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## Cooper: Writing in Law Practice

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WRITING IN LAW PRACTICE. By *Frank E. Cooper*. Indianapolis: Bobbs-Merrill. 1963. Pp. xix, 527. \$10.00.

*Writing in Law Practice* is an extensive revision of Professor Cooper's earlier book, *Effective Legal Writing*. Every chapter has been reworked substantially, and through revision and expansions of writing assignments,

the editorial part of the volume is half again as lengthy as the earlier edition. A new chapter appears, introducing the "statement of the issue"—a topic stressed throughout the book. To the average student, the abundant case illustrations in part I and the editorial section will bring vitality to the numerous suggestions made for improved word usage in brief writing, opinion and letter writing, and the drafting of instruments, pleadings, wills, and statutes. Each chapter contains a number of illustrations which are analyzed and criticized. Drafts of revisions are set out, and drafting assignments appear in each chapter. Moreover, part II forms an assignment supplement of inestimable value, comprising three court records outlined in adequate detail to supply drafting assignments of broad scope adaptable for use in connection with the subjects covered in part I.

In my judgment, the resultant benefit is twofold: (1) the student's attention is riveted upon writing as a force in preventing or resolving actual litigation as graphically laid out before him by Professor Cooper, and (2) by the degree of editorial emphasis upon the statement of the issue, the student finds himself applying the basic message of the casebook system in a practical way.

In chapter outline the book is functionally sound. Thus chapter 1 deals with law as language; chapter 2 carries on this theme with special attention to court prose and judicial statements of issues. Chapter 3 preserves the continuity but probes deeply into the means and tests for extracting and stating the issues of a case, with an abundance of illustration, and chapters 4 and 5 introduce the student to the greener pastures of writing opinions and letters and the drafting of pleadings. Chapters 6 and 7 comprise a sturdy treatment of brief writing, considering separately the statement of facts and the argument of law. Chapters 8 through 10 return to more occupational affairs with proportional division of a hundred pages among contract, statute, and will drafting. Part II, concluding the book, consists of extracted court filings in two contract proceedings and one tax proceeding.

Many students need to be eased into legal writing, and the practical approach taken by Professor Cooper furnishes leverage in this direction. In part, this is observable from the chapter coverage noted. The presentation, through frequent examples from litigation and other aspects of practice, is very instructive.<sup>1</sup> Analyses of drafting efforts and omissions in plead-

<sup>1</sup> Lightness of touch is employed, too, in examples such as the following from a counterclaim made by Convair Division of General Dynamics Corporation alleging the plaintiff had not fulfilled his obligation to supply a papier-mâché mouse for the dedication of a new airplane. "Said mouse was to be 18 inches high, and to be a gentlemanly and patrician white mouse, well-proportioned and well-groomed, adorned with stylish waistcoat and pink tie, and of such happy and appealing mien as to induce the affectionate regard of all viewers, including maiden mice. Said mouse was further to be represented as tiptoeing quietly and holding one paw delicately over its mouth to illustrate the quietness of the Metropolitan 440 Airliner. . . . In violation of these undertakings and warranties, plaintiff delivered to defendant a monstrous rodent, wholly lacking in patrician qualities, of stupid and moronic mien, possessed of knobby limbs, ill-defined paws and grotesquely lumbering in lieu of delicately tiptoeing. . . ." P. 201.

ing and instruments as recorded in the book, together with suggested revisions and proposed assignments, provide ample and intriguing practice ground within the chapter framework.

Professor Cooper's book attains its best proportions beginning with chapter 3 on selecting and stating the issue. Chapter 3, for example, drives home what should be evident but never is, what sounds easy of application but is not—the emergence of a legal rule from the holding upon a set of material facts. As a sound lawyer, and as a visibly dedicated teacher of legal writing, Professor Cooper lays great stress upon this new and perhaps most important chapter. In so doing, he enables the student to carry over into creative writing the purpose of the briefing exercises he has performed in other courses. To this extent the legal writing study assists adjective legal study as an aid in straight legal thinking.

My criticisms of the book are minor when balanced against its total value. The first chapter concerning law as language is somewhat sketchy. The admonitions to refrain from over-legalism in drafting should except the use of words that have been judicially defined. The very practical suggestions on drafting of pleadings tend to overemphasize the importance of obtaining concessions in this manner from opposing counsel, at least as related to the practice in some states. Occasional pragmatic overtones appear in passages involving strategy for drafting legal instruments. In the context of its title and content development, however, these instances seem not at all obtrusive and, in fact, find their place in the larger contributive pattern.

The author's objective was and is "to afford a basis, through critical self-analysis, through examination of examples, and—most of all—through practice, for developing an ability to use words skillfully to achieve a lawyer's ends."<sup>2</sup> No review can cope with examples, other than on a total impression basis. My conclusion is that Professor Cooper has furnished the basis he sought. The means used should arouse and hold student interest; the quality of editorial content furnishes the standard for student analysis, and the diversity of subject matter and illustrations are at hand as tools for practice. For student and professor alike, this should be a useful book—clear, practical, absorbing. Within its covers, it seems to me, are contained all of the necessary ingredients for a legal writing course, subject (on grounds solely of personal privilege) to faculty-student consultation.

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