from a consideration of the language and policy of the state. If Congress expressly provides for exclusive federal dominion or if it expressly provides for concurrent federal-state jurisdiction, the Court's task is simplified, though, of course, there may still be doubtful areas in which interpretation will be necessary. Where Congress is silent, however, the Court must itself decide whether the effect of the federal legislation is to oust state jurisdiction.

"The constitutional principles of preemption, in whatever particular field of law they operate, are designed with a common end in view: to avoid conflicting regulation of conduct by various official bodies which might have some authority over the subject matter." [10] As Justice Black once explained in a much quoted exposition of the matter: "There is not—and from the very nature of the problem there cannot be—any rigid formula or rule which can be used as a universal pattern to determine the meaning and purpose of every act of Congress. This Court, in considering the validity of state laws in the light of treaties or federal laws touching the same subject, has made use of the following expressions: conflicting; contrary to; occupying the field; repugnance; difference; irreconcilability; inconsistency; violation; curtailment; and interference. But none of these expressions provides an infallible constitutional test or an exclusive constitutional yardstick. In the final analysis, there can be no one crystal clear distinctly marked formula. Our primary function is to determine whether, under the circumstances of this particular case, Pennsylvania's law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." [11]

Before setting out in their various forms the standards and canons to which the Court formally adheres, one must still recognize the highly subjective nature of their application. As an astute observer long ago observed, "the use or non-use of particular tests, as well as their content, is influenced more by judicial reaction to the desirability of the state legislation brought into question than by metaphorical sign-language of 'occupation of the field.' And it would seem that this is largely unavoidable. The Court, in order to determine an unexpressed congressional intent, has undertaken the task of making the independent judgment of social values that Congress

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stitution: if a state measure conflicts with a federal requirement, the state provision must give way. The basic question involved in these cases, however, is never one of interpretation of the Federal Constitution but inevitably one of comparing two statutes." Id. at 120.

[10] Amalgamated Ass'n of Street Employees v. Lockridge, 403 U.S. 274, 285–86 (1971).

[11] Hines v. Davidowitz, 312 U.S. 52, 67 (1941). This case arose under the immigration power of clause 4.