the problems of today. His historical presentation is a concise and impartial introduction for the student and a refresher for the busy practitioner. His own philosophy of the law, its sources and techniques comes close to describing the relation of law to present society, and its current trends. Such knowledge is necessary in order to prevent the lawyer from becoming a "mere workman" according to Scott, a "mere blockhead" according to Brown, or a "public enemy" according to Brandeis. This book is a good place to start.

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From Ritual to Royalties: An Anatomy of Literary Property. By RICHARD WINCOR. New York: Walker & Company, 1962. Pp. 153. \$3.50.

Who owns Sherlock Holmes? Are literary characters a new form of property? These are some of the unusual questions posed in this pithy work by an author who is reputed to be one of the foremost living experts on copyright law. Unfortunately, this book will not qualify the reader as an expert, nor for that matter, provide any professional utility, but it is an interesting excursion into the historical concepts of literary works as property.

Historically viewed, the protection of copyright as equated with literary property, and the concomitant cause of action for infringement, emerged only a few hundred years ago as a corollary to the printing press. But it was an art-form much older than reading that provided the genesis for the concept of ownership in literary property: the theatre. Within this broad generic term, the author traces the prerogative of certain persons in antiquity to perform esoteric rituals and ceremonies in the capacity of magicians, priests and kings, and who by virtue of said prerogatives, literally ran early societies. By knowing the *magic* words and imposing a strict system of who would succeed to these words, a clearly delineated property right in said words or ceremonies emerged. As magic evolved into cults, these secret words became more elab-

orate and concomitant rites were invented—all the exclusive province of a privileged few. It was the subject matter of these rites or performances that evolved into a thing of value—not in the sense of royalties or residuals, as we have come to understand it, but in the form of control and status in society. These property rights were afforded protection in the form of penalties that attached for violation either in the unauthorized dissemination or performance of said works.

Continuing in the historical vein, the author considers some of the motives for restricting the use of the literary property, ranging from the control of printing rights to a useful method to censor suspected heretical and seditious writings.

It was not, however, until the turn of the 18th century that the greatest legal and philosophical minds in England took cognizance of a pressing problem: Assuming that there is a property right in the arrangement of words, i.e. literary property, does the author have a right to exact a tribute for its use forever? Or is the cultural value of such works encumbered in the public interest, so that society may be able to read and see intellectual productions in the interest of truth, thereby permitting the free flow of ideas for a better world? This dilemma was resolved by way of compromise which granted property rights to the author for a limited number of years, thereafter classifying his work as a public domain. The result of this reasoning was the first copyright statute in 1709, termed the Statute of Anne.¹ Yet, in England it was not until 1911 that the Common Law copyright was completely eliminated and supplemented with an enlargement of statutory rights, resulting in a term of protection today in England for the author's life plus 50 years. In contrast, Mr. Wincor opines that the American approach vis-à-vis copyrights has been "parsimonious, bureaucratic and insular. . . ."

To complete the potpourri, the author offers a provocative one-act play which illustrates some of the problems relative to ownership of literary characters; and finally, a number of interesting contracts used in various phases of literary work.

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Modern Criminal Investigation. By HARRY SODERMAN AND JOHN J. O'CONNELL. 5th ed. Revised by CHARLES E. O'HARA. New York: Funk & Wagnalls Company, Inc., 1962. Pp. 559. \$7.50.

Since this work originally appeared over a quarter of a century ago it has been one of the most widely used textbooks for law enforcement officials. Originally written by the late eminent European criminologist Harry Soderman and the late chief inspector of the New York City Police Department John J. O'Connell, it has been completely revised by Charles E. O'Hara, a physicist, mathematician, author, and member of the Detective Division of the New York City Police Department.

Early in the book there is a discussion of police organizations throughout the world including those in the United States, France, England, Germany, Russia and satellite states, Italy, Switzerland, Belgium, the Netherlands, the Scandinavian countries and the International Criminal Police Commission to which thirty-five countries belong.