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FEDERAL JURISDICTION AND PROCEDURE. By Harry G. Fins. Indianapolis-New York: Bobbs-Merrill Company, Inc., 1960

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BOOK REVIEW

FEDERAL JURISDICTION AND PROCEDURE. By Harry G. Fins. Indianapolis-New York: Bobbs-Merrill Company, Inc., 1960. Pp. xxii, 240. (\$6.50)

This succinct volume presents a survey of the general principles and statutes of most of the facets of federal jurisdiction. It is designed to serve as an aid to the lawyer who seeks to refresh his memory or obtain illusive information in this field. The book is a delineation rather than a detailed exposition which would have to be erudite and all encompassing. Rather, as Mr. Fins states in his preface,

The object of this book is to guide the practitioner through the difficult subjects of jurisdiction, venue, process, removal and related matters in the District Courts and appellate practice in the Courts of Appeal and Supreme Court of the United States.

The opening chapter on original civil jurisdiction of the district courts commences with diversity of citizenship. The enumerated paragraphs of principles and illustrations are adequately documented. However, in view of the substantial change effected by the Congressional grant¹ of potential dual citizenship upon corporations, it might have been more helpful if the author had delved into the ramifications of this enactment in more detail. Although the brief text is accurate, citation to collateral material seems necessary if the work is to fulfill its desired aim of being a useful guide. For example, the problem relating to judicial interpretation of corporate "principal place of business" should have been pointed out. The Congressional directive² in this regard may not prove to be very helpful. To date, the decisions in this area are pivoting between a qualitative evaluation³ or a qualitative basis.⁴ At the very least, notation of the area open to determination is exigent.⁵

In addition to suits which originate in the district courts wherein corporations are a party, the removal petitions have created a somewhat surprising hazard to unwary defendants. Some defendants appear not to be cognizant of the text of the statute which specifically applies the dual corporate citizenship provision to removed actions as well as those which

1. 28 U.S.C. § 1332(c) (1958).

2. The Judiciary Committee expressed the view that there is "ample precedent in the decisions of our courts and in federal statutes such as the Bankruptcy Act," to guide the courts in the construction of the phrase. H.R. Rep. No. 1706, 85th Cong. 2d sess. 4 (1958).

3. *Scot Typewriter Co., Inc. v. Underwood Corp.*, 170 F. Supp. 862 (S.D.N.Y. 1959), cited on page 10 of Fins.

4. *Mattson v. Cuyuna Ore Co.*, 180 F. Supp. 743 (D. Minn. 1960).

5. See Comments in 44 *MINN. L. REV.* 308 (1959) and 62 *W. VA. L. REV.* 405 (1960).

originate in the federal nisi prius courts. The courts are correctly requiring that the petition for removal set forth the state of incorporation and also the state where its principal place of business is located. Knowledge of this requirement has apparently been assumed by Mr. Fins. It may be of far-reaching importance to the removing defendant because of the general inability to amend one's petition for removal after the expiration of the statutory time⁶ and also, in the face of the absence of a review of a motion to remand.⁷

Although on its face the single paragraph allocated to "general federal question"⁸ is accurate, it is the contention of this reviewer that the coverage is insufficient. Recognizing and approving the object the author seeks to accomplish, it is, nevertheless, suggested that at the very minimum some reference to expanded analysis is required.⁹ No reference is made to the line of decisions which restricts the grant of "federal claim" or "cause of action" jurisdiction. The few cited cases do not, in this writer's opinion, fully reflect the existing concepts in this area.

The neophyte may find much to be desired in the coverage accorded to interpleader. The discussion of statutory interpleader appears solely by way of a footnote. This limited statement points out the amount in controversy variance existing between interpleader under the Federal Interpleader Act and Federal Rule 22. As to the citizenship of the stakeholder and claimants, passing mention is made to the distinguishing feature of the jurisdictional requirement under the Act, whereby it is the citizenship of the claimants which controls. Some mention of the "minimal"¹⁰ diversity interpretation should have been raised. In a book of this nature, it would have been helpful if venue and service of process requirements had been outlined to further illustrate the two types of federal interpretation. At the least, a cross reference¹¹ to related material on the subject should appear for the purpose of alerting the reader.

The venue chapter is divided into two parts: viz., general venue provisions and those of a special nature. It is submitted that a third division embracing change of venue¹² and cure or waiver of defects of venue¹³ should have been included. The latter aspect of transfer of venue has been cavalierly tacked on, without caption, at the conclusion of the first

6. *Browne v. Hartford Fire Ins. Co.*, 168 F. Supp. 796 (N.D. Ill. 1959); *Franks v. City of Okemah, Okla.*, 175 F. Supp. 193 (E.D. Okla. 1959); *Adams v. Ralph L. Smith Lumber Co.*, 181 F. Supp. 729 (N.D. Cal. 1960).

7. 28 U.S.C. § 1447(d) (1958).

8. 28 U.S.C. § 1331(a) (1958).

9. Suggested reading might have been articles such as Mishkin, *The Federal "Question" in the District Courts*, 53 COLUM. L. REV. 157 (1953); London, *"Federal Question" Jurisdiction — A Snare and A Delusion*, 57 MICH. L. REV. 835 (1959).

10. *Haynes v. Felder*, 239 F.2d 868 (5th Cir. 1957); *Country Club Dairy Co. v. Peoples Bank of Kansas City*, 169 F. Supp. 699 (W.D. Mo. 1959).

11. Points noted on pp. 83, 96.

12. 28 U.S.C. § 1404 (1958).

13. 28 U.S.C. § 1406 (1958).

chapter division. Change of venue is noted in a potpourri-chapter entitled "Civil Proceedings." These statutory provisions should have received fuller treatment, *e.g.* recent Supreme Court decisions.¹⁴

In covering such a large body of law in an outline fashion, the book suffers from a lack of comprehensive and thorough treatment of the subject. This reviewer has attempted to point out a very few typical hiatuses. The usefulness of this work would have been greatly enhanced if selected references had been made to some of the excellent secondary source material available in this field. The absence of citation to such material is a limitation that exists throughout the work. Nevertheless, the author has carried out a workable format and produced a much desired treatise. The indexing is excellent. Mr. Fins has achieved his object of a concise and practical desk book and this volume should help to fill the need of the average practitioner as well as that of the law student.

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14. *Hoffman v. Blaski*, 80 Sup. Ct. 1084 (1960); *Continental Grain Co. v. The Barge FBL-585*, 80 Sup. Ct. 1470 (1960).