

CL. 2—Supremacy of the Constitution, Laws, and Treaties

agents and employees.²⁶⁰ An early case, the authority of which is now uncertain, held invalid a flat rate tax on telegraphic messages, as applied to messages sent by public officers on official business.²⁶¹

Federally Chartered Finance Agencies: Statutory Exemptions.—Fiscal institutions chartered by Congress, their shares and their property, are taxable only with the consent of Congress and only in conformity with the restrictions it has attached to its consent.²⁶² Immediately after the Supreme Court construed the statute authorizing the states to tax national bank shares as allowing a tax on the preferred shares of such a bank held by the Reconstruction Finance Corporation,²⁶³ Congress enacted a law exempting such shares from taxation. The Court upheld this measure, saying: “When Congress authorized the states to impose such taxation, it did no more than gratuitously grant them political power which they theretofore lacked. Its sovereign power to revoke the grant remained unimpaired, the grant of the privilege being only a declaration of legislative policy changeable at will.”²⁶⁴ In *Pittman v. Home Owners’ Corp.*,²⁶⁵ the Court sustained the power of Congress under the necessary and proper clause to immunize the activities of the Corporation from state taxation; and in *Federal Land Bank v. Bismarck Lumber Co.*,²⁶⁶ the like result was reached with respect to an attempt by the state to impose a retail sales tax on a sale of lumber and other building materials to the bank for use in repairing and improving property that had been acquired by foreclosure or mortgages.

The state’s principal argument proceeded thus: “Congress has authority to extend immunity only to the governmental functions of the federal land banks; the only governmental functions of the land banks are those performed by acting as depositories and fiscal agents for the Federal Government and providing a market for government bonds; all other functions of the land banks are private;

²⁶⁰ *Mayo v. United States*, 319 U.S. 441 (1943). A municipal tax on the privilege of working within the city, levied at the rate of one percent of earnings, although not deemed to be an income tax under state law, was sustained as such when collected from employees of a naval ordinance plant by reason of federal assent to that type of tax expressed in the Buck Act. 4 U.S.C. §§ 105–110. *Howard v. Commissioners*, 344 U.S. 624 (1953).

²⁶¹ *Telegraph Co. v. Texas*, 105 U.S. 460, 464 (1882).

²⁶² *Des Moines Bank v. Fairweather*, 263 U.S. 103, 106 (1923); *Owensboro Nat’l Bank v. Owensboro*, 173 U.S. 664, 669 (1899); *First Nat’l Bank v. Adams*, 258 U.S. 362 (1922); *Michigan Nat’l Bank v. Michigan*, 365 U.S. 467 (1961).

²⁶³ *Baltimore Nat’l Bank v. Tax Comm’n*, 297 U.S. 209 (1936).

²⁶⁴ *Maricopa County v. Valley Bank*, 318 U.S. 357, 362, (1943).

²⁶⁵ 308 U.S. 21 (1939).

²⁶⁶ 314 U.S. 95 (1941).