when Congress enacts a law and declares a national policy, that policy is as much Connecticut's and every other state's as it is of the collective United States.[1263] The Court's suggestion that the act could be enforced "as of right, in the courts of the States when their jurisdiction, as prescribed by local laws, is adequate to the occasion," [1264] leaving the impression that state practice might in some instances preclude enforcement in state courts, was given body when the Court upheld New York's refusal to adjudicate an FELA claim that fell in a class of cases in which claims under state law would not be entertained.[1265] "[T]here is nothing in the Act of Congress that purports to force a duty upon such Courts as against an otherwise valid excuse." [1266] However, "[a]n excuse that is inconsistent with or violates federal law is not a valid excuse: The Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source." [1267]

The fact that a state statute divests its courts of jurisdiction not only over a disfavored federal claim, but also over an identical state claim, does not ensure that the "state law will be deemed a neutral rule of judicial administration and therefore a valid excuse for refusing to entertain a federal cause of action." [1268] "Although the absence of discrimination [in its treatment of federal and state law] is necessary to our finding a state law neutral, it is not sufficient. A jurisdictional rule cannot be used as a device to undermine federal law, no matter how evenhanded it may appear." [1269]

In *Testa v. Katt*,[1270] the Court unanimously held that state courts, at least with regard to claims and cases analogous to claims and cases enforceable in those courts under state law, are required to

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[1263] *Second Employers' Liability Cases*, 223 U.S. 1 (1912).

[1264] 223 U.S. at 59.

[1265] Douglas v. New York, N.H. & H.R.R., 279 U.S. 377 (1929).

[1266] 279 U.S. at 388. For what constitutes a valid excuse, *compare* Missouri ex rel. Southern Ry. v. Mayfield, 340 U.S. 1 (1950), *with* McKnett v. St. Louis & S.F. Ry., 292 U.S. 230 (1934). It appears that generally state procedure must yield to federal when it would make a difference in outcome. *Compare* Brown v. Western Ry. of Alabama, 338 U.S. 294 (1949), *and* Dice v. Akron, C. & Y. R.R., 342 U.S. 359 (1952), with Minneapolis & St. L. R.R. v. Bombolis, 241 U.S. 211 (1916).

[1267] Howlett v. Rose, 496 U.S. 356, 371 (1990). *See also* Felder v. Casey, 487 U.S. 131 (1988).

[1268] Haywood v. Drown, 556 U.S. ___, No. 07–10374, slip op. at 8–9 (2009) (striking down New York statute that gave the state's supreme courts—its trial courts of general jurisdiction—jurisdiction over suits brought under 42 U.S.C. § 1983, except in the case of suits seeking money damages from corrections officers, whether brought under federal or state law).

[1269] 556 U.S. ___, No. 07–10374, slip op. at 9 (New York statute found, "contrary to Congress's judgment [in 42 U.S.C. § 1983,] that *all* persons who violate federal rights while acting under color of state law shall be held liable for damages").

[1270] 330 U.S. 386 (1947).