Briefs on Insurance, 2d., by Roger W. Cooley

Paul L. Sayre
Indiana University School of Law

Follow this and additional works at: https://www.repository.law.indiana.edu/ilj

Part of the Insurance Law Commons

Recommended Citation
Available at: https://www.repository.law.indiana.edu/ilj/vol3/iss9/6

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.
the author has cited cases for their value and not for their numerical impressiveness.

Part of the book is given over to practical advice in the drawing of a will. The reader is admonished not to do the following things in preparing a will and directed to do some other things. This homely, direct advice seems to the reviewer admirable. It would seem a pedantic criticism to suggest that comment of this kind is out of place in any treatise, however thorough it may be. It may be said with fairness, however, that this part of the book seems to encroach on the kind of book that Mr. Lewis undertook in his *Preparation and Construction of Wills*. Perhaps direct advice of this kind together with information through forms and other illustrated material should be in a separate form book on Wills or in a separate volume of a longer treatise on Wills.

The reader may fail to find certain recent cases which he considers to be important in the present development of the subject. He will also find a few typographical errors and a few rather clumsy expressions. The reviewer does not mention the instances of these errors which he has noted. It seems sufficient to say that none of these defects are more than a reasonable allowance for any considerable work in this human world; they do not impair the real merit of the work itself. The book is honest and thorough. The first edition was a source of great convenience and service to the profession for more than twenty years; the present edition should continue this splendid reputation in the future. 

*Indiana University School of Law.*

NOTICES

(These Notices are Preliminary; they do not preclude Reviews later.)


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.


This is an admirable case book. The old land mark cases are used when they are of real value whether in full or by way of footnote references, while the subjects treated are covered as much as possible by very recent cases. In the field of Administration the reviewer feels that the cases selected, together with the footnote material, presents perhaps the most thorough and useful tool for the teaching of this field of law that is now available to law schools.

The arrangement of the book seems fortunate. Thus chapter IX deals with "Revalidation of Wills" and in this chapter are considered the following subjects: (1) Statutes, (2) Re-execution, (3) Incorporation, Renewal and Republication by Codicil, (4) Revival by Revocation of later revoking will. In this way the material dealing with republication in counter-distinction to incorporation by reference is clearly brought out. On the other hand there is a separate chapter dealing with "Integration of Wills" and under this heading is considered: Incorporation by Reference, apart from its significance in the field of republication. Whether this separation in the presentation of different phases of this subject will be helpful in the classroom, the reviewer cannot say.

The footnote references are clear and are perhaps adequate, although the authors surely have not erred on the side of giving purely cumulative references. The authors have distinguished their "notes" from their footnote references. These "notes" seem to cover an illustrative exposition of the point in the main case while the footnote references not prefaced by the word "note" are merely additional cases on the same point. The authors disclaim any attempt to cover the questions of gifts causa mortis or to show the effect of income tax and inheritance tax laws upon the course of descent. Not even by footnotes do they cover the relation of insurance law, living and testamentary trusts, and certain phases of the law of future interests with the matter covered in their casebook. That is justified on the ground of limited space. It seems to the reviewer that they might well have shown by illustrative notes something of the effect of these questions on the questions that they do consider. Surely in the