Client’s name

Professor’s title

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Federalism

The idea of federalism is applied to and in the federal and State court systems in the United States through the doctrine of subject-matter jurisdiction. In the U.S. federal courts, subject-matter jurisdiction is a matter of two general types as set forth in the Judicial Code (Title 28, United States Code): federal-question jurisdiction; and diversity jurisdiction. Federal-question jurisdiction in the federal courts is where federal courts are able to take jurisdiction wherein the question presented in the particular Article III case or controversy arises (1) in federal law; or, (2) directly under the United States Constitution. This is within the federal government's constitutional ambit arising in its limited supremacy. Diversity jurisdiction (and its legal corollary, removal) arise when two elements set forth in the Judicial Code are satisfied: that the litigants are of diverse State citizenship, plaintiff versus defendant; and the amount in controversy exceeds the statutory amount. Both federal question jurisdiction and diversity jurisdiction are functions of the United States Constitution and the Judicial Code.

In my view, Federalism finds a great deal of expression in the Constitution. Thus, the Constitution was a document of enumerated powers. Article I sets out the congressional powers, while Article II and Article III set out the powers of the Executive and the Judiciary, respectively. The analysis was in theory quite simple. If Congress, for example, sought to enact legislation, one looked to the powers enumerated in Article I to determine if Congress had the authority to do so. If the authority did not exist, it was not a federal matter. Federalism finds further expression in the first ten amendments. This is particularly so in the Tenth Amendment which provides that powers not delegated to the Federal Government are reserved to the States or to the People. This follows quite naturally from a theory of enumerated powers. But it was considered of such import that it was explicitly set forth.

Federalism is also a dynamic construct. During different periods of our history the balance of power between the State and the Federal governments has shifted. Diversity-jurisdiction cases can be, and often are, brought initially in State courts. Where a case is brought in State court, a litigant, in its belief that a case or controversy satisfies federal law as to removal, may file a motion for removal or notice of removal, such motion in the United States District Court that comprises the applicable venue or such notice in the State court from which the case is being removed from State court to federal court. If a motion is required, and the motion is granted by the federal court, the case is immediately removed from State court to federal court. Otherwise, the notice simply serves to add the case to the appropriate federal court's docket.

Furthermore, the Erie doctrine prescribes that State procedural law (rather than federal procedural law) governs the litigation of diversity jurisdiction cases (usually that of the State wherein the federal court convenes). SMJ in State courts is set forth in State statute and under the applicable State Constitution. These prescribe that certain types of cases over certain types of issues, may only be brought in certain, specified State courts of appropriate jurisdiction and venue.

In conclusion, each level of government has its own court system. In the US, there is a hierarchy of federal courts topped by the Supreme Court, that rule on federal law, including the US constitution (which means whatever the judges would like it to mean these days). Then each state has its own system of courts, with its own supreme court. State court rulings are sometimes overridden by federal courts if the issue involves federal law (which trumps state law). State courts are aware of federal law, and rule accordingly. This includes the US constitution, which means whatever the local judge says it means, until he is overruled by someone higher in his state chain, or the federal chain.