

Sec. 8—Powers of Congress

Cl. 4—Naturalization and Bankruptcies

cess of law;¹³²⁵ this principle, however, is subject to the Supreme Court's finding that a bankruptcy court has summary jurisdiction for ordering the surrender of voidable preferences when the trustee successfully counterclaims to a claim filed by the creditor receiving such preferences.¹³²⁶

Because Congress may not supersede the power of a state to determine how a corporation shall be formed, supervised, and dissolved, a corporation that has been dissolved by a decree of a state court may not file a petition for reorganization under the Bankruptcy Act.¹³²⁷ But Congress may impair the obligation of a contract and may extend the provisions of the bankruptcy laws to contracts already entered into at the time of their passage.¹³²⁸ Although it may not subject the fiscal affairs of a political subdivision of a state to the control of a federal bankruptcy court,¹³²⁹ Congress may empower such courts to entertain petitions by taxing agencies or instrumentalities for a composition of their indebtedness where the state has consented to the proceeding and the federal court is not authorized to interfere with the fiscal or governmental affairs of such petitioners.¹³³⁰ Congress may recognize the laws of the state relating to dower, exemption, the validity of mortgages, priorities of payment and similar matters, even though such recognition leads to different results from state to state;¹³³¹ for, although bankruptcy legislation must be uniform, the uniformity required is geographic, not personal.

The power of Congress to vest the adjudication of bankruptcy claims in entities not having the constitutional status of Article III federal courts is unsettled. At least, it may not give to non-Article III courts the authority to hear state law claims made subject to federal jurisdiction only because of their relevance to a bankruptcy proceeding.¹³³²

Constitutional Status of State Insolvency Laws: Preemption

Prior to 1898, Congress exercised the power to establish "uniform laws on the subject of bankruptcy" only intermittently. The

¹³²⁵ *Louisville Bank v. Radford*, 295 U.S. 555, 589, 602 (1935).

¹³²⁶ *Katchen v. Landy*, 382 U.S. 323, 327–40 (1966).

¹³²⁷ *Chicago Title and Trust Co. v. Wilcox Bldg. Corp.*, 302 U.S. 120 (1937).

¹³²⁸ *In re Klein*, 42 U.S. (1 How.) 277 (1843); *Hanover National Bank v. Moyses*, 186 U.S. 181 (1902).

¹³²⁹ *Ashton v. Cameron County Dist.*, 298 U.S. 513 (1936). *See also* *United States v. Bekins*, 304 U.S. 27 (1938).

¹³³⁰ *United States v. Bekins*, 304 U.S. 27 (1938).

¹³³¹ *Stellwagon v. Clum*, 245 U.S. 605 (1918); *Hanover National Bank v. Moyses*, 186 U.S. 181, 190 (1902).

¹³³² *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). *See also* *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989) (Seventh Amendment right to jury trial in bankruptcy cases).