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NEW EFFORTS TOWARD THE INDEXING, DIGESTING AND CLASSIFYING OF LEGISLATION AND JURISPRUDENCE IN COSTA RICA*

STEVE WROE**

INTRODUCTION

One serious problem facing most Latin American lawyers, judges, legislators, professors and law students is the lack of ready access to the great and ever-increasing body of information which constitutes the "law". The individual laws, the codes, and many other kinds of legislative dispositions, as well as the decisions of the highest courts, have been published on a more or less regular basis for decades in most Latin American countries. Indeed, such materials already fill numerous libraries, and thousands upon thousands of pages of new material are printed every year. But even if these publications themselves are available in sufficient quantities, a great part of the information they contain is lost to the practitioner, due to the lack of comprehensive, well-organized and easily manageable systems of indices and digests.

If the lawyer is to work efficiently and effectively, he must have this information—i.e., the "law"—at his fingertips. He must be able to locate quickly and easily any law, decree, regulation, executive agreement, court decision, or any other such official disposition which bears upon any aspect of any legal problem his clients may bring to him. The judge must also have access to the same information if he is to decide his cases on a sound legal basis. The legislator needs the same information in order to study intelligently the development and effect of past legislation and to evaluate and propose new legislation responsive to the changing needs of society. The professor and his students need the same information, if legal edu-

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cation is to focus upon the law as a living, growing and developing organism. Indices, digests and classified codes of legislation in force are the principal tools by which the lawyer, judge, legislator, professor or student locates the legal information relevant to a particular point or problem. It would be very difficult to overemphasize the importance of such tools to the functioning of a modern legal system.

Leading Costa Rican lawyers have long felt the need to remedy the defects in their legal indices and digests and to create an adequate classification of their laws. Thus, a few years ago, a long-range program was set in motion for the purpose of developing a complete set of effective and sophisticated legal research tools, beginning with a legislative index, following with a digest of the decisions of the Supreme Court, and leading eventually to the preparation of a classified and annotated compilation of the entire body of legislation in force. The following is a brief description of these projects, their goals and their progress to date.

THE LEGISLATIVE INDEX PROJECT

The Legislative Index Project was organized in late 1969 to create a new and up-to-date index of all legislative materials of a general and permanent nature enacted or propounded since the year 1948. The work was undertaken by a group of Costa Rican lawyers and law students, assisted by experts in the classification of legal materials. Their task was to examine every piece of legislative material of the period, identify the subject matter of each disposition and provision, and organize a standardized "nomenclature" of titles, headings and cross-references by which to classify the data. The preparation of the raw data took nearly a year, and resulted in a file of over 20,000 index cards. The entire body of material was then methodically revised by an employee of the Costa Rican legislative assembly working together with the professional staff of Equity Publishing Corporation, of Orford, New Hampshire. The final revision having been finished, a complete subject matter index to the recent legislation of Costa Rica is now awaiting publication in book form.

THE SUPREME COURT DIGEST PROJECT

Briefly speaking, a "digest of jurisprudence" is a collection of points of law extracted from the decisions of the court, classified systematically by subject matter. It is a kind of "index" to the law as it is interpreted and applied in particular cases. In the same sense as the formal acts of

the executive and legislative, the jurisprudence of the courts constitutes a legal resource of fundamental importance, relevant not only to the administration of justice in the tribunals, but also to the teaching and practice of law in all its aspects whether the legal system is based upon civil or common law.

In early 1971, after the collection of the raw material for the legislative index had been almost completed, the Supreme Court Digest Project was organized to create a digest of the points of law contained in the decisions of the Supreme Court for the period 1948-1970. Under the tutelage of Dr. Roberto Alonso, Managing Editor of Equity Publishing Corporation, a group of Costa Rican lawyers and law students began by reading the decisions of the Supreme Court and extracting the jurisprudence of each case in the form of headnotes—i.e., short paragraphs containing a concise statement of every point of law relevant to the decision of each case. During the course of the work each headnote was revised and rechecked, classified preliminarily according to subject matter, reproduced on a separate index card, and proofread. Approximately 2500 cases had been published for the period 1948-1968, and an average of about 6 headnotes were extracted for each case, resulting in about 15,000 headnotes in total.

When the entire body of headnotes had been prepared, the revision of the entire classification system was begun. This phase—the final classification process—is the most difficult and perhaps the most important, since it is the classification of the headnotes which transforms a body of raw data into a digest of jurisprudence. Over 150 major headings have been established, and some of these will have as many as 100 subdivisions. By recent estimates, the work should be ready for publication sometime in the coming months.

Due to the success of the initial efforts and to the favorable attention which the Supreme Court Digest Project has attracted, plans are now underway to digest all the decisions of the Supreme Court, back to 1888, and perhaps the decisions of the Appellate Courts as well.

THE CODIFICATION OF LEGISLATION IN FORCE

With the legislative index nearing completion and the Supreme Court digest well underway, the Government of Costa Rica has laid the groundwork for a much more ambitious project—the classification and codification of the entire body of legislation in force. This work, which is now

in its planning stages, will bring together in a single set of volumes the full text of all the legislation in force, with each separate provision or section analyzed, classified and organized according to its subject matter and annotated with headnotes extracted from the decisions of the courts. It will also provide data as to the legislative history of each provision, and will be maintained up to date on a continuing basis by means of annual cumulative supplements. According to present estimates, the work will begin this year and should be completed before the end of 1974.

CONCLUSION

The common goal of the projects here discussed is to provide the Costa Rican lawyer with tools to facilitate legal research of a type that has not previously been practical or even possible, resulting in far-reaching benefits of many different forms. Legislation, court cases and legal textbooks will be better analyzed, better organized and better written. Lawyers will be able to handle a greater volume of cases much more efficiently, and prepare for litigation much more thoroughly and precisely. Law students will be able to direct their attention to contemporary legal problems and concentrate far more effectively on practical legal research and writing. Even social and economic benefits are to be expected: banks and insurance companies, to cite only two examples, can provide much more effective and efficient service, when the law affecting their operations becomes more secure and clearly understood. In sum, making the law readily and easily available makes it better understood, better maintained, better practiced, better taught and more responsive to the needs of society.

The Costa Rican indexing, digesting and codifying projects are probably the most comprehensive, systematically organized and soundly supported of any comparable or similar effort ever to have been undertaken in Central America, and perhaps in all of Latin America as well, to date. The success and the importance of the work becomes ever more apparent as progress continues. Much remains to be done, of course, but the results to date have been most promising, often even exceeding expectations. Not only has the quality of the work reached a professional level, but the personnel involved in the projects have themselves received extremely valuable training and education, to the point where they are now able to offer professional training of the same type to others—a fitting tribute to the foresight of the leading members of the Costa Rican bar, without whose constant support the work would never have been possible.