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## Book Review

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## BOOK REVIEW

FEDERAL COURTS, CASES AND MATERIALS. BY DAVID P. CURRIE. St. Paul, Minn.: West Publishing Company. Second Edition 1975. Pp. xli, 1040. \$17.95.

When and how to teach federal jurisdiction and procedure has been a source of continuing debate. Until the publication of Hart & Wechsler's *The Federal Courts and the Federal System* in 1953 federal jurisdiction was often treated in the same course with such procedural problems as discovery and multi-party actions. In general, the approach to jurisdictional issues could be described as practice oriented. Many courses still follow this model, especially at schools where problems of federal jurisdiction and procedure are not treated in the first year civil procedure course.

Professor David Currie's book, *Federal Courts, Cases and Materials*, like *Hart & Wechsler*,<sup>1</sup> departs from the traditional pattern. It does not purport to cover federal practice as such. While it can be used to teach the "rules" of federal jurisdiction, its main concern is with basic policy questions in maintaining a federal system of courts. It is a book that can probably be used most effectively with students who already have had both an exposure to the fundamentals of federal jurisdiction in a basic civil procedure course and a course in constitutional law.

At the time the first edition of *Federal Courts* was published in 1968 there was a compelling need for a more current treatment of the subject area than was afforded by Hart & Wechsler's 1953 book. This need was created by the Warren Court's expansion of federal jurisdiction and federal remedies. In the seven years between the publication of the first and second editions of Currie's book, there were also a number of significant Supreme Court decisions. Some<sup>2</sup> were characteristic of the expansive jurisdictional<sup>3</sup> trend of the Warren Court, and others<sup>4</sup> of the more restrictive approach of the Burger Court. These decisions necessitated extensive changes in three areas of the book. Chapter 1, Section 3 on justiciability and standing has been extensively revised with an additional fifty-eight pages. Twenty-five pages have been added in Chapter 2, Section 2 on federal habeas corpus. In

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1. Comparison will be made throughout this review to P. BATOR, P. MISHKIN, D. SHAPIRO, & H. WECHSLER, *HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM* (2d ed. 1973 & Supp. 1977) [hereinafter referred to as *Hart & Wechsler*]. It is not my intention to slight the other casebooks on this subject matter; Currie's book, however, is closest in approach to *Hart & Wechsler*. Also, comparison with *Hart & Wechsler* comes more easily as I was exposed to the first edition of the book as a student of the late Henry Hart.

2. See, e.g., *Mitchum v. Foster*, 407 U.S. 225 (1972); *Illinois v. City of Milwaukee*, 406 U.S. 91 (1972); *Association of Data Processing Serv. Organizations, Inc. v. Camp*, 397 U.S. 150 (1970); *Kaufman v. United States*, 394 U.S. 217 (1969); *Flast v. Cohen*, 392 U.S. 83 (1968).

3. I am using the term "jurisdictional" broadly to include such limiting doctrines as equitable restraint, abstention, justiciability, standing, mootness, ripeness, etc.

4. *Edelman v. Jordan*, 415 U.S. 651 (1974); *Zahn v. International Paper Co.*, 414 U.S. 291 (1973); *Preiser v. Rodriguez*, 411 U.S. 475 (1973); *Employees of Dep't of Pub. Health & Welfare v. Department of Pub. Health & Welfare*, 411 U.S. 279 (1973); *Roe v. Wade*, 410 U.S. 113 (1973); *Executive Jet Aviation, Inc. v. City of Cleveland*, 409 U.S. 249 (1972); *Sierra Club v. Morton*, 405 U.S. 727 (1972); *Younger v. Harris*, 401 U.S. 37 (1971); *Snyder v. Harris*, 394 U.S. 332 (1969).

Chapter 5, Section 4, "Injunctions Against Suit," thirty-one pages have been added and only one principal case remains.

The pace of change in the field of federal jurisdiction and federal courts has not slowed but only shifted direction; as a result, this area continues to be one where casebooks are subject to rapid obsolescence. In the two years since the publication of the second edition of *Federal Courts*, intervening changes have been almost as dramatic as those of the seven years between the first and second editions. A few such recent developments have been legislative, notably the repeal of sections 2281 and 2282 and the amendment of section 2284 of the Judicial Code,<sup>5</sup> which have the effect of rendering moot most of the learning on three-judge federal courts. Also noteworthy is the amendment of section 1331(a) to abolish the jurisdictional amount requirement in "any action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity."<sup>6</sup> But most of the important changes have been wrought by Burger Court decisions which, with a couple of exceptions,<sup>7</sup> have expressed that Court's generally restrictive jurisdictional approach.<sup>8</sup>

Many of the strengths of this book, when seen in a different perspective, are also weaknesses. The brevity of the book will make it attractive to some teachers, but I suspect that most instructors will find one or more areas which are inadequately treated. While Hart & Wechsler's casebook tends to separate materials which logically might be arranged together,<sup>9</sup> Currie often runs together topics which might better be separated. Nevertheless, Currie's notes are often thought provoking, challenging the student to avoid pigeonholing legal concepts into rigid categories. The author draws analogies and comparisons which encourage the student to identify common threads between what at first seem to be unrelated concepts.<sup>10</sup> At times, however, he

5. 28 U.S.C. §§ 2281, 2282, 2284 (1970).

6. 28 U.S.C. § 1331(a) (1970), *as amended* by Act of Oct. 21, 1976, Pub. L. No. 94-574, § 2, 90 Stat. 2721.

7. *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975) (holding a Georgia Supreme Court judgment which remanded an action for trial to be nevertheless "final" so as to permit appeal under 28 U.S.C. § 1257 (1970)); *Sosna v. Iowa*, 419 U.S. 393 (1975) (rejecting a claim of mootness in a class action challenging a one year residency requirement for divorce).

In *Sosna*, however, the Court, in an opinion by Justice Rehnquist, went on to uphold the statute, thus denying the requested federal remedy. This may be an instance of Justice Rehnquist's willingness to ignore considerations of judicial restraint when to do so would achieve a substantive result in accord with his ideological predispositions. See Shapiro, *Mr. Justice Rehnquist: A Preliminary View*, 90 HARV. L. REV. 293, 314-15 (1976).

There are other cases, such as *Doran v. Salem Inn, Inc.*, 422 U.S. 922 (1975), which, while running counter to the "restrictive" trend, represent a partial backtracking from previous decisions of the Burger Court which had the effect of restricting federal court jurisdiction.

8. *Stone v. Powell*, 428 U.S. 465 (1976); *Aldinger v. Howard*, 427 U.S. 1 (1976) (pendent party jurisdiction); *Francis v. Henderson*, 425 U.S. 536 (1976) (habeas corpus); *Rizzo v. Goode*, 423 U.S. 362 (1976) (justiciability and *Younger* doctrine); *Warth v. Seldin*, 422 U.S. 490 (1975) (standing); *Hicks v. Miranda*, 422 U.S. 332 (1975) (*Younger* doctrine); *Schlesinger v. Councilman*, 420 U.S. 738 (1975) (habeas corpus and *Younger* doctrine); *Huffman v. Pursue, Ltd.*, 420 U.S. 592 (1975) (extended to state initiated civil proceedings); *Harris County Commissioner's Court v. Moore*, 420 U.S. 77 (1975) (abstention).

9. See Monaghan, Book Review, 87 HARV. L. REV. 889, 895 n.28, 896 (1974).

10. In questioning *Leiter Minerals, Inc. v. United States*, 352 U.S. 220 (1957) (p. 715), which held 28 U.S.C. § 2283 (1970) inapplicable to suits brought by the United States because of the "old and well known rule" that "statutes which in general terms divest pre-existing rights and privileges will not be applied to the sovereign without words to the effect," Currie raises the question of whether this can be squared with the holding in *Parden v. Terminal Ry.*, 377

carries this too far and allows some of the notes to ramble. I would suggest that in a subsequent edition of the book more attention be given to the structuring of the notes. The headings preceding notes often are broader than need be; if headings were further subdivided, a student would not be required to read a single note series continuing for fifteen pages or more. This division could be accomplished without destroying the cross-fertilization value of many of the notes.

Currie deals briefly, some will find too briefly, with Supreme Court review of state court decisions in connection with the problem of the so-called "adequate and independent state ground." There are only three principal cases in the section. This material could be significantly improved with only a short increase in length. I would suggest placing the note material on *Martin v. Hunter's Lessee*<sup>11</sup> (pp. 189-90) and a slightly lengthened version of the notes on *Murdock v. Memphis*<sup>12</sup> (pp. 191-92) before *Minnesota v. National Tea Co.*<sup>13</sup> (p. 184). This would present a more logical progression than the existing arrangement which has the note materials following the *National Tea* case.

The structure of Chapter 2, entitled "Appellate and Collateral Review in the Federal Courts," is somewhat unusual in that the section on federal post-conviction review is sandwiched between the section on the problem of the adequate and independent state ground and "Miscellaneous Problems of Review." Currie's arrangement, however, with *Henry v. Mississippi*<sup>14</sup> (p. 202) immediately preceding the material on federal habeas corpus, provides an opportunity to explore some fundamental policy considerations involved in determining the extent to which a failure to raise an issue at trial or an inadequate presentation at trial should preclude further litigation of that issue. The problem is inherent in our adversary system of justice: When should a client, particularly in a criminal case, be bound by the mistakes of his counsel? It will be generally agreed that "non-harmful" errors—to the extent that these can be identified—should not be the basis of either direct or collateral challenge. Should a distinction be drawn between constitutional and non-constitutional errors? Much more troublesome is the question of whether we should try to identify only those errors which appear to go to the guilt or innocence of the client, as suggested by the majority opinion in *Stone v. Powell*.<sup>15</sup> Once these questions have been posed in a general way,

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U.S. 184 (1964) (p. 568), which held FELA applicable to state-owned railroads without "express words to that effect."

In the notes following *Younger v. Harris* (p. 719), Currie discusses a series of cases dealing with attempted injunction of court-martial proceedings and skillfully probes the differences between these and the type of state-court proceedings involved in *Younger* as well as the extent to which the availability of post-conviction review in either situation should bear on the willingness of the federal courts to grant injunctions.

Finally, in note 6 on p. 910, Currie asks the student to compare the problem of the extent to which state courts must follow "federal procedure" where federally created rights are at stake, as in cases such as *Dice v. Akron, C. & Y.R.R.*, 342 U.S. 359 (1952), and the problem of the so-called adequate state ground (pp. 202-12).

11. 3 U.S. (1 Wheat.) 562 (1816).

12. 87 U.S. (20 Wall.) 590 (1875).

13. 309 U.S. 551 (1940).

14. 379 U.S. 443 (1965).

15. 428 U.S. 465 (1976).

discussion can then be focused on the extent to which the answers should differ depending on whether the particular error in question is raised on direct review or in a collateral proceeding. For example, after discussing *Henry v. Mississippi*, the teacher might ask whether the result would or should be different if the question is raised in a habeas corpus petition. The bearing which considerations of federalism and comity may have on the answers to these basic questions can fruitfully be explored in connection with the facts of *Henry v. Mississippi* and again in connection with the habeas corpus materials: *i.e.*, should a federal court be more or less hesitant to review an error alleged to have taken place in a state court proceeding than one alleged to have occurred in the federal system?

Perhaps an orderly treatment of such an inherently disorderly subject as federal habeas corpus is too much to expect.<sup>16</sup> As in many other places in the book, however, the note material on this subject could be more effectively organized. There is a topic heading entitled "Notes on Habeas Corpus and Section 2255" which begins on page 228 and continues for fifteen pages. The note switches back and forth between state and federal custody cases; it discusses the types of issues cognizable in a habeas corpus proceeding, the effect of a failure to raise the issue at a prior time, and the *res judicata* problem. All, or at least some of these issues, could better be set forth under separate note headings. I would suggest as a possible model the topic headings Currie uses in his very readable *Federal Jurisdiction in a Nutshell*,<sup>17</sup> or something along the lines used by Hart & Wechsler in their chapter on habeas corpus. Also, it would be helpful to have a separate note on pre-trial habeas corpus instead of including this in the materials on the exhaustion requirement (pp. 268-74).

Currie treats pendent jurisdiction in one principal case, *United Mine Workers v. Gibbs*<sup>18</sup> (p. 388), and in a number of notes which raise questions regarding the scope of the doctrine. The discussion of the problem of so-called "pendent party jurisdiction," and indeed perhaps some of the basic

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16. A good example of how quickly a casebook becomes obsolete in this area is shown by the extent to which the habeas corpus picture has changed in light of the Supreme Court's recent decisions in *Wainwright v. Sykes*, 97 S. Ct. 2497, 53 L. Ed. 2d 594 (1977), *Stone v. Powell*, 428 U.S. 465 (1976), and *Francis v. Henderson*, 425 U.S. 536 (1976). *Francis* and *Wainwright* effectively undermine the landmark case of *Fay v. Noia*, 372 U.S. 391 (1963). *Stone*, though not purporting to overrule *Kaufman v. United States*, 394 U.S. 217 (1969), does so in effect. *Kaufman* was a federal custody case arising under 28 U.S.C. § 2255 (1970), while *Stone* was a state custody case arising under § 2254 (1970). A footnote to Justice Powell's opinion in *Stone* stated:

Our decision today rejects the dictum in *Kaufman* concerning the applicability of the exclusionary rule in federal habeas corpus review of state-court decisions pursuant to § 2254. To the extent the application of the exclusionary rule in *Kaufman* did not rely upon the supervisory role of this Court over the lower federal courts . . . the rationale for its application in that context is also rejected. 428 U.S. at 481-82 n.16.

This attempted distinction, while superficially plausible, is peculiar in view of the fact that both the Government's brief and the majority opinion in *Kaufman* assumed the remedy sought in that case would be available if involving a state prisoner. The Government unsuccessfully argued there that a narrower scope of relief should be available to federal prisoners because they have already had the benefit of a federal forum. 394 U.S. at 225.

17. D. CURRIE, *FEDERAL JURISDICTION IN A NUTSHELL* (1976).

18. 383 U.S. 715 (1966).

touchstones of pendent jurisdiction, will have to be revised in light of the Supreme Court's recent decision in *Aldinger v. Howard*.<sup>19</sup> Discussion of the related topic of ancillary jurisdiction is scattered several places throughout the book, mainly in the chapter on diversity jurisdiction. It seems that much could be gained by a parallel treatment. There has been a tendency in some recent cases<sup>20</sup> to confuse the two doctrines or, depending on one's point of view, to merge them. The argument for synthesis is that they are, or should be, based on the same underlying policy considerations, but have heretofore been artificially separated by the use of different labels.<sup>21</sup> However, in light of the separate historical development of these doctrines reiterated and stressed by the court in *Aldinger*, it would be worthwhile to spend some time exploring the distinctions between the two as well as the common thread between them.

I suspect that most teachers will give little attention to the chapter on diversity jurisdiction, particularly if the students have been exposed to this problem in a first year civil procedure course. Nevertheless, there is much of value that can be found here, particularly if one is interested in probing beyond the existing rules into the question of the continued justification, if any, for diversity jurisdiction. After examining several problems involving the tension between the *Strawbridge v. Curtis*<sup>22</sup> complete diversity requirement and the liberal joinder provisions of the Federal Rules, as well as the "separate and independent claim"<sup>23</sup> quagmire, Currie gives us his own conclusion: "If diversity is retained, *Strawbridge* ought not to be."<sup>24</sup> His description of the American Law Institute's proposal to deal with a so-called "dispersed-party" problem (where there are several defendants who would be regarded as "indispensable" but who are not all subject to process in the same state) provides an illustration of the provoking, irreverent style used by Currie throughout the book: "The proposal must be read in full hideous detail to be appreciated . . . . What do you suppose is the extent of the

19. 427 U.S. 1 (1976). See Comment, *Aldinger v. Howard and Pendent Jurisdiction*, 77 COLUM. L. REV. 127 (1977), suggesting that the case has ramifications beyond the "pendent party" situation, portending a closer look at the question of whether Congress has impliedly excluded certain claims and remedies even in the ordinary pendent jurisdiction case. Indeed, it is suggested that the outcome in *Gibbs* might be different if the court there had followed the *Aldinger* analysis of congressional intent.

20. See, e.g., *Jacobson v. Atlantic City Hosp.*, 392 F.2d 149 (3d Cir. 1968) ("pendent" claim *not* involving a family member for less than \$10,000 allowed against defendant in a wrongful death claim); *Wilson v. American Chain & Cable Co.*, 364 F.2d 558 (3d Cir. 1966) (father's claim for consequential damages which were no more than \$2,000 allowed to be joined with son's personal injury claim); *Borror v. Sharon Steel Co.*, 327 F.2d 165 (3d Cir. 1964) (permitting joinder, based on pendent jurisdiction, of a Survival Act claim involving non-diverse parties).

21. The argument in favor of a merger of pendent and ancillary jurisdiction, based in part on the enlargement of the scope of pendent jurisdiction in the *Gibbs* case, is that once a basis for federal jurisdiction over one claim is established, the federal court would be given a discretionary power to adjudicate all related claims arising out of the "same nucleus of operative facts" or "same transaction or occurrence" regardless of whether the claims involve the same or additional parties. Comment, *Pendent and Ancillary Jurisdiction: Towards a Synthesis of Two Doctrines*, 22 U.C.L.A. REV. 1263 (1975).

22. 1 U.S. (3 Cranch) 575 (1806).

23. 28 U.S.C. § 1441(c) (1970).

24. Page 475, quoting Currie, *The Federal Courts and the American Law Institute, Part I*, 36 U. CHI. L. REV. 1, 34 (1968).

problem that induces the ALI to concoct this monster? Is this an example of the academic imagination running amok?"<sup>25</sup>

Professor Currie's treatment of the abstention doctrine provides another illustration of his tendency to throw together materials which are only tenuously connected under a common heading. In a fifteen-page series of "Notes on Abstention in Non-Constitutional Cases" he includes a note on the refusal of federal courts to take cognizance of cases pertaining to matrimonial matters and decedents' estates (pp. 678-80). It would seem that history, if not logic, would dictate the use of a separate heading for this material. Although there is no lack of confusion along the borderlines of this subject area,<sup>26</sup> it is fairly clear that the reason federal courts have refused to entertain suits for divorce or petitions to probate a will has little to do with the *Railroad Commission v. Pullman Co.*<sup>27</sup> line of cases. In the *Pullman*-type case there is jurisdiction within the terms of the Constitution and the relevant statutes; the Supreme Court, however, has drawn on traditional equitable principles to fashion a quasi-discretionary obligation of the federal courts to delay the exercise of this jurisdiction based upon considerations of judicial comity.<sup>28</sup> In contrast, the federal courts' refusal to grant divorces or probate wills has been based upon the notion that there is a total lack of jurisdiction—that these matters were not suits "at law or in equity" within the meaning of article III, section 2 of the Constitution.<sup>29</sup>

The note materials on abstention do a good job of illustrating what is probably the most serious drawback of that doctrine—the extensive delays involved in getting an authoritative decision from the state courts. The dilemma posed by abstention in diversity cases such as *Louisiana Power & Light Co. v. City of Thibodaux*<sup>30</sup> is also explored. Certification<sup>31</sup> is mentioned as a way of avoiding delay and preserving the litigant's right to a federal fact-finding forum. Unless the student reads these notes carefully, however, he will come away with an unclear understanding of the difference between the strict *Pullman*-type abstention and certification. This problem could be solved by adding one or two paragraphs explaining the mechanics of each device. Also, it seems to me that the problem of reviewability of

25. Pages 466-67. Compare the view of Judge Friendly, expressed in H. FRIENDLY, FEDERAL JURISDICTION: A GENERAL VIEW 152 (1973), that "if the ideal is to abolish the [diversity] jurisdiction, Congress should not do anything to increase it, even by way of a partial trade-off." While I share Judge Friendly's view that diversity jurisdiction is largely an unnecessary anachronism, it seems to me that his reasons for retaining *Strawbridge* smack too much of an attitude of "The worse things are, the better." Any statutory modification of the *Strawbridge* rule should, however, be part of a wider ranging reform which would cut back diversity jurisdiction in those instances where it is least justified, e.g., where a resident plaintiff sues an out-of-state defendant in federal court in the resident's home state.

26. See Vestal & Foster, *Implied Limitations on the Diversity Jurisdiction of Federal Courts*, 41 MINN. L. REV. 1, 13-31 (1956).

27. 312 U.S. 496 (1941).

28. "An appeal to the chancellor . . . is an appeal to the 'exercise of the sound discretion, which guides the determination of courts of equity.'" 312 U.S. at 500.

29. There seem to be no reported cases in which a will has been presented to a federal court for probate in the first instance. Will contest suits have presented more difficulty. The touchstone seems to be whether a given suit was really *inter partes* such as would be subject to the jurisdiction of the English chancery courts, or regarded as *inter partes* in state practice. See, *Spencer v. Watkins*, 169 F. 379 (8th Cir.), *cert. denied*, 215 U.S. 605 (1909); *Wahl v. Franz*, 100 F. 680 (8th Cir. 1900); *In re Gilley*, 58 F. 977 (C.C.D.N.H. 1893); Vestal & Foster, *supra* note 26, at 23-31.

30. 360 U.S. 25 (1959).

31. See, e.g., *Green v. American Tobacco Co.*, 325 F.2d 673 (5th Cir. 1963).

abstention orders is significant enough to merit explicit attention in these materials.<sup>32</sup>

In his treatment of equitable restraint (pp. 719-51) Currie follows a pattern used too often throughout the book. He begins with a relatively recent leading case—*Younger v. Harris*<sup>33</sup>—followed by a number of notes with little regard for chronological development. In dealing with a doctrine such as equitable restraint, which has changed contours with the composition of the court and the political temper of the times, there is much to be said for presenting the materials in an historical progression. Thus, I would suggest starting with either a textual note or an edited version of *Douglas v. City of Jeannette*,<sup>34</sup> then progressing through *Dombrowski v. Pfister*<sup>35</sup> to *Younger* and the more recent cases.

The materials on civil rights removal are treated briefly, but well. The positioning of these materials after those on injunction against state court proceedings makes for an interesting comparison. At one level there can be discussion of the merits of removal, as opposed to injunction, as an effective means of avoiding state court prosecutions. At another level the teacher may delve into the implications of each of these two devices on "Our Federalism":<sup>36</sup> which creates more friction between the two court systems?

Currie's treatment of *Erie* probably will not be satisfactory to those teachers who think that this should be a major part of a course in federal courts. I make the assumption, perhaps overly optimistic, that my students have had sufficient exposure to the basic *Erie* sequence in their first year civil procedure course and proceed immediately into a discussion of *Klaxon Co. v. Stentor Electric Manufacturing Co.*<sup>37</sup> and *Van Dusen v. Barrack*.<sup>38</sup> Placing *Van Dusen* immediately following *Klaxon* seems logical and pedagogically sound. On the other hand, the "Notes on the Place of Trial in the Federal Courts" (pp. 853-69) seem to be inaptly placed in the chapter on the choice of law in the federal courts. While some of these materials logically relate to *Van Dusen*, this does not seem to be an appropriate place to have a wide-ranging discussion of personal jurisdiction and venue.

I have a few minor technical criticisms of the casebook. Cross-references to previous cases are sometimes hard to follow. For example, the discussion

32. For an excellent analysis of this problem see Field, *The Abstention Doctrine Today*, 125 U. PA. L. REV. 590, 592-601 (1977).

33. 401 U.S. 37 (1971).

34. 319 U.S. 157 (1943).

35. 380 U.S. 479 (1965). In the second edition *Dombrowski* has been deleted as a principal case and relegated to a note. This is certainly defensible in view of the effect *Younger* had on *Dombrowski*. I would have retained *Dombrowski* as a principal case, however, partially on the grounds that *Dombrowski* was a case that was not only much written about but also figured prominently, if not successfully, in many lower court cases. More importantly, I think it is instructive to the student to have substantially the full text of both cases side by side in an effort to discover why, apart from a change in the personnel on the court, *Younger* was decided the way it was. On the facts, most students will say that there was a more realistic threat to *Dombrowski*'s right of free speech than to *Harris*'s. Those more politically and historically conscious are likely to point to the course of the civil rights and anti-war movements, as well as the executive and judicial response to these movements between 1965 and 1971, as influencing the outcome of *Younger*.

36. The phrase is used in Justice Black's majority opinion in *Younger v. Harris*, 401 U.S. 37 (1971).

37. 313 U.S. 487 (1941).

38. 376 U.S. 612 (1964).



of *Williams v. Miller*<sup>39</sup> (p. 748) makes a reference to *Terrace v. Thompson*,<sup>40</sup> briefly mentioned on page 746. Seven intervening cases and one law review article are cited in between the two cases. Notes sometimes fail to give enough facts to make sense of quotations excerpted from the decision. An example of this is the note on *Perez v. Ledesma*<sup>41</sup> (p. 749). In addition, I would prefer a separate supplement to having the statutory and rule material as an appendix to the casebook. The latter arrangement makes it more difficult to refer to the statutes at the time one is reading a case and tends to render the casebook obsolescent when statutes are amended.

The choice of a casebook for a course in federal courts or federal jurisdiction will be heavily influenced by the curriculum structure and by the teacher's predilections as to what should be included in the course. Those who, for one reason or another, did not care for the first edition of Professor Currie's book probably will find little in the second edition that will influence them to change their minds.<sup>42</sup> Although there has been some minor restructuring of chapters, the second edition is essentially an updating of the first. For those instructors who want to present more than a cursory treatment of the "case or controversy" materials, however, the doubling of the space allotted to justiciability and standing should make the second edition somewhat more acceptable than the first.

There are only a very few casebooks which one would recommend to a student that he retain beyond his law school days as a continuing source of reference. *Hart & Wechsler's, The Federal Courts and the Federal System* is one such casebook. David Currie's *Federal Courts* is not; it can, however, be a useful teaching tool. Currie covers many of the same subject areas as *Hart & Wechsler* but does so more economically. Particularly for someone who is teaching a two-or three-hour course and faced with a problem of selection from the prodigious amount of material in *Hart & Wechsler*, Currie's book is an attractive alternative. Unfortunately, many of the notes are not self-teaching, although they can provide a basis for stimulating class discussion if the teacher is willing to devote time to their explication. This could be a vastly better book, however, if in the next edition Professor Currie would devote additional time to revising and rearranging the note material.

James M. Klebba\*

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39. 317 U.S. 599 (1942).

40. 263 U.S. 197 (1923).

41. 401 U.S. 82 (1971).

42. In reviewing the first edition of this book, Professor Monaghan criticized Professor Currie's decision to minimize the "Case or Controversy" materials and the *Erie* doctrine. Monaghan, Book Review, 83 HARV. L. REV. 1753 (1970). The former, in Currie's opinion, should be left largely to the course on constitutional law; whereas the latter was to be left to the conflicts teachers. To Monaghan both the case or controversy materials and the *Erie* doctrine should be central to a course in federal courts. My inclination is to agree with Currie. Ideally, I would like to spend more time on these two areas. With only a three-hour course, however, I found there were enough other important topics to cover which are not systematically treated elsewhere in the curriculum.

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