ceived threat to a constitutional interest is sufficient to afford a basis for bringing a challenge, provided the court has sufficient facts before it to enable it to intelligently adjudicate the issues.[551]

Of considerable uncertainty in the law of ripeness is *Duke Power*, in which the Court held ripe for decision on the merits a challenge to a federal law limiting liability for nuclear accidents at nuclear power plants, on the basis that, because the plaintiffs had sustained an injury-in-fact and had standing, the Article III requisite of ripeness was satisfied and no additional facts arising out of the occurrence of the claimed harm would enable the court better to decide the issues.[552] Should this analysis prevail, ripeness as a limitation on justiciability will decline in importance.

Mootness.—A case initially presenting all the attributes necessary for federal court litigation may at some point lose some attribute of justiciability and become "moot." The usual rule is that an actual controversy must exist at all stages of trial and appellate consideration and not simply at the date the action is initiated.[553] "Under Article III of the Constitution, federal courts may adjudicate only actual, ongoing cases or controversies. . . . Article III de-

---

[551] Buckley v. Valeo, 424 U.S. 1, 113–118 (1976); *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 138–148 (1974) (holding some but not all the claims ripe). *See also* Goldwater v. Carter, 444 U.S. 996, 997 (Justice Powell concurring) (parties had not put themselves in opposition).

[552] Duke Power Co. v. Carolina Environmental Study Group, 438 U.S. 59, 81–82 (1978). The injury giving standing to plaintiffs was the environmental harm arising from the plant's routine operation; the injury to their legal rights was alleged to be the harm caused by the limitation of liability in the event of a nuclear accident. The standing injury had occurred, the ripeness injury was conjectural and speculative and might never occur. *See* id. at 102 (Justice Stevens concurring in the result). It is evident on the face of the opinion and expressly stated by the objecting Justices that the Court used its standing/ripeness analyses in order to reach the merits, so as to remove the constitutional cloud cast upon the federal law by the district court decision. Id. at 95, 103 (Justices Rehnquist and Stevens concurring in the result).

[553] *E.g.*, United States v. Munsingwear, 340 U.S. 36 (1950); Golden v. Zwickler, 394 U.S. 103, 108 (1969); SEC v. Medical Committee for Human Rights, 404 U.S. 403 (1972); Roe v. Wade, 410 U.S. 113, 125 (1973); Sosna v. Iowa, 419 U.S. 393, 398–399 (1975) (special rule for class actions); United States Parole Comm'n v. Geraghty, 445 U.S. 388, 397 (1980) (special rule for class actions), and id. at 411 (Justice Powell dissenting); Burke v. Barnes, 479 U.S. 361, 363 (1987); Honig v. Doe, 484 U.S. 305, 317 (1988); Lewis v. Continental Bank Corp., 494 U.S. 472, 477–478 (1990); Camreta v. Greene, 563 U.S. ___, No. 09–1954, slip op. (2011); United States v. Juvenile Male, 564 U.S. ___, No. 09–940, slip op. at 4 (2011). *Munsingwear* has long stood for the proposition that the appropriate practice of the Court in a civil case that had become moot while on the way to the Court or after *certiorari* had been granted was to vacate or reverse and remand with directions to dismiss. In U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 18 (1994), however, the Court held that when mootness occurs because the parties have reached a settlement, vacatur of the judgment below is ordinarily not the best practice; instead, equitable principles should be applied so as to preserve a presumptively correct and valuable precedent, unless a court concludes that the public interest would be served by vacatur.