Belmont and *Pink* were reinforced in *American Ins. Ass'n v. Garamendi*.[476] In holding that California's Holocaust Victim Insurance Relief Act was preempted as interfering with the Federal Government's conduct of foreign relations, as expressed in executive agreements, the Court reiterated that "valid executive agreements are fit to preempt state law, just as treaties are."[477] The preemptive reach of executive agreements stems from "the Constitution's allocation of the foreign relations power to the National Government."[478] Because there was a "clear conflict" between the California law and policies adopted through the valid exercise of federal executive authority (settlement of Holocaust-era insurance claims being "well within the Executive's responsibility for foreign affairs"), the state law was preempted.[479]

State Laws Affecting Foreign Relations—Dormant Federal Power and Preemption

If the foreign relations power is truly an exclusive federal power, with no role for the states, a logical consequence, the Supreme Court has held, is that some state laws impinging on foreign relations are invalid even in the absence of a relevant federal policy. There is, in effect, a "dormant" foreign relations power. The scope of this power remains undefined, however, and its constitutional basis is debated by scholars.

The exclusive nature of the federal foreign relations power has long been asserted by the Supreme Court. In 1840, for example, the Court declared that "it was one of the main objects of the constitution to make us, so far as regarded our foreign relations, one people, and one nation; and to cut off all communications between foreign governments, and the several state authorities."[480] A hundred years later the Court remained emphatic about federal exclu-

---

[476] 539 U.S. 396 (2003). The Court's opinion in Dames & Moore v. Regan, 453 U.S. 654 (1981), was rich in learning on many topics involving executive agreements, but the preemptive force of agreements resting solely on presidential power was not at issue, the Court concluding that Congress had either authorized various presidential actions or had long acquiesced in others.

[477] 539 U.S. at 416.

[478] 539 U.S. at 413.

[479] 539 U.S. at 420.

[480] Holmes v. Jennison, 39 U.S. (14 Pet.) 540, 575–76 (1840). *See also* United States v. Belmont, 301 U.S. 324, 331 (1937) ("The external powers of the United States are to be exercised without regard to state laws or policies. . . . [I]n respect of our foreign relations generally, state lines disappear"); *The Chinese Exclusion Case*, 130 U.S. 581, 606 (1889) ("For local interests the several States of the Union exist; but for national purposes, embracing our relations with foreign nations, we are but one people, one nation, one power"); Hines v. Davidowitz, 312 U.S. 52, 63 (1941) ("Our system of government . . . requires that federal power in the field affecting foreign relations be left entirely free from local interference").