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in the late 1950's of the book containing all of the answers to the otherwise unanswerable (or at least unfathomable) problems so frequently generated by California trust deeds and mortgages: the delightfully readable, wonderfully complete, flawlessly accurate—and totally non-existent—*Needleman On Mortgages*.<sup>7</sup>

A real textbook with the attributes of *Needleman On Mortgages* would be unbelievably difficult, perhaps impossible, to produce. But it would be a splendid contribution to legal literature, legal education, and legal practice. This, combined with Professor Riensenfeld's dedication to all three; added to the fact that if such a book could be written, only Riensenfeld could do it; together, finally, with the possibility that he may some day shake loose a weekend or two when he is free of other deadlines and commitments, makes one thing clear: the next time Professor Riensenfeld cites *Needleman On Mortgages*, it is prudent to check the library again—it might, by then, really be there.

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## PROFESSOR RIESENFELD AND SOCIAL LEGISLATION

*Patricia K. Putman*<sup>†</sup>

To write of Stefan A. Riensenfeld's contributions in the field of social legislation in terms of his definitive texts and the mighty councils on which he sits is to lose sight of his real-world impact. When Senator Nadao Yoshinaga (now Chairperson of the Labor and Industrial Relations Appeals Board) spoke on the occasion described at the end of this piece, he said that three people have been responsible for the advancement of social progress and humane concern for the ordinary people of Hawaii, in its efforts toward decency in human affairs: Governor John A. Burns, deceased 1975; the late Jack Hall, Union leader; and Professor Riensenfeld. I propose to describe some of the history of the Professor's involvement in Hawaii's achievements in social legislation.

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7. Although *Needleman on Mortgages* does not exist, someone in 1958 or 1959 cataloged it in the Boalt Hall library, gave it a fictitious Library of Congress number, catalog number, catalog card, etc., and then fabricated a library circulation card for the law library files showing that the only existing copy was checked out to Professor Riensenfeld. Often, over the years, I have heard from former Boalt students that someone, according to some "reliable" source, actually tracked down the *Needleman* text, typically in some remote corner of the world like New York or Tennessee or Sonora or UCLA. Maybe some day someone will find it—but not until Steve writes it.

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In 1963, just four years after Hawaii's admission as a state of the Union, Stefan A. Riesenfeld completed his first civilian tour of duty in the Islands, marked by publication of his *Study of the Workmen's<sup>1</sup> Compensation Law in Hawaii<sup>2</sup>* and by enactment in the same year, as a result of that study, of a comprehensive revision of the Hawaii Workers' Compensation Law.<sup>3</sup> The study was the product of a request from Hawaii's first state legislature to review and analyze the existing law, operation and insurance costs of the workers' compensation system and to propose a complete technical recodification of the law. A more significant objective of the request was to identify major changes in program orientation and administration. The study accomplished these objectives, and a large number of the study's major recommendations were enacted. Some reflected the essential aims of workers' compensation legislation, including that of restoring the injured worker, both physically and as a productive member of society. For example, in the provisions that recognized and provided implementation for both therapeutic and vocational rehabilitation as primary functions of workers' compensation, the law required strengthening of rehabilitative services available to injured workers.<sup>4</sup> Other major recommendations dealt with such practical necessities as rescuing the special compensation fund, in danger of imminent exhaustion, by establishing mechanisms for equitable sharing on the part of employers responsible for the costs of financing the fund.

The Professor's international and national prestige in the wider field of social legislation had preceded him in Hawaii only to a relatively small select group of citizens, primarily his former students from the University of Minnesota Law School and from Boalt Hall.<sup>5</sup> However, by the time this first Riesenfeld mission was accomplished, he had established his credentials and won the respect, if not unanimous agreement on fundamental principles, of the state administration, the state legislature, the insurance industry, organized labor, the Hawaii Employers Council, and other interested groups.

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1. This might be viewed as a rare instance of Professor Riesenfeld not assuming the vanguard (at least in 1963—compare his views at text accompanying note 11 *infra*). Act 41, § —, [1975] Sess. Laws Hawaii —, provides for the term "workers' compensation" in lieu of the term "workmen's compensation" in the Hawaii Revised Statutes.

2. S. RIESENFELD, *STUDY OF THE WORKMEN'S COMPENSATION LAW IN HAWAII* (U. of Hawaii Legislative Reference Bureau Rep. No. 1, 1963).

3. Act 116, § 97, [1963] Sess. Laws Hawaii 103, *amending HAWAII REV. LAWS* cl. 97 (1955) (codified at HAWAII REV. STATS. ch. 386 (1974)).

4. HAWAII REV. STATS. §§ 386-21 to -25 (1974).

5. These former students include some of Hawaii's most distinguished public servants: Herman Doi, formerly Director of the Legislative Reference Bureau, now State Ombudsman; Nelson Doi, formerly State Senator and Judge of the Circuit Court, now Lieutenant Governor; Thomas P. Gill, formerly State Representative, U.S. Representative, and Lieutenant Governor, now in private law practice; Hiroshi Kato, formerly State Representative, now Judge of the Circuit Court.

A theme frequently heard in Hawaii is that the unique geographic and demographic attributes of the state, as compared to its 49 sisters, provide the appropriate climate for innovative and pioneering legislation and also enable the state to serve the laboratory function for testing the feasibility of enacting such legislation in other jurisdictions. Given the circumstances that in 1963 the administrative and legislative leadership were committed to this role for the new state as well as to the broad cause of bettering the lot of its workers and less privileged people, Stefan A. Riesenfeld was quickly recognized as the person to help in devising the implementing social legislation. On the other side, Professor Riesenfeld seemed please with the working environment of his stints in Hawaii, including certainly our subtropical natural delights, but of equal importance, the environment of the challenge in generating basic facts and data and developing them to a practicable end. For instance, until the workers' compensation study presented the information and the technique, there was no accurate information on the size of the labor force regularly covered by the system or on the payroll subject to the coverage. Similarly, other basic information vacuums have been filled by Professor Riesenfeld in the course of each of his subsequent studies.

The next item on the Hawaii social legislation agenda of Professor Riesenfeld<sup>6</sup> resulted in enactment of the Temporary Disability Insurance Law (TDI), an income maintenance program that compensates employed persons for wages lost because of temporary non-occupational sickness or accident exceeding one work-week,<sup>7</sup> by the fifth legislature in 1969.<sup>8</sup> The background study, *Temporary Disability Insurance*,<sup>9</sup> also requested by the state legislature, dealt with six areas in addition to the draft of the proposed legislation: the need and advisability of enacting such a law; the extent of income loss due to non-occupational illness or injury; the incidence and duration of such illness and injury; the extent and experience of such programs in other states; the effects of alternative provisions on eligibility, coverage, financing, underwriting, and administration; and the costs of such alternative provisions. Two years after enactment, government leaders were still showing pride in the innovative and creative nature of TDI and related social legislation.<sup>10</sup>

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6. In addition to his work in Hawaii on behalf of social legislation, Professor Riesenfeld was the senior author of *THE UNIFORM COMMERCIAL CODE AND THE HAWAII LAW* (U. of Hawaii Legislative Reference Bureau Rep. No. 5, 1963) and author of *PRACTICAL GUIDE TO THE UNIFORM COMMERCIAL CODE IN HAWAII, ARTICLES 1, 2, 6, 7 and 9* (U. of Hawaii Legislative Reference Bureau Rep. No. 1, 1968).

7. HAWAII REV. STATS. § 392-2 (1974).

8. HAWAII REV. STATS. ch. 392 (1974).

9. S. RIESENFELD, *TEMPORARY DISABILITY INSURANCE* (U. of Hawaii Legislative Reference Bureau Rep. No. 1, 1969).

10. As stated by the Director of the Department of Labor and Industrial Relations:

Among the Professor's recommendations not accepted by the 1969 legislature, as being too controversial, was extension of TDI coverage with benefits in the form of partial replacement of wage loss for disability due to pregnancy. The rationale behind this recommendation was that "[p]regnancy may disable a breadwinner from staying on the job just as much as disease or accident."<sup>11</sup> In 1973 the legislature amended the TDI Law to extend coverage to disability on account of pregnancy.<sup>12</sup> Professor Riesenfeld reassumes the vanguard.

The last of the major studies under the aegis of Stefan A. Riesenfeld on behalf of the social legislation program of the State of Hawaii is *Prepaid Health Care in Hawaii*.<sup>13</sup> Enabling legislation to carry out the recommendations of this study was enacted in 1974 by the seventh state legislature.<sup>14</sup> This law provides an unprecedented kind of state social legislation. By filling in the gaps in prepaid health insurance coverage, it is intended to guarantee that every regular employee in the state will have the protection and security of coverage under a prepaid health care plan.<sup>15</sup>

At the 1975 Hawaii Legislative Session it was proposed, but not funded, to initiate a study to review the several major components of existing social legislation, *i.e.*, Workers' Compensation, TDI, the Employment Security Law, and the Prepaid Health Care Act, in order to determine the desirability and feasibility of developing a unified, coordinated, and uniformly adequate system of benefits, taking into account the interests of workers, employers, consumers, and the State of Hawaii. When it was learned that prior commitments precluded Professor Riesenfeld from taking charge of the project, the matter was postponed pending his availability.

People have countless ways of expressing respect and affection for another. I hear the expression for Stefan A. Riesenfeld when I have occasion to be at the Hawaii State Capitol, and someone—it might be a

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The TDI Law . . . thus completed the "triangle" of protecting and maintaining the economic security of Hawaii's workers. Our workers are now protected from the hardships of unemployment . . . by our Unemployment Insurance Law; they are also protected from the hardships of unemployment caused by job connected disabilities by the Workmen's Compensation Law; and finally, they are protected from the hardships of unemployment due to non-occupational disabilities by the TDI Law.

HAWAII DEP'T OF LABOR AND INDUSTRIAL RELATIONS, REPORT ON TEMPORARY DISABILITY INSURANCE IMPLEMENTATION 1 (1971).

11. TEMPORARY DISABILITY INSURANCE, *supra* note 9, at 116.

12. Act 61, § 392-3(5), [1973] Sess. Laws Hawaii 73, amending HAWAII REV. STATS. § 392-3 (1973) (codified at HAWAII REV. STATS. § 392-3(5) (1974)).

13. S. RIESENFELD, PREPAID HEALTH CARE IN HAWAII (U. of Hawaii Legislative Reference Bureau Rep. No. 2, 1971).

14. HAWAII REV. STATS. ch. 393 (1974).

15. For a statement of the legislative findings and purpose of this landmark piece of legislation, see HAWAII REV. STATS. § 393-2 (1974).

legislator, the Governor, a custodian, a librarian, a department head, a staff employee—asks, “How is The Professor, when is he coming back?” There is no ambiguity; there is but one Professor.

He is one of a handful of people who has received a poi-pounder from the Governor of Hawaii, accompanied by a Certificate that reads:

WHEREAS, the Hawaiian People have always considered POI to be their staff of life and daily bread; and

WHEREAS, it is traditional among Hawaiians to sit down with their trusted and beloved friends and to eat poi with them from the family calabash; and

WHEREAS, the custom of sharing food from the family calabash has given rise to the designation of a person held in high esteem, trust and aloha as a “CALABASH COUSIN”,

NOW, THEREFORE, I, JOHN A. BURNS, Governor of the State of Hawaii, by virtue of the authority vested in me by the People of Hawaii under Act 149, Session Laws of Hawaii 1961, do hereby confer upon

STEFAN A. RIESENFELD being a true and esteemed friend of Hawaii, the title of

CALABASH COUSIN TO THE PEOPLE OF HAWAII

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It is only appropriate that at least a small portion of this tribute issue salute a group of individuals who, over the years, have been called upon to perform well beyond the call of duty. This group is comprised, of course, of the many students of Professor Stefan A. Riesenfeld. Whenever Boalt graduates gather, they seemingly never tire of recounting the classroom style and legendary stories surrounding Professor Riesenfeld. The *California Law Review* reprints this cartoon<sup>1</sup> in honor of his former students and with the assurance that in spite of the 20 years since the cartoon first appeared, it, like his Article in 27 *Minnesota Law Review*, is still "as good as gold." To his former students, Professor Riesenfeld remains a man for all seasons.

1. Eugene B. Morosoli, Jr., Book Review, 43 CALIF. L. REV. 369, 373 (1955).