Insurance Law Study Nearing Completion

Prof. Spencer L. Kimball is engaged in an extensive study of insurance law, with the support of the Cook Endowment. The study has been under way for nearly two years, and is now reaching the point where some fairly extensive publication may be expected from it within the next year.

The project had its genesis before Professor Kimball came to Michigan, in a book-length study he made of the historical development of insurance law, based on Wisconsin data, which was done with a grant from the Rockefeller Foundation for the purpose of research in legal history. That study, after many delays in the process of publication, is in page proof and will be released within a few weeks by the University of Wisconsin Press, under the title Insurance and Public Policy. The functional analysis of insurance law developed and elaborated in that book is the basis of the current insurance project.

Also before he came to Michigan, Professor Kimball did a field study, in collaboration with a research associate, of the process of insurance regulation in the Utah Insurance Department.

On the basis of these, and some other insurance studies, the current project was conceived as an effort to restate in a functional framework the law of insurance as it has developed in the United States. The "functional" approach is nothing esoteric, but merely means to Professor Kimball that the law must be interpreted in the light of the needs and pressures of the operating insurance enterprises, i.e., that the business itself, rather than abstract legal concepts, is the center of attention.

Three main avenues of approach are involved in the current phase of the project. First, some further efforts are being made to ascertain and describe the role or function of insurance in society. This phase of the project is essentially jurisprudential, in the broad sense. Second, a number of studies are being made to provide a comprehensive picture of what various insurance departments do in the regulation of insurance. The Utah study mentioned above was followed by a similar study of the Montana department, publication of which is in process at The University of Michigan Law School. Making use of the experience gained in the study of these two states of small population, a more elaborate inquiry is now being made into the process of insurance regulation in one of the major Midwestern states. If it seems fruitful the study of other large states will follow. Third, certain narrow areas of insurance law and regulation have been selected for more extensive study. The first of these is the area of regulation of unfair marketing practices used by insurance agents. Ten states have been used as the basis for this survey, which is essentially complete and should be published sometime in 1960. Upon its completion, attention will be focused on several other areas. One of them, rate regulation, is one to which a great deal of attention is now being given by the industry, by the state insurance commissioners, and by a Congressional committee.

In all but the final stages of this insurance project, the results will be published in the form of law review articles, or else as small monographs dealing with narrow problems. It is possible that one of the ultimate results of the project will be a larger volume discussing more systematically the field of insurance regulation. But there has been no decision as yet, about the final form in which the results of the entire project should be given. One of the consequences of this project is a change in the nature of the Insurance Law course, as taught by Professor Kimball, and a casebook with a different orientation from those now in the field is a possible by-product of the research. The change is in the direction of making the course a study of the law as it affects the insurance enterprise, rather than a specialized Contracts course. A large admixture of insurance economics is thrown in to provide the background for understanding the legal developments.

Supreme Court Names Joiner to Committee On Civil Rules

Prof. Charles W. Joiner of the Law Faculty has been named to an Advisory Committee on Civil Rules by U. S. Supreme Court Chief Justice Earl Warren.

Headed by former Secretary of State Dean Acheson, the committee has 15 members. Its purpose is to conduct a continuous study of the operation and effect of the civil rules of practice and procedure prescribed by the Supreme Court for the federal courts. According to the Chief Justice, its work will be "of inestimable importance to the administration of justice in the federal courts."

The creation of the Advisory Committee was authorized by recent congressional legislation to provide the Supreme Court with information and advice on proposed changes in the federal court procedure. According to Congress the purpose of the continuous study to be undertaken by the Committee is "to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay."

Professor Joiner has served as Chairman of the Joint Committee on Procedural Revision in Michigan since 1956. Earlier this year, he was named Michigan representative to the U. S. Attorney General's Conference on Court Congestion.

CASE CLUBS REORGANIZE

The senior judges of the Case Clubs, in cooperation with the faculty, have announced some changes in the organization of the Case Clubs and of the Campbell Competition. It is hoped that these changes will reduce the work-load that participation in the Clubs' program has required in the past, and at the same time increase the participation in the Clubs' activities, and improve the effectiveness of the program. Heretofore, selection of the participants in the Campbell Competition has been based upon the cumulative scores of the contestants in three preliminary rounds—two in the first year and one in the first semester of the second year. In the future there will be only two rounds of general participation, one in each semester of the freshman year. As has been true in the past, those students who complete these two rounds of Case Club work will be excused from the appellate part of the course in Trials, Appeals, and Practice Court.

Campbell Competition will begin in the first semester of the junior year. Thirty-two students, elected on the basis of scores received during the two freshman Case Club rounds, will compete in the first round of Campbell. Of these thirty-two, eight will be chosen to compete in the semi-final round, and from these eight, four will be chosen for the final round. Both the semi-final and final rounds will be held during the second semester of the students' second year.

In addition to demonstrated excellence in brief writing and oral advocacy, the Campbell competitors will be required to have at least a 2.3 scholastic average. Faculty recognition of the value of participation in the Case Clubs' program is evidenced by the fact that all Campbell competitors will be excused from having to prepare a research paper in Problems and Research II.

Jean Rey, member of the European Market Commission, predicted development of a "United States of Europe" within the next generation or two in a Law School lecture this winter. He reported that economic integration of the Common Market is proceeding quickly and strongly, and that wide support has developed for rapid elimination of quota and tariff barriers among the member nations.