# Teaching Snpplemental Jurisdiction

STEPHEN C. YEAZELL*

Most of this Symposium properly addresses the merits of the current supplemental jurisdiction statute and its proposed revisions. I have homelier ambitions, in pursuit of which I hope to avoid a serious problem. Writing for a symposium on supplemental jurisdiction to which David Shapiro is contributing is a bit like agreeing to say a few words to God about theology. To avoid the fate that such hubris might entail, these notes instead offer some thoughts about the way in which doctrinal changes affect students' learning. To stay momentarily with my metaphor, these thoughts address not theology but the teaching of theology. In the process, I want to suggest that among the various weaknesses in the present codification, weaknesses anatomized elsewhere, lies one great, abiding strength: the present version of 28 U.S.C. § 1367[1] connects supplemental jurisdiction not just to the Constitution but to the humbler world of adjudicative procedure. For the sake of the law as well as of our students, let us hope that current revisions do not sever that link.

For all these virtues, however, the current statute poses a problem. *Because* the statute is so tightly linked to the rest of the procedural system, one cannot entirely understand it until one has mastered most of civil procedure. But because the statute embeds itself so thoroughly in existing procedure, one similarly cannot understand that procedure without understanding the statute. Supplemental jurisdiction in its present form thus presents a particularly egregious form of the seamless web problem. In the next few pages I suggest how one might approach the web without tearing it apart; I start with the story of how the web took on its present shape.

## I. FEDERAL JURISDICTION AS A PEDAGOGICAL GAP-FILLER

In the beginning, pleading (the old version of the modern procedure course) touched federal jurisdiction not at all.[2] As Mary Brigid McManamon has recently taught us, the modern civil procedure course emerged after fighting a prolonged

* Professor of Law, UCLA School of Law. I thank Bill Rubenstein for comments on an earlier draft of this piece.

1. 28 U.S.C. § 1367 (1994).

2. For our purposes 1938 is sufficiently close to the beginning that the memory of man runneth not to the contrary. An unsystematic survey of procedure casebooks published around 1938 reminds us how lately this Johnny has come. Of about 2600 pages, I found *six* pages that discussed any aspect of federal subject matter jurisdiction. Of these six pages, two contained a bare mention of diversity jurisdiction and four dealt in passing with ancillary jurisdiction in connection with joinder. *See* CHARLES E. CLARK, CASES ON PLEADING AND PROCEDURE (2d ed. 1940); JAMES P. MCBAINE, CASES AND MATERIALS ON COMMON LAW PLEADING (2d ed. 1941); EDSON R. SUNDERLAND, CASES AND MATERIALS ON CODE PLEADING (1940).

As late as 1967, Scott and Kent's second edition devoted only 13 out of 1100 pages to federal subject matter jurisdiction. *See* AUSTIN WAKEMAN SCOTT & ROBERT BRYDON KENT, CASES AND OTHER MATERIALS ON CIVIL PROCEDURE (2d ed. 1967).

rear-guard action with common law pleading.[3] Long after common-law pleading had vanished from the courts, law students imbibed its mysteries.[4] Until almost 1950 many procedure courses (called, typically, "pleading and procedure") devoted substantial time to the student's learning the elements of particular common claims–breach of contract, debt, detinue, and the like.[5] Even Code Pleading was thought either too evanescent or too practical to warrant students' attention.[6]

Then came the Federal Rules ("Rules"), and their gradual, still-incomplete colonization of state procedure.[7] For several decades, that left procedure teachers with an interesting problem: what to teach, now that pleading had disappeared? Rule 8[8] had resolved—by postponing to a later stage—the problems of pleading, on which much of the old procedure course had focused. That left a large hole where most of the pre-war procedure course had been. One can understand the last fifty years of curricular thought in this field as an effort to fill this hole with material that would be at least arguably relevant to a lawyer and, probably equally important, interesting to teach.

Two solutions have emerged, solutions that stand in some tension with each other. One solution stresses the litigation process–the means by which courts resolve contested matters of law and fact. Essentially, this topic encompasses everything that happens in a lawsuit *after* pleading matters are over, borrowing from and expanding on what would have been a "trial practice" course in 1938. The contrasting solution is to stress jurisdictional matters, borrowing from what might otherwise be taught in courses on federal jurisdiction and conflicts of law. Both solutions have plausible underpinnings. Supplemental jurisdiction, in its present codification, stands with feet in both camps.

In U.S. courts a substantial amount of dispositive pretrial adjudication occurs in jurisdictional litigation. In federal courts less than 5% of filed civil cases reach trial,[9] but a dispositive judicial ruling ends about 30% of civil cases.[10] As the

---

3. *See* Mary Brigid McManamon, *The History of the Civil Procedure Course: A Study in Evolving Pedagogy*, 30 ARIZ. ST. L.J. 397 (1998).

4. Professor McManamon tells the entertaining if slightly perverse story of law schools' clinging to common law pleading for almost half a century after it had vanished from practice. *See id.* at 417-30.

5. For example, the author of the Federal Rulcs of Civil Procedure devoted much of his own casebook to separate chapters containing rules for pleading various different claims. *See* CLARK, *supra* note 2 (172 pages on "Claims for Damages for Injuries to the Person"; 102 pages to "Claims for Damages for Breach of Contract"; 20 pages on "Actions Conccrning Chattels and Land"; and a separate 40-page chapter on equity).

6. *See* McManamon, *supra* note 3, at 413.

7. *See* John B. Oakley & Arthur F. Coon, *The Federal Rules in State Courts: A Survey of State Court Systems of Procedure*, 61 WASH. L. REV. 1367 (1986) (finding that 35 states had adopted some version of the federal rules as their procedural code, with significant differences in the forms of adoption).

8. FED. R. CIV. P. 8.

9. *See* Stephen C. Yeazell, *The Misunderstood Consequences of Modern Civil Process*, 1994 WIS. L. REV. 631, 633.

10. *See id.* at 636.

end-point of most litigation has come to rest before trial,[11] one would expect a concurrently increased emphasis on that phase of litigation. That increased emphasis has occurred: contemporary casebooks devote most of their attention to issues that arise before trial begins.[12] Within that pretrial phase, jurisdictional questions have come to occupy a very large part of contemporary U.S. legal education in procedure.[13]

This prominent position in part tracks the realities of practice: in federal litigation jurisdictional adjudications play a larger role than they did fifty years ago. Among the federal cases that reach an adjudicated disposition, about two-thirds are jurisdictional; fifty years ago only 5% of the adjudicated cases took that route.[14] By any measure this is a substantial basis for an increased treatment of jurisdiction in law classes and textbooks.

I suspect, however, that these perfectly good reasons do not entirely account for the change. Federal jurisdiction is complex, interesting, driven largely by doctrine rather than by facts, and subject to continued common law evolution. All of these features distinguish it from such topics as discovery, summary judgment, and the pretrial process—all of which might have claims to more pedagogical time were we collectively barred from importing pieces of federal jurisdiction into our procedure courses. Whether for such reasons or because of the growth in importance of the jurisdictional dismissal, most procedure courses now import substantial pieces of what had once been the province of federal jurisdiction or federal courts courses.

The importing has taken two forms, one in subject-matter jurisdiction, the other in choice of law.[15] In the former arena, no civil procedure casebook omits a substantial chapter devoted to exploring the judicial jurisdiction of the federal district courts. Seen from one standpoint this stance is remarkable: the federal

---

11. *See id.* (explaining the long-term drop in civil trial rate and its replacement by pretrial adjudication).

12. As examples of such emphasis, consider that BARBARA ALLEN BABCOCK & TONI M. MASSARO, CIVIL PROCEDURE: CASES AND PROBLEMS (1997), devote 68% of their pages to pretrial material, including jurisdiction and choice of law. Equivalent statistics for other representative casebooks include: JOHN J. COUND ET AL., CIVIL PROCEDURE: CASES AND MATERIALS (7th ed. 1997) (72%); RICHARD H. FIELD ET AL., MATERIALS FOR A BASIC COURSE IN CIVIL PROCEDURE (7th ed. 1997) (69%); GEOFFREY C. HAZARD, JR. ET AL., CASES AND MATERIALS ON PLEADING AND PROCEDURE: STATE AND FEDERAL (7th ed. 1994) (76%); STEPHEN C. YEAZELL, CIVIL PROCEDURE (4th ed. 1996) (78%).

13. *See* RICHARD L. MARCUS ET AL., CIVIL PROCEDURE: A MODERN APPROACH (2d ed. 1995) devote about 21% of their book to jurisdictional matters—a majority of those pages dealing with personal jurisdiction. That statistic is representative: BABCOCK & MASSARO, *supra* note 12 (17%); COUND ET AL., *supra* note 12 (16%); FIELD ET AL., *supra* note 12 (16%); RICHARD D. FREER & WENDY COLLINS PURDUE, CIVIL PROCEDURE: CASES, MATERIALS, AND QUESTIONS (2d ed. 1997) (21%); HAZARD ET AL., *supra* note 12 (21%); YEAZELL, *supra* note 12 (18%).

14. In 1990, 23% of adjudicated cases—thus about 7% of all filed cases—were ended by a jurisdictional dismissal. *See* Yeazell, *supra* note 9, at 637.

15. A significant piece of booty seized in the federal raiding expedition was *Erie Railroad Co. v. Tompkins*, which continues to play a role in many procedure courses, and about which one might raise the same questions of centrality. Erie R.R. Co. v. Tompkins, 304 U.S. 64 (1938).

courts hear only about a quarter million of the six million major civil lawsuits filed annually in the United States.[16] Yes, federal jurisdiction teaches our students something about the distinctive division of power between state and federal governments. But they are typically less capable of comprehending that division before they have soaked themselves in constitutional law, which does not always occur before they encounter federal subject matter jurisdiction. Moreover, class time devoted to this topic is almost inevitably taken from other topics which will not find replication in other parts of the typical law school curriculum. This point has even greater force in respect to supplemental jurisdiction. Until recently a judicial gloss on the basic jurisdictional picture—a gloss confusingly divided into subtopics of ancillary and pendent jurisdiction, each with its own line of cases and disputed theology—supplemental jurisdiction in a basic procedure course would seem to be not just a luxury but an irresponsible frivolity.

None of these considerations has led me to stop teaching federal subject matter jurisdiction (including supplemental jurisdiction), or to exclude it from the procedure casebook I edit; nor do I argue that it should. But the status of supplemental jurisdiction *should* lead us to think about how to connect this apparently peripheral topic to a central concern of a procedure course: the legal construction of a method for hearing disputed issues of fact and law. Unless one can connect jurisdiction to those concerns, one should think carefully before spending much time on the topic. Until the codification of supplemental-jurisdiction doctrine, the connection was difficult to make; it has recently become more complex but less difficult. Indeed, one can argue–tentatively–that the existing codification of the supplemental-jurisdiction statute strengthens the case for including it in a civil procedure course, even a civil procedure course that emphasizes the litigation process. To state that argument, one must look again at the history of the course.

## II. FEDERAL QUESTION JURISDICTION AND THE VANISHING CAUSE OF ACTION

Ironically, the development that made it attractive for procedure to colonize federal jurisdiction also made harder to link parts of the course. The key move was the rise of notice pleading. Federal question jurisdiction was born in a world of common law and code pleading. In that environment, the idea of a well-pleaded complaint meant something rather specific. In consequence, cases like *Louisville & Nashville Railroad v. Mottley*[17] made sense: in either regime one could with some specificity speak of what it meant to plead a case for breach of contract. Further, with such a notion in mind, one could, without circularity discuss whether a federal element was part of such a well-pleaded complaint.[18]

---

16. The figure is taken from CONFERENCE OF STATE COURT ADM'RS, STATE JUSTICE INST. & NAT'L CTR. FOR STATE COURTS, STATE COURT CASELOAD STATISTICS: ANNUAL REPORT 1992, at 41 (1994). It represents civil cases filed in state courts of general jurisdiction, which typically have exclusive power to grant injunctions and award damages without limit.

17. 211 U.S. 149 (1908).

18. *See* Carole E. Goldberg-Ambrose, *The Influence of Procedural Rules on Federal Jurisdiction*, 28 STAN. L. REV. 395, 410-14 (1976).

That began to change in 1938. Not all at once, but steadily, pleading became less an exercise in replicating a form with variations and more a matter of gesturing in the general direction of a body of law. *Conley v. Gibson*[19] is the *locus classicus*, and the language of that case may say more than the Court really meant–at least outside the civil rights context. But it has become a rare case that gets dismissed on demurrer, and the common wisdom among litigators is that there isn't much point in filing most demurrers except as a way of educating one's opponents at the clients' expense.[20] Though some may mourn the passing of pleading,[21] the consensus holds that it was not an ennobling art, and the only real debate is whether the "cure"—discovery—is worse than the disease.

But if pleading is no longer an art, it becomes much more difficult to describe a well-pleaded complaint and, accordingly, more difficult to describe its antithesis—the badly pleaded complaint. And it is in this difficulty that the grand irony of modern procedural pedagogy lies. For just at the time when it became attractive to procedure teachers to replace the old learning with forays into federal jurisdiction, it became much more difficult to help students understand just what it was that triggered federal question jurisdiction. As William Cohen has pointed out,[22] it was not easy before the advent of notice pleading, but it has certainly become more difficult since. Professor Cohen has noted: "The 'well-pleaded' requirement will not yield to good, pragmatic reasons . . . . That is because its sole justification is to provide a rule of thumb permitting the determination of jurisdiction on the face of the complaint."[23]

And all these problems exist when one considers the "simple" matter of original jurisdiction. Turning to ancillary or pendent jurisdiction, to use the pre-code terms, one had to consider how a part of a case was related to another part, which in turn had to satisfy an arbitrary and incoherently stated relationship to federal law. Such a relationship produced, doubtless, great fun for teachers, who could always ask two or three more unanswerable questions about pendent jurisdiction. Much less clear is whether it produced a degree of illumination in students commensurate with the time spent on the topic.

19. 355 U.S. 41 (1957).

20. The statement risks overbreadth. Richard Marcus has recently reminded us that courts do not uniformly adhere to the principles set forth in *Conley*. Richard L. Marcus, *The Puzzling Persistence of Pleading Practice*, 76 TEX. L. REV. 1749 (1998). But outside the realm of hotly contested arenas like civil rights and environmental law, pleading is not a challenging art at present.

21. Stephen Subrin is its most distinguished and persuasive elegist. Stephen N. Subrin, *How Equity Conquered the Common Law: The Federal Rules of Civil Procedure in Historical Perspective*, 135 U. PA. L. REV. 909 (1987).

22. William Cohen, *The Broken Compass: The Requirement That A Case Arise "Directly" Under Federal Law*, 115 U. PA. L. REV. 890 (1967).

23. *Id.* at 915.

## III. CODIFICATION: JURISDICTION JOINS PROCEDURE

The enactment of 28 U.S.C. § 1367 changed this picture. Whatever else the codifiers may have wrought—including confusion—they managed in a remarkably brief space to link supplemental jurisdiction with real Rules and real case situations. The compact statute establishes a broad jurisdictional grant in subsection (a) and then retracts much of that grant in subsection (b), whose restrictions apply to diversity-only cases.

That much is unremarkable. The interesting part of the statute lies in the way it achieves its selective retraction of supplemental jurisdiction, by listing specific jurisdictional statutes, parties, and Rules. Only claims "by plaintiffs" against parties joined under enumerated Rules are barred, and then only if the sole basis for jurisdiction is diversity under 28 U.S.C. § 1332.[24]

Others have canvassed the defects in this scheme. I want instead, in passing, to praise it. It is specific (even when it should perhaps be more general), and it is eminently teachable. Let me be clear. There is more to a jurisdictional statute than the ease with which law students can grasp them. And I leave entirely to one side whether it was wise to be so generous with federal question and so stingy with diversity. But clarity cannot be a vice in a statute that must be applied on the pleadings, at an early stage of a lawsuit. Judges and their clerks–recent law students by and large–are in need of as much clarity as can be handily achieved. Would it be too much to hope that the recodification effort now underway would preserve as much of the brevity, as much of the clarity, and as much of the reference to specific Rules as possible?[25]

For the virtue of subsection (b) is that it enables student and lawyer to see rather quickly whether there is a colorable argument for supplemental jurisdiction. Is the case a diversity-only case? If so, who is making the claim for which one needs supplemental jurisdiction? If the party is a plaintiff, is the claim being brought against a party joined under one of the enumerated Rules? If so, the conversation ends. If not, then there must be a perhaps-complex conversation about "case or controversy." But that conversation is inevitable given the history of the constitutional phrase. And it is a conversation that one encounters in a federal question case, or, for that matter, in a res judicata case when one considers whether the new claim arises out of the same transaction or occurrence as a previously adjudicated claim. These inquiries also tell us whether–and how–to incorporate supplemental jurisdiction into a basic civil procedure course. The next section elaborates.

---

24. 28 U.S.C. § 1332 (1994).

25. In this respect it is not entirely comforting to see that the American Law Institute's proposed remedy for the defects of the current statute includes a statute that runs to three pages (about triple the length of the current statute), followed by an "explanatory note" of an additional five, followed by a "commentary" of 140 pages. *See* AMERICAN LAW INSTITUTE, FEDERAL JUDICIAL CODE REVISION PROJECT, TENTATIVE DRAFT NO. 2 (1998). Even a believer in the validity of legislative history shudders to think of the perversions to which a "statutory" history of that length might be turned.

## IV. TEACHING SUPPLEMENTAL JURISDICTION

The sketch thus far has three points: that supplemental jurisdiction ought to be a distinctly subordinate part of civil procedure; *but* it probably belongs somewhere in the course; *and* that it belongs in a place where students can understand its links both to federal jurisdiction and to the Rules. I shall briefly defend each proposition.

The subordinate place of supplemental jurisdiction needs little demonstration: it is, after all, an exception to the ordinary principles of original federal jurisdiction, principles that should not be allowed to elbow aside more fundamental concerns. If my argument has any force, it tends to magnify rather than to diminish the place of supplemental jurisdiction. To the extent that the present statute refers to specific Rules, it embeds supplemental jurisdiction more firmly in the rest of the course.

Supplemental jurisdiction belongs in civil procedure only if and only because it enables the student to explore these linkages: what does it mean for a plaintiff to claim against a person made a party under Rule 14? Why should a person joined as a plaintiff under Rule 19 not be able to avail herself of supplemental jurisdiction? When is a claim so related to another that it forms part of the same constitutional case or controversy? These questions require students to probe the meaning of a claim and of the significance of the joinder possibilities under the Rules. This justification also carries a negative corollary: *unless* supplemental jurisdiction serves these ends in a procedure course, it does not pay its way and should be replaced with something that does.

This justification implies as well a placement for supplemental jurisdiction. There isn't any pedagogically ideal place to teach supplemental jurisdiction. What one is shooting for is a location that will minimize the confusion. To understand supplemental jurisdiction the student needs to understand three things: basic jurisdictional doctrine, the idea of a claim, and the rules of joinder. Given the number of hours allocated to most procedure courses, those three topics will exhaust the course. Under these circumstances, the most helpful place to teach supplemental jurisdiction is at the end of the course, in connection with the rules of joinder themselves. Let me briefly defend this proposition, primarily by explaining why supplemental jurisdiction seems to fit better here than it does elsewhere.

Logically and analytically, of course, supplemental jurisdiction would be taught as part of the presentation of federal subject matter jurisdiction. Having encountered the doctrines that unexpectedly narrow federal question jurisdiction[26] and diversity jurisdiction,[27] the student might then encounter a doctrine that expands jurisdiction in similarly unexpected ways. Such a presentation is completely logical, and one can indeed brush the students up against *Gibbs*[28] and

26. The well-pleaded complaint rule is the most notably counterintuitive example.

27. The complete diversity rule, the amount in controversy rule, and the domestic relations exception are three such doctrines.

28. United Mine Workers v. Gibbs, 383 U.S. 715 (1966).

the statute. But unless one teaches subject matter jurisdiction after joinder, the concepts in subsection (b) (referring to specific Rules) will make no sense at all. So teaching § 1367 as part of jurisdiction—before students encounter joinder—makes the students' job much more difficult than it need be.

Equally logical but equally unsatisfactory would be an approach that taught supplemental jurisdiction as an adjunct to the consideration of res judicata. Thinking about whether a claim is part of the same case or controversy as the original claim is not very far removed from thinking about whether a claim is sufficiently related to a previously decided claim to form part of "the same transaction or occurrence," to use the test of the Second Restatement of Judgments.[29] But, again, without a knowledge of the rules of joinder, the students cannot make any sense of subsection (b).

That leaves the least undesirable placement of this material—in connection with the rules of joinder themselves. As students encounter joinder concepts, they can begin to understand the situations in which the statute does and doesn't bar supplemental jurisdiction. This placement has an added advantage: many of the joinder Rules contemplate the same inquiry into the relatedness of claims as is contemplated by subsection (a). Whether a plaintiff may assert against a Rule 14[30] third-party defendant a claim "arising out of the same transaction or occurrence" as the subject matter of the original claim is not precisely the same question as posed by the Case or Controversy Clause,[31] but it is in the approximate neighborhood.

So there is much to be said for teaching supplemental jurisdiction along with the Rules of joinder to which the most complex of the statute's subsections refer. But, for this scheme to work best, the student encountering joinder must have met res judicata. Joinder mostly lives in the shadow of res judicata, and many of the situations contemplated are incomprehensible unless a student understands why joinder is necessary to achieve res judicata. Rule 19[32] is a leading contender here, but other Rules evince this concern as well.[33]

If one accepts the preceding arguments, one has also accepted a syllabus, or at least two variations on a syllabus. The place for supplemental jurisdiction—or for any deep exploration of it—is with the principles and Rules of joinder. And the place for the principles of joinder is sometime after a consideration of res judicata. And the place for res judicata is after one has examined the idea of

---

29. *See* RESTATEMENT (SECOND) OF JUDGMENTS § 9 (1982). Mary Kay Kane has recently come out against the sin of assuming that "transaction" means the same thing in different procedural settings. *See* Mary Kay Kane, *Original Sin and the Transaction in Federal Civil Procedure*, 76 TEX. L. REV. 1723 (1998). I think it is possible to avoid this sin while nevertheless discussing the forms that a "transaction" might take in different contexts.

30. FED. R. CIV. P. 14.

31. U.S. CONST. art. III, § 2.

32. FED. R. CIV. P. 19.

33. Rule 14 aims at avoiding two successive suits, in which the losing defendant in the first suit encounters a third-party defendant who relitigates (because not bound) the underlying liability. Interpleader is of course entirely about multiple and inconsistent liability. Rule 23, though it has a different social function, expresses itself partly in terms of avoiding inconsistent liability and obligations.

pleading and discovery, so one can see just what is and isn't presented in a lawsuit, and so one can understand why the apparently drastic principles of modern res judicata are justified by the existence of discovery and the ease of amended pleadings. Working backwards, then, one finds two patterns, with a common ending point: joinder and supplemental jurisdiction. One can teach the front end of the course in two ways, beginning either with jurisdiction or with the litigation process (pleading through res judicata). If one begins with jurisdiction, the litigation process follows. If one begins, as I have in recent years, with the litigation process, then jurisdiction follows.[34] In either scenario, joinder and supplemental jurisdiction end the course.

They end it in style, with a review of most major concepts encountered. For joinder requires the student to revisit the rest of the material comprising most first-year courses in procedure. Joinder questions are typically battles for res judicata and battles about jurisdiction. At the entrance to most joinder questions, the student encounters what might be called a "pleading" issue: is the sought-to-be-joined claim so related to an existing one that it fits the terms of the Rule in question? Many Rules pose this problem by posing a question about "transaction or occurrence." That question asks students to revisit pleading and former adjudication. Past that question, there are often questions either of personal or of subject matter jurisdiction: assuming the Rule permits me to join this party, does this court possess the requisite adjudicatory power over her?

Teaching the course this way achieves two goals. First, it enables students to encounter joinder as a review connecting the two major parts of the course. That is not a small virtue for a course whose major challenge is helping students understand that the propositions explored have anything to do with each other. Meeting them again at the end of the course in a series of Rules that combine close textual reading with a reconsideration of the large principles has much to be said for it. Second, it allows students to make some sense of what otherwise look like arbitrary choices in the supplemental-jurisdiction statute. Why should supplemental jurisdiction exist for Rule 13,[35] and for third-party plaintiffs in Rule 14,[36] but not for claims by plaintiffs against third-party defendants? That question may not admit of a completely satisfactory answer, but one has no chance of the question's even being comprehensible unless students understand the basic joinder ideas.

At its best, this placement of the material on supplemental jurisdiction will leave students with the feeling that they have encountered a system whose parts are not randomly ordered, and that they better understand what they have already encountered. It makes jurisdiction not an orphan import from another course but a part of a complex, though not incomprehensible, procedural system. It makes pleading not an antique remnant of dubious value but the condition precedent to thinking about judicial power. At its worst, this placement will at least leave

---

34. This arrangement has another modest advantage. In their modern forms, both personal and subject matter jurisdiction relate the existence of jurisdiction to the nature of the underlying claim. One can talk about this question more easily when students have some notion of the nature of a claim.

35. FED. R. CIV. P. 13.

36. FED. R. CIV. P. 14.

students studying the statute on supplemental jurisdiction at the same time as they are studying the Rules to which that statute most frequently refers.

* * *

One does not draft jurisdictional statutes with students as a primary audience. But judges and lawyers, like students, often find themselves needing as much clarity as we can manage to give them. Because jurisdictional statutes function as part of a larger procedural system, a jurisdictional statute acknowledging that link is better—all things being equal—than one that does not. With this recognition, pedagogy and policy can join their voices in hoping that any revised statute will exhibit the same thoughtful consciousness of its home in an existing procedural system.