of government. In Chief Justice Marshall's words, "our complex system [presents] the rare and difficult scheme of one general government, whose actions extend over the whole, but which possesses only certain enumerated powers, and of numerous state governments, which retain and exercise all powers not delegated to the Union. . . ." Naturally, in such a system, "contests respecting power must arise." [1238] Contests respecting power may frequently arise in a federal system with dual structures of courts exercising concurrent jurisdiction in a number of classes of cases. Too, the possibilities of frictions grow out of the facts that one set of courts may interfere directly or indirectly with the other through injunctive and declaratory processes, through the use of *habeas corpus* and removal to release persons from the custody of the other set, and through the refusal by state courts to be bound by decisions of the United States Supreme Court. The relations between federal and state courts are governed in part by constitutional law, with respect, say, to state court interference with federal courts and state court refusal to comply with the judgments of federal tribunals; in part by statutes, with respect to the federal law generally enjoining federal court interference with pending state court proceedings; and in part by self-imposed rules of comity and restraint, such as the abstention doctrine, all applied to avoid unseemly conflicts, which, however, have at times occurred.

Subject to congressional provision to the contrary, state courts have concurrent jurisdiction over all the classes of cases and controversies enumerated in Article III, except suits between states, those to which the United States is a party, those to which a foreign state is a party, and those within the traditional admiralty jurisdiction.[1239] Even within this last category, however, state courts, though unable to prejudice the harmonious operation and uniformity of general maritime law,[1240] have concurrent jurisdiction over cases that occur within the maritime jurisdiction when such litigation as-

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[1238] Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 204–05 (1824).

[1239] *See* 28 U.S.C. §§ 1251, 1331 *et seq*. Indeed, the presumption is that state courts enjoy concurrent jurisdiction, and Congress must explicitly or implicitly confine jurisdiction to the federal courts to oust the state courts. *See* Gulf Offshore Co. v. Mobil Oil Corp., 453 U.S. 473, 477–84 (1981); Tafflin v. Levitt, 493 U.S. 455 (1990); Yellow Freight System, Inc. v. Donnelly, 494 U.S. 820 (1990). Federal courts have exclusive jurisdiction of the federal antitrust laws, even though Congress has not spoken expressly or impliedly. *See* General Investment Co. v. Lake Shore & Michigan Southern Ry., 260 U.S. 261, 287 (1922). Justice Scalia has argued that, inasmuch as state courts have jurisdiction generally because federal law *is* law for them, Congress can provide exclusive federal jurisdiction only by explicit and affirmative statement in the text of the statute, Tafflin v. Levitt, 493 U.S. at 469, but as can be seen that is not now the rule.

[1240] Southern Pacific Co. v. Jensen, 244 U.S. 205 (1917).