

Reviews of Charles W. Bunn’s “Brief Survey of the Jurisdiction of the Courts of the United States” (1914-1949).

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Introduction

By

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In 1914, Charles Wilson Bunn (1855-1941), a St. Paul lawyer, officer of the Northern Pacific Railway and lecturer at the University of Minnesota Law School published a “brief survey” of federal jurisdiction. It is posted in the “Treatises/textbooks” category in the archives of the MLHP.

Of the thousands of law books published from the 1890s through the First World War, not many reemerged as a second edition and even fewer as a third. But Bunn’s “survey” had a long and distinguished life, a rarity among law books of that period. A second edition came out in 1921, followed by a third edition in 1927, and a fourth, revised by his son, Professor Charles W. Bunn (1893-1964), in 1939. A fifth edition, again rewritten by his son, was published by West Publishing Company in 1949. Reviews of the second edition have not been located. Reviews of other editions follow.



(1915)

23 Yale Law Journal 476 (March 1914).

**Jurisdiction and Practice of the Courts of the United States.
By Charles W. Bunn. West Publishing Company, pp. 129.**

This book meets the requirement of many students in presenting a brief but carefully prepared summary of the jurisdiction and practice of the Federal courts. The author is a lecturer in the Law School of the University of Minnesota and the book is based on the outline which he has found successful in presenting the subject to his classes. No attempt is made to enter into an exhaustive discussion of the principles involved, but the essentials are presented clearly and with the leading cases supporting each rule laid down. The jurisdiction of the United States Supreme Court is first considered, followed by chapters dealing with the United States Circuit Court of Appeals, the District Courts, and one covering the jurisdiction and rules of decision peculiar to the Federal Courts generally.”

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26 The Green Bag 233 (May 1914)

BUNN'S JURISDICTION AND PRACTICE OF UNITED STATES COURTS

**A Brief Survey of the Jurisdiction and Practice
of the Courts of the United States.**

**By Charles W. Bunn, of the St. Paul bar, lecturer at the University of Minnesota.
West Publishing Co., St. Paul. Pp. 130 (table of cases and index). (\$2 delivered)**

IN this brief and lucid manual the jurisdiction of the various federal courts, from the Supreme Court down, is described, and information is given about removal of suits to other courts, injunctions, and other features of practice. The treatment is general and the author does not claim that there may not be exceptions to some of the fundamental rules, nor does he claim that the exposition is complete. The book, however, is prepared with a view to meeting practical needs, and cases are cited with a frequency and the treatment is carried out with a succinctness that one would not look for in a popular exposition, and that place the work in the category of useful legal text-books.

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48 The American Law Review 479 (May-June 1914)

**A Brief Survey of the Jurisdiction and Practice of the Courts of the United States
By Charles W. Bunn. West Publishing Co., St. Paul. 1914.**

This book, of a little over 100 pages, grows out of lectures delivered by the author at the University of Minnesota Law School. It gives in a small compass an excellent idea of the Federal Courts, their jurisdiction and practice.

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62 University of Pennsylvania Law Review 752 (June 1914)

**United States Courts.
Charles W. Bunn, of the St. Paul Bar and Lecturer at the Law School
of the University of Minnesota. West Publishing Co., St. Paul. 1914.**

This delightful book is the result of the author's lectures delivered to the students at the Law School of the University of Minnesota. It is essentially a student's text book for it is short and to the point. The author has grasped the attention of the student by omitting foot notes. To the student who can only hope to grasp the broad general outlines of a subject, a text which is over burdened by foot notes and innumerable citations, is the least desirable. To him it seems as if the tail is wagging the dog.

In this short work the author has collected and arranged all the essential principles of practice and procedure in the federal courts. He explains the requisites of the original jurisdiction and how they must be pleaded; how and when cases may be removed from the State court; and the proper method for appellate practice. He has taken the recent Judicial Code and condensed it into a few workable rules which can easily be grasped by the student. To a student in the civil procedure and the constitutional law courses this book is indispensable. There is not a phase which is not dealt with in some form or other.

Altho this book was intended primarily to be for the use of students, yet it can be heartily recommended to the practitioner on account of the thorough and scientific arrangement of the general principles. *D. D. S.*

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14 Columbia Law Review 619 (November 1914)

The Jurisdiction and Practice of the Courts of the United States.
By Charles W. Bunn. St. Paul: West Publishing Co. 1914. pp. vi, 129.

This valuable little book is the fruit of various lectures delivered by the author as a member of the faculty of the University of Minnesota. As he tells us in his preface, the writer has purposely omitted any attempt at detail, with the result that he has given us an outline of the subject which tends to greatly stimulate the interests of readers in the topic. Beginning with the constitutional basis of the judicial power, we are next introduced to the different tribunals, past and present, which Congress has created in accordance with that basis, and we close the volume after a brief chapter on those features of law peculiar to the federal courts. The references are not, of course, exhaustive, but enough cases are cited to give a general view of the trend of decision. The work is certainly ideal for one who wishes to keep in his pocket a volume which will act as a key to this judicial hierarchy; the details can easily be supplied at leisure from some more ponderous work.

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9 Illinois Law Review 292 (November 1914).

A Brief Survey of the Jurisdiction and Practice of the Courts of the United States
By Charles W. Bunn, St. Paul: West Publishing Company, 1914, Pp. 129.

Every lawyer, particularly one who is engaged in the practice of some specialized branch of his profession, may read with advantage any book which in a very brief way will serve to recall to his mind the broad fundamental principles of judicial organization and legal practice. Although Mr. Bunn's book is primarily intended for the use of law students, it has the advantage of clearly and briefly presenting the basic scheme of federal judicial organization and practice, and for this reason may properly have a place in the library of the practicing lawyer.

The book opens with a chapter on the judicial power conferred on the federal courts by the constitution. Next follows a discussion of the original and appellate jurisdiction of the Supreme Court, and then in logical order the author deals with the Circuit Courts of Appeal and the District Courts. The chapter on the District Courts occupies about one-half of the entire book, and is divided into a consideration of the following phases of this subject: Criminal jurisdiction;

Original civil jurisdiction, (a) dependent on the character of the parties, and (b) dependent on the subject matter; Choses in action; Amount involved; Removal of suits to the District Courts; and other features of the jurisdiction of the District Courts.

The closing chapters of the book deal with the equity jurisdiction of federal courts, evidence, and certain rules of decision peculiar to federal courts, as, for example, their obligation to follow the laws of the several states in common law civil cases. Various exceptions to the rule just stated, as, for example, cases regarding negotiable instruments, cases of negligence, and cases coming under the Interstate Commerce Act, are also discussed.

While this book is not a profound one and lacks any original discussion of legal principles, it has been carefully prepared and presents the subject in an accurate, brief and logical manner. The text is well fortified by quotations from the constitution, the Judicial Code, the Equity Rules of Practice, and by the citation of numerous leading cases.

Chicago, Ill.

Henry M. Huxley.

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6 The North Carolina Law Review (April 1928).

[A review of Charles W. Bunn, *The Jurisdiction and Practice of the Courts of the United States* (Third edition, West 1927), Armistead M. Dobie's *Federal Jurisdiction and Procedure* (West, 1928), and Harold R. Medina's *Cases on Federal Jurisdiction and Procedure* (West, 1926).

First, as to Mr. Bunn's book. The author, an eminent northwestern practitioner, is general counsel of a railway system, with constant and active experience in the Federal Courts. The book apparently is the substance of lectures delivered to students, in the University of Minnesota. It is only a brief sketch of the bolder outlines of the subject, and can be read in a couple of hours. It cites only a few of the leading Supreme Court cases. It is eminently sound and readable, and would make an excellent manual for use by students in preparation for bar examinations.

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4 Missouri Law Review 477-478 (November 1939)

JURISDICTION AND PRACTICE OF THE COURTS OF THE UNITED STATES.
Fourth Edition. By Charles Bunn. St. Paul: West Publishing Co., 1939. Pp. vi, 257.

This is the third revision of the excellent little handbook prepared for students as an introduction to the structure and jurisdiction of the several courts of the United States by Charles W. Bunn and based on his lectures on the subject at the University of Minnesota Law School. The present revision is by Charles Bunn, Professor of Law at the University of Wisconsin, and brings the treatise down to the date by means of revision of so much of the subject matter as has been affected by legislation and decision since 1927 and includes reference to the new rules of federal procedure where they are pertinent to the discussion.

The style of the text is clear, direct, and the principles of jurisdiction of federal courts are clearly and accurately stated in language understandable to the student or beginner in practice with sufficient citation of leading cases to guide the reader in pursuing the refinements and distinctions of the subject, which the author does not attempt to pursue and discuss.

The actual scope of the text is more limited than the title might indicate, since the only matters of practice discussed are removal procedure and procedure for review by certiorari and appeal. The author makes no pretense at discussion of technical rules of practice and procedure in the course of prosecution of an action through the courts. The purpose of the author, as stated in the preface to the first edition, "to present a brief view of essentials, ignoring refinements and, to an extent, exceptions," has been preserved in this revision. Where the prevailing rule is established through a course of judicial decisions, the author discusses the leading cases with sufficient detail to give the student the background of development of the rule. An outstanding example is the discussion of the recent decision in *Erie Railroad Company v. Tompkins* in relation to the binding effect of state decisions on principles of substantive law, as well as state statutes in actions prosecuted in the federal courts.

The very simplicity and brevity of the discussion makes this little book an excellent guide for the student and beginner in practice, and its usefulness is limited to those purposes.

St. Joseph, Mo. RICHARD DOUGLAS

7 The University of Chicago Law Review 584 (April 1940)

A Brief Survey of the Jurisdiction and Practice of the Courts of the United States. By Charles W. Bunn. 4th ed. St. Paul: West Publishing Co., 1939. Pp. ix, 257. \$2.00.

This book is not intended to be an extensive or exhaustive treatise. Like the preceding editions, it is designed to be a handbook or outline of the essential principles governing the jurisdiction and practice of the courts of the United States.

To accomplish this purpose in the complicated and comprehensive field of the federal judicature system presents a difficult problem of selection: 'what may be omitted, what must be included. The magnitude of the task is disclosed when it is recalled that a standard treatise in this field consists of eight volumes of about 900 pages each and that a popular practice desk book has 1190 pages. That the text under review has only 257 pages is evidence of the drastic condensation which has been made.

After it has been decided what shall be included, there still remains the exacting undertaking of stating the rules with practical accuracy—but without all their possible qualifications and limitations—and giving reference to the basic statutory provisions and court decisions.

These results have been accomplished with commendable ability. The author of this edition, a Professor at the School of Law of the University of Wisconsin, has expanded the scope of treatment over that of previous editions, brought it to date, and generally made it a more useful book. This text has a definite field of usefulness. It will give the student a helpful introduction to a difficult subject. It will give the practitioner, wearied by detail and elaboration, or uncertain about recent innovations, a dear and concise outline of the subject as a whole together with the basic authorities.

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25 Indiana Law Review 101-104 (1949).

A BRIEF SURVEOF THE JURISDICTION AND PRACTICE OF THE COURTS OF THE UNITED STATES,

By Charles W. Bunn, Professor of Law, University of Wisconsin.
(5th ed.) St. Paul: West Publishing Co., 1949. Pp. ix, 408. \$4.00.
[footnotes omitted]

Although I knew the wide popularity of the earlier editions, I approached examination of this little volume with considerable diffidence. I have come to question the value of small books on big problems almost as much as Professor Hays, who has said: "All efforts to state law in a nutshell are failures, because law is basically a thing to be understood rather than merely known." [Book Review, 46 Col. L. Rev. 888 (1946)] Was there chance of more success in the peculiarly difficult and technical field of federal jurisdiction? My doubts were not lessened by the author's prefatory compliment to the clarity of the new revision of the Federal Judicial Code and his statement that this book was constructed about that revision. For the general value of that striking statutory accomplishment was marred by ambiguities and confusions in draftsmanship which 'have already required corrective measures. These were of the type which a small generalized treatise might overlook or minimize. Laudatory statements in this vein might suggest the possibility of such a consequence here. But I am bound to say that upon examination the book seems much better than I had expected and nearly, if not quite, all my doubts have been allayed.

First let me say that this seems to me a better book, more concise, more forthright, and more complete than the earlier editions prepared by the present author's father. True, there have been certain developments of importance, of which the Rules of Civil Procedure and the new Code are outstanding, which have brought some degree of symmetry into the subject and have thus simplified the task of exposition. Nevertheless, the author displays an unusual gift for condensation and for clarity of statement. The scope of the book does not allow for much invention; but there is here and there a synthesis of importance, leading to a suggestion for reform of substantial value. Of the first is an analysis of the federal question; of the second is a recommendation for correction—by provisions for extension of venue and service of process—of the anomaly that indispensable parties may prevent any federal jurisdiction whatsoever.

If some lingering doubt does remain, it is only because the seriousness of some of these problems does not lend itself easily to succinct statement. Perhaps as good an example as any is in connection with the troublesome question of the final decision necessary to afford the basis for the general appellate review.

Only a short paragraph covers this problem, which has called forth so many pages of judicial and textual comment. First there is the quite proper warning that "a surprising amount of difficulty" has been found in determination of the question. Then the author risks a quotation from a Supreme Court decision dealing with the not wholly analogous question of certiorari from state court decisions, and goes on to say that "the general proposition is clear enough," viz.: "To be final the judgment must end the litigation by fully determining the rights of the parties' so that nothing remains to be done except ministerial acts." This is supported by another reference to a state case in the Supreme Court and followed by a citation of two obvious examples of lack of finality—an order for a new trial and an order for judgment for an amount to be determined later. That is all. There is no reference, for example, to the various hesitant steps backward and forward of the courts, including the Supreme Court, or to the hopes for greater clarity and certainty now centered in the approach of the recent amendment to Rule 54(b). The author has been careful and meticulous in the affirmative statements which he ventures; but their very brevity, and all the negative implications which may be read into them, leave the material wanting as a guide to the solution of any but the simplest cases.

In the review referred to above, Professor Hays suggested that it was impossible to imagine for whom the books then under review were "intended or to whom they could be helpful." In our present case the answer is not so doubtful. Clearly this is a volume of direct benefit to those who have some sophistication in the field of law in general and already some knowledge that federal procedure may contain pitfalls. Thus to the federal judge or practitioner the volume is quite useful as a desk reminder of what he should and probably does know if he has not overlooked some pertinent details. Likewise to the law student who may feel too pressed to give separate time to this field, but who has enough background to take the author's warnings or signal flags for at least all their worth, the book has its value. For on the whole it is a rather amazing little volume in the amount of condensed information it does convey to those whose minds are prepared to receive it with the proper balance. But this very conciseness does place a responsibility upon the reader which may make its proper audience a selected one, even among the profession.

If this is its utility, there is one difficulty it must face. That is the need that it be kept meticulously up to date and that its laconic statements be kept accurate as of the time of use. As noted above, the new Code here so praised has been subject to needed corrections, already rendering out of date some of the textual discussions. In fact, some confusions noted in the book have been removed by the added legislation. An example is the problem whether or not the omission

from the Code of the former provision denying any appeal from the remand back of a removed case meant that appeal was now permissible. The author not unreasonably decided that it was. But the corrective act shows that the earlier omission was an unintended error; and the provision against appeal is now re-enacted. Other attempted corrections may prove less successful. Thus our author points out that by virtue of a new provision the district court was commanded by a mandatory provision to transfer a case brought to the wrong district to a district where the venue was proper. This was an extensive change as to federal jurisdiction, with some things to be said in its favor. But apparently it went further than the Revisers had contemplated, for the amendment now provides that in the case of erroneous venue the district court "shall dismiss or in the interest of justice shall transfer" the case to the proper district. A simple and fairly direct provision has given way to one without direct mandate of any kind. If the intent was to leave the right to seek a federal court to the district judge's discretion, this again illustrates the still constantly changing character of federal jurisdiction and the difficulty of keeping up with it.

Perhaps in what I have said above I have expressed more doubt about this little book than is justified on the record. Certainly in the past it appears to have proved its value to a large circle of readers. Since the comparative merits of this edition are so obvious, I should expect it to appeal to an even wider circle. For what the author has planned to do he has done with an effectiveness which I have found surprising. And I gladly report that it is the best little book in a big field of which I know. It is probably ungracious to ask for more than the author has planned.

CHARLES E. CLARK,
Judge, United States Court of Appeals for the Second Circuit.

