

Book Reviews
of
Roger W. Cooley's
Briefs on the Law of Insurance

(First edition, 1905)
(5 Volumes)

An 1882 graduate of the University of Michigan Law School, Roger William Cooley was employed for many years by West Publishing Company in St. Paul, Minnesota. From 1906 to 1911, he was also on the faculty of the St. Paul College of Law. During these years he produced an enormous quantity of law books, all published by West. They include the monumental five volume *Briefs on the Law of Insurance* (1905). Each volume is posted on the MLHP website.

Two reviews of Professor Cooley's set have been located. The first, published in *The Central Law Journal* on January 5, 1906, concludes with a remarkable recommendation:

Altogether, our examination of every feature of this work has convinced us that it is the greatest and most important work on the subject of insurance ever published, and as such we commend it to the profession.

Supplements and new editions were published in the following years. The second edition was reviewed by Professor Paul Sayre in the *Indiana Law Journal* (June 1928).

Cooley served as the Dean and Professor of Law at the University of North Dakota Law School. He wrote other law books published by West, including a second edition of Walter Tiffany, "Handbook on the Law of Persons and Domestic Relations" (1909) and "Brief Making and the Use of Law Books" (1926).

He died on November 7, 1931, at age seventy-one. The following notice appeared in the *Michigan Alumnus Journal*:

38 *The Michigan Alumnus* 308 (January 30, 1932)

Roger William Cooley, '82

ROGER W. COOLEY, Dean of the North Dakota Law School and a lecturer, editor and teacher, died of pneumonia in Grand Forks, North Dakota, November 7. He was 71 years old.

Born in Decorah, Iowa, Mr. Cooley graduated from Michigan and then began the practice of law in Minnesota in 1884. For many years he was with the West Publishing Company, editing books and treatises on legal subjects. From 1906 to 1911 he was Professor of Law at St. Paul College of Law, and a special lecturer in the law schools of the Universities of Michigan, Minnesota and Chicago. After nine years at the University of North Dakota Law School, where he was honored in 1913 with an LL.M. degree, and two years in the School of Jurisprudence of the American University, Professor Cooley returned to North Dakota in 1923 and had remained there until the time of his death. He had been Dean of the Law School for several years and, although stricken with blindness last June, he continued his teaching and administrative duties until a week before his passing.

Dean Cooley was the author of numerous works, especially on the subjects of Insurance and Corporations.

Two reviews of Cooley's magnum opus have been found so far. The first was published in *The Central Law Journal*:

62 *The Central Law Journal* 14 (January 5, 1906).

BOOK REVIEW.

COOLEY'S BRIEFS ON INSURANCE.

Not since we examined for review the recent work of Prof. Wigmore on the Law of Evidence has our examination of any recently published law text book been so great a delight, as our perusal of the recent work of Mr. Roger W. Cooley, entitled "Briefs on the Law of Insurance." What is specially attractive about this new work is its novelty of arrangements, the freshness and peculiar clearness of its style and its absolute accuracy of statement and citation. A word first as to its arrangements. It is not a treatise in the ordinary acceptance of that term. It is, as its name implies, a series of briefs on all the important and difficult questions of the law of insurance, arranged in a logical sequence as to subject-matter. The thing that distinguishes this form of law text book from the ordinary kind is, that while it discusses every case from original principle, it wastes not space nor time in the study of purely academic and historical features of the law. It also avoids long discussions of elementary principles and presumes that the lawyer is fully acquainted with such principles. It is evident from this brief statement that this work is prepared rather for the active practitioner than for the law student. Its five volumes of careful text and exhaustive citation of authorities is not padded and wasted with the discussion of questions which no lawyer in the course of an active practice would have occasion to investigate. It is rather a series of briefs on live topics of the law, minutely subdivided, and each minute subdivision so exhaustively treated as to be a complete brief on that particular point. Herein lies the greatest value of this new work. The second point of excellence to be observed is its freshness and peculiar clearness of style. There is an

absence of all the usual conventionalities of legal dictation; the style is rather that of the advocate than the judge. It is not ponderous, but rather has a sharpness and zest that enables it to engage the attention of the reader while it thrusts in deep and firm the point it seeks to prove. There is no ambiguity. To fail to understand the style of this work is to acknowledge incompetency to understand the English language. The third point of superiority, to which we have already called attention, is the accuracy with which the author carefully frames the statements of his general principles of law and its absolute exhaustiveness and accuracy of citation. In every legal text book both these points are always of supreme importance. One without the other detracts seriously from the merits of the work from a practitioner's stand-point. A legal work on which a practitioner is expected to rely, must have all the cases in order to give the attorney complete confidence. But of even greater importance is that the citations should be accurate. There have been many law books whose authors have prided themselves on the fact that they cited so many thousands of citations more than any other work, without at the same time offering a guarantee to the profession that every citation is directly in point. Of what value is a hundred cases cited to a given proposition, when the first one examined is found to be undecisive of the point of law to which it applies and the confidence of the practitioner is shaken in the rest of the 99 citations. On this point, however, the author of the work under review offers the following guarantee: "There has been a conscientious endeavor to exhaust the cases. To this end not only have the cases cited by the courts in their opinions been examined to determine the origin of the principle or exception, but the subsequent history of each case has been traced by means of tables of cases

cited, distinguished and over-ruled. Great care has been exercised to cite only cases which are directly in point with the proposition under consideration. Instead of relying on the citations of the text books, cyclopedias or digests, the author has satisfied himself by careful examination and analysis of the opinions, that each case cited to a proposition involves the particular principle under discussion." Altogether, our examination of every feature of this work has convinced us that it is the greatest and most important work on the subject of insurance ever published, and as such we commend it to the profession.

Printed in five large volumes, bound in law sheep and published by the West Publishing Co., St. Paul, Minn.

Two decades later the second edition of Cooley's set was "reviewed" by Professor Paul Sayre, who admitted he had not read each book.

3 Indiana Law Journal 755-756 (June 1928):

Briefs on Insurance. Second edition. By Roger W. Cooley. Kansas City: Vernon Law Book Company, 1927. Eight volumes. Pp. x, 7178. Price \$75.00.

The first edition of this work came out in 1905. In 1918 a two-volume supplement was published to bring the work down to date. The present edition is much longer than the original edition but it follows the same general plan and does not purport to cover more phases of the general subject of Insurance than were included in the original work. Thus the scope of both the first and second edition of this work is confined to the insurance contract by which the individual or the corporation is insured, with respect to the different matters which are now covered by insurance policies. Some fifty years ago perhaps marine insurance was the chief instance of an interest protected by insurance. Since then, however, fire insurance has increased in importance while life insurance and accident insurance have increased many times their former volume. In addition to this we have now insurance for almost every form of business risk as well as private interest. This treatise deals with all the well established

forms of insurance contracts at the present time. It treats of the insurable interest that the insured must have in order to secure his policy and it treats of the rights of assignees or others with respect to the property and insurance involved. Of course, it treats particularly with the various terms and the conditions of such policies especially in view of the statutory provisions that now so generally obtain. It does not purport to treat of the administrative side of insurance law which has been so brilliantly handled in Professor Patterson's recent book, "Insurance Commissioners in the United States." While Professor Cooley's exhaustive work does deal with the organization of insurance companies and something of their administrative and legal phases, it deals with these only as they are incidental to the exposition of legal rights under the insurance policy itself.

The form of the work is somewhat unique. Professor Cooley uses the bold face type so well known in this country through the Hornbrook series, with further exposition of the main headings following. Unlike most legal textbooks, however, he does not put footnotes at the bottom of the page in substantiation of his statements but sets forth the footnote material in the body of the text, following each paragraph of exposition with a paragraph of notes in finer type and somewhat indented. Here leading cases are cited in illustration of the principle and ample references are given to other leading cases and to the various reporter systems and digests of the law (The National Reporter System, the L. R. A., the L. R. A. (N. S.), R. C. L. and others). The citations to cases, however, is not followed by the date of the case as is usual in law review articles and most recent textbooks. Professor Cooley frankly says that he does not purport to cover by his footnotes all the cases dealing with the point discussed, but that he has tried to refer to all of the leading recent cases which deal with these matters and he has also tried to refer the readers to particular places in the principal digests and encyclopaedias of the law where these points are discussed most fully and where the reader can find individual cases from particular jurisdictions on the several issues.

This is one instance in which the reviewer has committed the not-infrequent sin of discussing a book without reading it. He can plead in extenuation only that this does not purport to be a review; it is a brief *notice* which is confessedly inadequate, but is printed here for the information of our readers inasmuch as this is a considerable work of recent publication to which they may want to refer. It seems to the reviewer in so far as he has read the book and in so far as he is competent to judge (this last is very little), that the work is a painstaking and careful exposition of the different phases of insurance law with very helpful citations to recent cases in substantiation and illustration of points discussed. The index is clear and full and the organization of the text itself presents the subject in a useable fashion. Perhaps the reader will be depressed in finding two considerable deficiencies which are enough to preclude the work from standing in the first rank of legal treatises: (1) It does not consider the subject historically or set forth the rules of law with relation to the other subjects that embrace the whole body of the law. The author does not seem to have availed himself of any of the work of Professor Vance, nor does he attempt to put the entire subject before the reader in an intelligible manner. He proceeds at once to the exposition of certain rules, analytically considered, but with no background. (2) There is little or no

criticism of or discussion of the authorities that are cited in support of particular rules, nor is there much consideration of the correctness in law or the wisdom in policy of these rules in the law of insurance. The treatment is analytical and expository to the almost complete exclusion of a critical evaluation of the law itself. Thus the work is informational in character; it does not purport to do more.

As a reference work for lawyers it is likely to be very popular and wholly serviceable. It will give the practitioner ready reference to the point before him with some discussion of the rules of law involved and a dogmatic statement of the authorities. The critical evaluation of these authorities will be left for him to do. We now have Professor Vance's admirable little Hornbrook in this subject, but it has not been revised for many years. Professor Cooley's book should fill a real need in the profession and should be welcomed by the bar generally.

