pronounce the law applicable to the case in judgment. They were not to decide merely according to the laws or Constitution of the State, but according to the laws and treaties of the United States—'the supreme law of the land.'" [125] State courts are bound then to give effect to federal law when it is applicable and to disregard state law when there is a conflict; federal law includes, of course, not only the Constitution and laws and treaties but also the interpretations of their meanings by the United States Supreme Court.[126] Although states may not have to specially create courts competent to hear federal claims or give courts authority specially,[127] it violates the Supremacy Clause for a state court to refuse to hear a category of federal claims when the court entertains state law actions of a similar nature,[128] or sometimes even when it does not entertain state law actions of a similar nature.[129] The existence of inferior federal courts sitting in the states and exercising often concurrent jurisdiction of subjects has created problems with regard to the degree to which state courts are bound by their rulings. Though the Supreme Court has directed and encouraged the lower federal courts to create a corpus of federal common law,[130] it has not spoken to the effect of such lower court rulings on state courts.

Supremacy Clause Versus the Tenth Amendment

The logic of the Supremacy Clause would seem to require that the powers of Congress be determined by the fair reading of the express and implied grants contained in the Constitution itself, without reference to the powers of the states. For a century after Mar-

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[125] Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 335 (1816). State courts have both the power and the duty to enforce obligations arising under federal law, unless Congress gives the federal courts exclusive jurisdiction. Claflin v. Houseman, 93 U.S. 130 (1876); *Second Employers' Liability Cases*, 223 U.S. 1 (1912); Testa v. Katt, 330 U.S. 386 (1947).

[126] Cooper v. Aaron, 358 U.S. 1 (1958). State judges must defer to the arbitration process for resolving contract disputes under the Federal Arbitration Act even though substantive state law applies. This is so despite allegations that arbitration of a particular subject violates state public policy, that Supreme Court precedents do not control, or that a specific state law should trump a general federal statute. Nitro-Lift Technologies, L.L.C. v. Howard, 568 U.S. ___, No. 11–1377, slip op. (2012); Marmet Health Care Center, Inc. v. Brown, 565 U.S. ___, No. 11–391, slip op. (2012).

[127] In Haywood v. Drown, 556 U.S. ___, No. 07–10374, slip op. at 10 (2009), the Court noted, "this case does not require us to decide whether Congress may compel a State to offer a forum, otherwise unavailable under state law, to hear suits brought pursuant to [a federal statute]."

[128] Howlett v. Rose, 496 U.S. 356 (1990); Felder v. Casey, 487 U.S. 131 (1988). The Court's re-emphasis upon "dual federalism" has not altered this principle. *See*, *e.g.*, Printz v. United States, 521 U.S. 898, 905–10 (1997).

[129] See Haywood v. Drown, 556 U.S. ___, No. 07–10374, slip op. (2009), discussed in Art. III, "Use of State Courts in Enforcement of Federal Law," *supra*.

[130] Clearfield Trust Co. v. United States, 318 U.S. 363 (1943); Textile Workers of America v. Lincoln Mills, 353 U.S. 448 (1957); Illinois v. City of Milwaukee, 406 U.S. 91 (1972).