foreign relations and the sensitivity of the relationship between the regulation of aliens and the conduct of foreign affairs, the Court had little difficulty declaring the entire field to have been occupied by federal law.[48] Similarly, in *Pennsylvania v. Nelson*,[49] the Court invalidated as preempted a state law punishing sedition against the National Government. The Court enunciated a three-part test: (1) the pervasiveness of federal regulation, (2) federal occupation of the field as necessitated by the need for national uniformity, and (3) the danger of conflict between state and federal administration.[50]

Field preemption analysis often involves delimiting the subject of federal regulation and determining whether a federal law has regulated part of the field, however defined, or the whole area, so that state law cannot even supplement the federal.[51] Illustrative of this point is the Court's holding that the Atomic Energy Act's preemption of the safety aspects of nuclear power did not invalidate a state law conditioning construction of nuclear power plants on a finding by a state agency that adequate storage and disposal facilities were available to treat nuclear wastes, because "economic" regulation of power generation has traditionally been left to the states—an

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based on possible deportability under federal immigration law. Id. By contrast, a regime of state immigration status checks with federal authorities was found not to be preempted on its face because the regime was supported by federal law facilitating federal-state cooperation in immigration enforcement.

[48] The Court also said that courts must look to see whether under the circumstances of a particular case, the state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." 312 U.S. at 67. That standard is obviously drawn from conflict preemption, for the two standards are frequently intermixed. *See* AT&T Mobility, LLC v. Concepcion, 563 U.S. ___, No. 09–893, slip op. at 9–18 (2011) (Scalia, J.). Nonetheless, not all state regulation is precluded. De Canas v. Bica, 424 U.S. 351 (1976) (upholding a state law penalizing the employment of an illegal alien, the case arising before enactment of the federal law doing the same thing).

[49] 350 U.S. 497 (1956).

[50] 350 U.S. at 502–05. Obviously, there is a noticeable blending into conflict preemption.

[51] *See* Kurns v. Railroad Friction Products Corp., 565 U.S. ___, No. 10–879, slip op. (2012) (state suit by the estate of maintenance engineer alleging manufacturer's defective design of locomotive components and failure to warn of accompanying dangers held preempted by the Locomotive Inspection Act; the subject of the Act held to be the regulation of locomotive equipment generally, including its manufacture, and not limited to regulating activities of locomotive operators or regulating locomotives while in use for transporation). *Compare* Campbell v. Hussey, 368 U.S. 297 (1961) (state law requiring tobacco of a certain type to be marked by white tags, ousted by federal regulation that occupied the field and left no room for supplementation), *with* Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132 (1963) (state law setting minimum oil content for avocados certified as mature by federal regulation is complementary to federal law, because federal standard was a minimum one, the field having not been occupied). One should be wary of assuming that a state law that has dual purposes and impacts will not, just for the duality, be held to be preempted. *See* Gade v. National Solid Wastes Mgmt. Ass'n, 505 U.S. 88 (1992); Perez v. Campbell, 402 U.S. 637 (1971) (under Bankruptcy Clause).