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Federal Jurisdiction and Procedure

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REVIEWS

FEDERAL JURISDICTION AND PROCEDURE*

This is a typical Hornbrook, but it is a pleasure to say that it seems to have all of the virtues and at least a distinct minimum of the defects implied in that term. The problem was to present a fairly complete picture of federal jurisdiction and of the peculiarities of federal procedure as they were when the book was completed in May, 1927. This is no trifling task, as anyone who has dipped even slightly into this astoundingly complicated subject well knows. Indeed it is a difficult enough problem even to keep up with the changes. For example, Congress has by the act of January 31, 1928 made an important change (which could obviously not be reflected in the book under review) by abolishing writs of error altogether. Of course it will take much more than this to make this book obsolete, but it merely illustrates the fact that the writing of a textbook on federal jurisdiction and procedure is almost a lifetime problem. Our thanks to the author should, however, be all the more fervent, since his book constitutes substantially the sole textbook which includes the far reaching changes made by the act of February 13, 1925, and is therefore the only one which is substantially up to date.

Furthermore, the work has been done with a marvelous mixture of thoroughness and skillful brevity. It would seem that the whole ground is covered and yet the book is not unreasonably long. It has a detailed table of contents and an excellent index so that it is distinctly usable, although from the student's standpoint, the addition of a table of cases would no doubt have effected a still further improvement.

The book opens with a valuable chapter on the federal judicial system as a whole. This is followed by a complete description of the criminal jurisdiction and procedure in the district courts and then by one on the civil jurisdiction in the same courts, the last mentioned chapter being quite naturally the longest in the book. Next in order is an admirable discussion of that interminable morass, removal procedure. And finally in connection with original jurisdiction are brief chapters on venue and on original jurisdiction in the Supreme Court.

The next two chapters relate to the effect of the state laws. The first of these treats the rather difficult subject of how far the substantive statutes and decisions of the state are to be followed by the federal courts and the other the even more complicated question of procedure rules as affected by that rather splendid example of what a statute should not be, the Conformity Act. The author echoes the oft-repeated hope of all who have

* *Handbook of Federal Jurisdiction and Procedure.* Armistead M. Dobie. The Hornbook Series. West Publishing Co.: St. Paul. 1928. Pages xiii, 1151. Price \$4.50.

gone into this matter—unfortunately at the time of the writing of this review still a hope—that this unnecessary and inexcusable tangle will be cleared up by the enactment of the Uniformity of Procedure Bill.

After this follows in order a chapter on procedure in equity in the district courts—a matter which is comparatively simple because of the federal equity rules—one on the appellate jurisdiction of the Circuit Court of Appeals and one on the Appellate jurisdiction of the Supreme Court. The final chapter is on federal appellate procedure. The appendix contains the Judicial Code, the Federal Equity Rules and the Supreme Court Rules.

In a book of this scope and one where the space requirements are necessarily so exacting, it would hardly be expected that an author would do much more than to compile the statutes and decisions in a logical manner, without much discussion of questions as to which there is a disagreement among the authorities. Indeed in such a highly complicated and technical subject as this, a book of the nature indicated would be very useful. The author of the book under review has not, however, so limited himself. He has given a free and vigorous presentation of his own views not merely upon questions which are controverted in the decisions but upon those which apparently are settled but which he considers to be settled wrong. It is believed that his views will in most instances be approved by the profession; but at any rate he has put the profession all the more in his debt by expressing them as he has, without in any way failing to show accurately what the state of the authorities is.

The book under review is not merely a good Hornbook; it is a good book on any test whatever. Furthermore, it is practically indispensable to the federal practitioner since it is the only textbook which is substantially up-to-date. The federal practitioner will find that he cannot well get along without it.

ROBERT C. BROWN.