

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

tional amount provision⁸⁰⁰ (while the general federal question statute at one time did)⁸⁰¹ and because the Court has held inapplicable the judicially created requirement that a litigant exhaust his state remedies before bringing federal action,⁸⁰² the statute has been heavily used, resulting in a formidable caseload, by plaintiffs attacking racial discrimination, malapportionment and suffrage restrictions, illegal and unconstitutional police practices, state restrictions on access to welfare and other public assistance, and a variety of other state and local governmental practices.⁸⁰³ Congress has encouraged use of the two statutes by providing for attorneys' fees under § 1983,⁸⁰⁴ and by enacting related and specialized complementary statutes.⁸⁰⁵ The Court in recent years has generally interpreted § 1983 and its jurisdictional statute broadly, but it has also sought to restrict the kinds of claims that may be brought in federal courts.⁸⁰⁶ Note that § 1983 and § 1343(3) need not always go together, as § 1983 actions may be brought in state courts.⁸⁰⁷

Pendent Jurisdiction.—Once jurisdiction has been acquired through allegation of a federal question not plainly wanting in substance,⁸⁰⁸ a federal court may decide any issue necessary to the dis-

not spring from an act providing for equal rights may not be brought under § 1343(3). *Chapman v. Houston Welfare Rights Org.*, *supra*. This was important when there was a jurisdictional amount provision in the federal question statute but is of little significance today.

⁸⁰⁰ See *Hague v. CIO*, 307 U.S. 496 (1939). Following *Hague*, it was argued that only cases involving personal rights, that could not be valued in dollars, could be brought under § 1343(3), and that cases involving property rights, which could be so valued, had to be brought under the federal question statute. This attempted distinction was rejected in *Lynch v. Household Finance Corp.*, 405 U.S. 538, 546–48 (1972). On the valuation of constitutional rights, see *Carey v. Piphus*, 435 U.S. 247 (1978). See also *Memphis Community School Dist. v. Stachura*, 477 U.S. 299 (1986) (compensatory damages must be based on injury to the plaintiff, not on some abstract valuation of constitutional rights).

⁸⁰¹ 28 U.S.C. § 1331 was amended in 1976 and 1980 to eliminate the jurisdictional amount requirement. Pub. L. 94–574, 90 Stat. 2721; Pub. L. 96–486, 94 Stat. 2369.

⁸⁰² *Patsy v. Florida Board of Regents*, 457 U.S. 496 (1982). This had been the rule since at least *McNeese v. Cahokia Bd. of Educ.*, 373 U.S. 668 (1963). See also *Felder v. Casey*, 487 U.S. 131 (1988) (state notice of claim statute, requiring notice and waiting period before bringing suit in state court under § 1983, is preempted).

⁸⁰³ Thus, such notable cases as *Brown v. Board of Education*, 347 U.S. 483 (1954), and *Baker v. Carr*, 369 U.S. 186 (1962), arose under the statutes.

⁸⁰⁴ Civil Rights Attorney's Fees Awards Act of 1976, Pub. L. 94–559, 90 Stat. 2641, amending 42 U.S.C. § 1988. See *Hutto v. Finney*, 437 U.S. 678 (1978); *Maine v. Thiboutot*, 448 U.S. 1 (1980).

⁸⁰⁵ *E.g.*, Civil Rights of Institutionalized Persons Act, Pub. L. 96–247, 94 Stat. 349 (1980), 42 U.S.C. §§ 1997 *et seq.*

⁸⁰⁶ *E.g.*, *Parratt v. Taylor*, 451 U.S. 527 (1981); *Ingraham v. Wright*, 430 U.S. 651 (1977).

⁸⁰⁷ *Maine v. Thiboutot*, 448 U.S. 1 (1980).

⁸⁰⁸ *Levering & Garrigues Co. v. Morrin*, 289 U.S. 103, 105 (1933); *Hagans v. Lavine*, 415 U.S. 528, 534–543 (1974).