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Architects—Protection of Plans as Intellectual Property—Loss of Right by Publication

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discretion for that of the administrative body. In Illinois a section of the Old Age Assistance Act permitting an unsuccessful applicant to petition the circuit court for a trial *de novo* has been held an unconstitutional delegation of power in view of the broad discretion intended to be granted to the administrative agency.

Since the instant decisions were handed down, the Missouri statute has been amended to provide that benefits shall not be payable to any person who has " * * * income, or resources, whether such income or resources is received from some other person or persons, gifts or otherwise, sufficient to meet his needs for a reasonable subsistence compatible with decency and health." Further, the appeal to the circuit court shall not involve a trial *de novo*; instead, on an applicant's appeal, the proceedings before the commission shall be certified, and upon this record the "circuit court shall determine whether or not a fair hearing has been granted the individual. If the court shall decide for any reason that a fair hearing and determination of the applicant's eligibility and rights under this act was not granted the individual by the State Commission, or that its decision was arbitrary and unreasonable, the court shall, in such event, remand the proceedings for redetermination of the issues by the State Commission." As old age assistance grants are available not as a matter of right but to cope with the existing emergency, it is submitted that the better view is that relatives able to do so should aid the indigent aged, and to this end the legislature should have expressly provided that, where old age assistance is granted, it shall appear that the applicant has no responsible relative or other person able to furnish support.

P. H. A.

ARCHITECTS—PROTECTION OF PLANS AS INTELLECTUAL PROPERTY—LOSS OF RIGHT BY PUBLICATION—[Missouri].—Plaintiff, an architect, was employed by defendants to prepare plans for modernization of a residence. The remodeled residence was open to the public for inspection, and the plan itself was printed in a professional periodical. Later defendants constructed two more residences from the same plans without plaintiff's consent. In a suit for damages for the alleged unauthorized appropriation and use of plaintiff's plans, held, that plaintiff's common law copyright was extinguished by publication.

By common law authors are protected in the exclusive use of their in-

15. See Borreson v. Dep't of Public Welfare (1938) 368 Ill. 425, 432, 14 N. E. (2d) 485, 488.
16. Ibid.
comment on recent decisions

15. Pierce and Bushnell Mfg. Co. v. Werckmeister (C. C. A. 1, 1896) 72
The instant case is another example of the reluctance of the courts to extend protection outside the copyright law to architects' creations. The plans of an architect being a suitable subject for copyright, it would seem that the only sure protection which an architect can get for his creations will have to come from compliance with the copyright law itself or from legislation.

D. L.

COPYRIGHT—PROCEDURE FOR PERFECTING—TIME OF DEPOSIT OF COPIES—[United States].—Petitioner published an issue of its magazine with due notice during December, 1931, but did not deposit copies until fourteen months later. In the meantime, respondent reproduced some of the material. In an infringement suit for injunction and damages, the Supreme Court held for petitioner, rejecting respondent's contention that despite the unquestioned validity of the copyright, no right of action existed because of tardiness in complying with the statutory deposit provisions.

Securing a copyright requires publication with notice as set out in the statute. Two copies of the copyrighted work must be deposited promptly with the Register of Copyrights, and "no action shall be maintained for infringement of copyright in any work until the provisions of this act with respect to the deposit of copies have been complied with." Although scattered dicta uttered by lower federal courts had indicated a view contrary to the position taken in the principal case, the question remained one of first impression. The majority opinion held that copyright vested following publication and that an action was maintainable immediately upon the deposit of copies, despite intervening delay. The bases for the decision were several: The wording of the act vests the copyright upon


