McCarran-Ferguson Act,[1041] authorizing state regulation and taxation of the insurance business. Based on this act, the Court in *Prudential Ins. Co. v. Benjamin* [1042] sustained a South Carolina statute that imposed on foreign insurance companies an annual tax of three percent of premiums from business done in South Carolina, while imposing no similar tax on local corporations. "Obviously," said Justice Rutledge for the Court, "Congress' purpose was broadly to give support to the existing and future state systems for regulating and taxing the business of insurance. This was done in two ways. One was by removing obstructions which might be thought to flow from its own power, whether dormant or exercised, except as otherwise expressly provided in the Act itself or in future legislation. The other was by declaring expressly and affirmatively that continued state regulation and taxation of this business is in the public interest and that the business and all who engage in it 'shall be subject to' the laws of the several states in these respects." [1043]

Justice Rutledge continued: "The power of Congress over commerce exercised entirely without reference to coordinated action of the states is not restricted, except as the Constitution expressly provides, by any limitation which forbids it to discriminate against interstate commerce and in favor of local trade. Its plenary scope enables Congress not only to promote but also to prohibit interstate commerce, as it has done frequently and for a great variety of reasons. . . . This broad authority Congress may exercise alone, subject to those limitations, or in conjunction with coordinated action by the states, in which case limitations imposed for the preservation of their powers become inoperative and only those designed to forbid action altogether by any power or combination of powers in our governmental system remain effective." [1044]

[1041] 59 Stat. 33, 15 U.S.C. §§ 1011–15.

[1042] 328 U.S. 408 (1946).

[1043] 328 U.S. at 429–30.

[1044] 328 U.S. at 434–35. The act restored state taxing and regulatory powers over the insurance business to their scope prior to *South-Eastern Underwriters*. Discriminatory state taxation otherwise cognizable under the Commerce Clause must, therefore, be challenged under other provisions of the Constitution. *See* Western & Southern Life Ins. Co. v. State Bd. of Equalization, 451 U.S. 648 (1981). An equal protection challenge was successful in Metropolitan Life Ins. Co. v. Ward, 470 U.S. 869 (1985), invalidating a discriminatory tax and stating that a favoring of local industries "constitutes the very sort of parochial discrimination that the Equal Protection Clause was intended to prevent." Id. at 878. In Northeast Bancorp, Inc. v. Board of Governors of the Federal Reserve System, 472 U.S. 159, 176–78 (1985), the Court declined to follow *Ward* where state statutes did not, as in *Ward*, favor local corporations at the expense of out-of-state corporations, but instead "favor[ed] out-of-state corporations domiciled within the New England region over out-of-state corporations from other parts of the country." The Court noted that the statutes in *Northeast Bancorp* were concerned with "preserv[ing] a close relationship between