

in reducing and preventing *injuries* and not just insurance claims and premiums. We should be interested in accident prevention and law enforcement, not just "loss-distribution." And yet, for obscure reasons, the tendency of the law is to place professional men in a "preferred position" and to treat them, as Dean Fleming says, with "singular tenderness." The inclination of the professional brotherhood is to resist cleaning its own house of the incompetents and bunglers, and even to support and defend them actively in court. One wonders how many do so with guilty knowledge of their own negligent action never brought to light. Those who protest an increase in their professional liability insurance rates might well reflect upon what those rates would be if all cases of malpractice were known and then adequately compensated.

A book review should not be ended on such a dour note, and it should contain some recommendation, express or implied. "Professional Negligence" as a book is written for thoughtful reading by trained legal minds and will be particularly useful to liability insurance companies and good trial lawyers. That may condemn it to a limited circulation, unless attorneys who do not fall within the above classification are led to believe that with this book they can try malpractice cases which should be referred to specialists.

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INSURANCE AND PUBLIC POLICY. By Spencer L. Kimball. Madison: The University of Wisconsin Press, 1960. Pp. 340. \$6.00.

If one likes to read the history of the insurance industry written from the viewpoint of the evolution of insurance regulation, then this book prepared by Mr. Kimball is a must. The author develops the history of insurance regulation in the state of Wisconsin by thoroughly examining the statutes having a bearing on insurance law, bills submitted but not enacted, legislative committee reports, and insurance cases decided by the Wisconsin Supreme Court or by federal courts involving Wisconsin litigation. The above statement might imply that this is a rather technical document which would be of interest only to lawyers or those involved with insurance law. Contrariwise, the book should have broad appeal to all persons interested in insurance because the author develops insurance law in terms of the social, political, and economic factors that have had a bearing upon the submission of insurance bills, the enactment of bills, and court decisions. The author accomplishes this with a minimum of bias. Only in a very few

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places does one sense that ideas are expressed in terms of the author's personal feelings, without always giving appropriate weight to all factors. Furthermore, his understanding of the group relationship of the insurance function permits him to avoid the pitfalls often incurred by non-insurance people writing in the field.

The book, excluding the introduction and conclusions, is divided into five sections or chapters. The first section deals with the validation of the insurance enterprise. In this chapter he points out the basis upon which insurance was generally accepted, and more specifically, when and why various types of insurance were approved. He not only deals with those forms of insurance more commonly referred to as the "commercial" lines, but touches upon the various forms of social insurance.

The second area covered in the book deals with the creation of an adequate insurance fund. In this chapter, the author shows the development of the various laws permitting insurance companies to be organized, establishing conditions for organization and requirements for adequate capital, and guarding the rights of policyholders or stockholders as to voting control of the company. The author then discusses the matter of rate making and finally the marketing of insurance. The last section on marketing, considering the manner in which the material was presented, does not seem to be entirely appropriate for inclusion under the heading "The Creation of an Adequate Insurance Fund."

The next chapter titled "Protecting the Integrity of the Insurance Fund Against Dissipation" deals with restrictions on investment of insurance company funds, restrictions on underwriting policy, the control of management practices, and the creation of an insurance department in the state government. Although one could question the inclusion of this latter subject under this chapter heading, as the function of the insurance department covers more phases than the title suggests, the logic of it being discussed here is made clear by the author. He points out that the earlier regulatory statutes dealt almost entirely with the protection of the insurance funds held by the company for the policyholders' benefit.

The author next turns to a discussion of the distribution of the insurance fund in the form of claims. The evolution of the standard policy and policy provisions are discussed, with a good deal of emphasis being given to the control of loss settlement procedures. The author then presents in a most enlightening manner the controversial "valued policy" law.

In the final section, the author broadens the scope of his discussion by looking at insurance regulation from the viewpoint of society. He examines the insurance industry, through the evolution of insurance

law, as a provider of funds for various governmental units through fees and taxation, as an aid to the prevention and mitigation of loss, and as it exists in a federal system, subject to state regulation. Although the author mentions the insurance industry as a mobilizer of capital, he does not develop its role in this capacity in this chapter. Yet, the insurance industry has been and still is an important force in providing capital for our economy. However, the reviewer is aware that the author developed this aspect of the insurance industry in an earlier chapter in the discussion of investment regulation, but adequate reference to the earlier discussion was not made in the final chapter, where it would seem most appropriate.

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