Amendment rights." [1327] The principle apparently established by the Court was two-phased: a federal court should not abstain when there is a facially unconstitutional statute infringing upon speech and application of that statute discourages protected activities, and the court should further enjoin the state proceedings when there is prosecution or threat of prosecution under an overbroad statute regulating expression if the prosecution or threat of prosecution chills the exercise of freedom of expression.[1328] These formulations were reaffirmed in *Zwickler v. Koota*,[1329] in which a declaratory judgment was sought with regard to a statute prohibiting anonymous election literature. The Court deemed abstention improper,[1330] and further held that adjudication for purposes of declaratory judgment is not hemmed in by considerations attendant upon injunctive relief.[1331]

The aftermath of *Dombrowski* and *Zwickler* was a considerable expansion of federal-court adjudication of constitutional attack through requests for injunctive and declaratory relief, which gradually spread out from First Amendment areas to other constitutionally protected activities.[1332] However, these developments were highly controversial. In 1971, the Court receded from its position in a series of cases and circumscribed the discretion of the lower federal courts to a considerable and ever-tightening degree.[1333] An important difference between the 1971 cases and the *Dombrowski-Zwickler* line was that prosecutions were already underway, and not merely threatened. Nevertheless, the care with which Justice Black for the majority in the 1971 cases undertook to distinguish *Dombrowski* signified a limitation of its doctrine.

In the lead case of *Younger v. Harris*,[1334] Justice Black reviewed and reaffirmed the traditional rule of reluctance to interfere with state court proceedings except in extraordinary circumstances. The holding in *Dombrowski*, as distinguished from some of its language, did not change the general rule, because extraordi-

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[1327] 380 U.S. at 486, 487.

[1328] *See* Cameron v. Johnson, 381 U.S. 741 (1965); Cameron v. Johnson, 390 U.S. 611 (1968).

[1329] 389 U.S. 241 (1967). The state criminal conviction had been reversed by a state court on state law grounds and no new charge had been instituted.

[1330] It was clear that the statute could not be construed by a state court to render unnecessary a federal constitutional decision. 389 U.S. at 248–52.

[1331] 389 U.S. at 254.

[1332] Maraist, *Federal Injunctive Relief Against State Court Proceedings: The Significance of Dombrowski*, 48 TEX. L. REV. 535 (1970).

[1333] Younger v. Harris, 401 U.S. 37 (1971); Samuels v. Mackell, 401 U.S. 66 (1971); Boyle v. Landry, 401 U.S. 77 (1971); Perez v. Ledesma, 401 U.S. 82 (1971); Dyson v. Stein, 401 U.S. 200 (1971); Byrne v. Karalexis, 401 U.S. 216 (1971). Justice Black wrote the majority opinion in the first four of these cases; the other two were per curiam opinions.

[1334] 401 U.S. 37 (1971).