

Resources for Public Speaking: Legal Interactions Between Federal and State Courts

Topic at a Glance

Introduction. As a product of the federalist structure established by the Constitution, the United States has a national judiciary as well as a separate judicial system for each state. Although the federal and state courts are distinct entities, there is overlap in the kinds of cases they hear, the laws they apply, and the geographical areas over which they have jurisdiction. These separate judicial systems work simultaneously, which brings them into contact in several ways. This discussion covers the most important ways in which federal and state courts interact in the course of performing their duties.

Appeals from State Courts to the Supreme Court of the United States. Section 25 of the Judiciary Act of 1789 permitted appeals from the highest court of a state to the Supreme Court of the United States when a decision was made against a federal law, against a claim under federal law, or in favor of a state law against a claim that it violated the Constitution, a federal law, or a treaty. The Supreme Court rejected two early challenges from state courts to its authority in *Martin v. Hunter's Lessee* (1816) and *Cohens v. Virginia* (1821). In 1914, Congress permitted review by writ of certiorari in the converse of the situations identified in the 1789 Act. In 1988, Congress eliminated all appeals as of right from state courts, leaving certiorari as the exclusive method of review.

Federal Court Application of State Court Precedent. Since the establishment of the federal judiciary, federal courts have been called upon to apply state law, most frequently in diversity of citizenship cases. Section 34 of the Judiciary Act of 1789, known as the Rules of Decision Act, provided for “the laws of the several states” to be “rules of decision in trials at common law . . . in cases where they apply.” The Supreme Court’s decision in *Swift v. Tyson* (1842) that only state statutes, and not the decisions of state courts, constituted “state law” for purposes of section 34, led federal courts to apply general commercial law principles (sometimes called “federal common law”) in diversity cases until *Swift* was overturned by *Erie Railroad v. Tompkins* (1938). By preventing application of federal common law principles often favorable to large business interests, *Erie* weakened somewhat the advantage such entities gained by removing cases from state to federal courts.

Removal of Cases from State to Federal Court. Section 12 of the Judiciary Act of 1789 permitted a defendant in state court to remove a diversity of citizenship case to federal court if more than \$500 was at issue. Removal, designed to protect out-of-state defendants from potential bias in state courts, was expanded during Reconstruction on behalf of freed African Americans and Republican officials in Southern states. Rising caseloads caused Congress to curtail removal somewhat in the late 1880s, but the device remained widely used, with the biggest beneficiaries being corporations, which frequently removed contract and tort cases to avoid alleged anticorporate bias in state courts. Since the 1950s, some lawmakers, judges, and lawyers have called for the abolition of diversity jurisdiction, which would end removal. The Federal Courts Study Committee recommended abolition in 1990, but Congress did not act.

Federal Court Grants of Habeas Corpus to State Prisoners. The Judiciary Act of 1789 granted federal courts the power to issue writs of habeas corpus to inquire into the legality of a prisoner’s detention, but only for prisoners in federal custody. The Supreme Court ruled in *Ableman v. Booth* (1859) that state courts could not issue the writ to federal prisoners. In expanding the power of the federal judiciary during Reconstruction, Congress in 1867 authorized federal courts to issue writs of habeas corpus to state prisoners, making the writ a postconviction remedy for the first time. Since the late nineteenth century, there have been periods of expansion and contraction of the writ’s scope with respect to state prisoners, with the greatest period of expansion occurring between the 1920s and 1960s. Since the 1970s, several Supreme Court decisions have narrowed federal court review of state court convictions.

Federal Court Injunctions Against State Court Proceedings. The Anti-Injunction Act of 1793 was a general prohibition on federal-court injunctions to stay proceedings in state courts. While historical records do not reveal the specific reason for the Act, it reflects an overall respect for state sovereignty. While the Act barred the filing of a new action for an injunction, federal courts could still stay state court proceedings in certain circumstances where no new action was required. For example, when an action first began in federal court, the federal court could protect its jurisdiction by enjoining a later filed state court action. In *Ex parte Young* (1908), the Supreme Court permitted a federal court to enjoin a state official from going to state court to enforce an allegedly unconstitutional state law. In response to a Supreme Court opinion holding the Anti-Injunction Act to be nearly absolute (*Toucey v. New York Life Ins. Co.* (1941)), Congress revised the Act in 1948 to specify that injunctions could be issued when explicitly authorized by Congress or when necessary in aid of the federal court's jurisdiction or to protect or effectuate its judgments.

Federal Court Abstention. Since the 1940s, the federal courts have applied several judge-made "abstention" doctrines in declining to exercise jurisdiction over a matter in deference to state courts. Historians have identified Justice Felix Frankfurter, a strong proponent of federalism and judicial restraint, as a key figure in the development of abstention doctrine. For example, Justice Frankfurter wrote the opinion establishing the first major type of abstention in *Railroad Commission of Texas v. Pullman Co.* (1941). Pullman abstention rests on the principles that federal courts should avoid deciding constitutional issues when possible and that the highest court of a state is the most appropriate forum to rule on the meaning of a state statute. Therefore, if a federal court case involving a constitutional claim also involves an unsettled issue of state law that could dispose of the case, the federal court may stay the proceeding to allow a state court to rule on the state-law issue. The Supreme Court developed other important abstention doctrines in *Burford v. Sun Oil Co.* (1943), *Younger v. Harris* (1971), and *Colorado River Water Conservation District v. United States* (1976).

Federal Court Certification of State Law Issues. Most states have laws permitting the highest court of the state to answer questions of state law certified by federal courts. Florida was the first state to establish such a procedure, in 1960. (The Florida legislature had authorized the state supreme court to do so in 1945.) Some state courts have asserted that answering questions of state law is within their inherent authority and does not require statutory authorization. Other courts, however, have questioned whether it is appropriate to issue an opinion that could be merely advisory if not adopted by the federal court. While the certification procedure is governed by state law, the decision of whether to certify a legal question rests entirely with the federal court.