Thus, it is now well-established that "[w]hen Congress so chooses, state actions which it plainly authorizes are invulnerable to constitutional attack under the Commerce Clause." [1045] But the Court requires congressional intent to permit otherwise impermissible state actions to "be unmistakably clear." [1046] Thus, for instance, the fact that federal statutes and regulations had restricted commerce in timber harvested from national forest lands in Alaska was "insufficient indicium" that Congress intended to authorize the state to apply a similar policy for timber harvested from state lands. The rule requiring clear congressional approval for state burdens on commerce was said to be necessary in order to strengthen the likelihood that decisions favoring one section of the country over another are in fact "collective decisions" made by Congress rather than unilateral choices imposed on unrepresented out-of-state interests by individual states.[1047] And Congress must be plain as well when the issue is not whether it has exempted a state action from the Commerce Clause but whether it has taken the less direct form of reduction in the level of scrutiny.[1048]

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those in the community who need credit and those who provide credit," and with protecting "the independence of local banking institutions"; they did not, like the statutes in *Ward*, discriminate against "nonresident corporations solely because they were nonresidents."

[1045] Northeast Bancorp, Inc. v. Board of Governors of the Federal Reserve System, 472 U.S. 159, 174 (1985) (interpreting a provision of the Bank Holding Company Act, 12 U.S.C. § 1842(d), permitting regional interstate bank acquisitions expressly approved by the state in which the acquired bank is located, as authorizing state laws that allow only banks within the particular region to acquire an in-state bank, on a reciprocal basis, since what the states could do entirely they can do in part).

[1046] South-Central Timber Dev., Inc. v. Wunnicke, 467 U.S. 82, 90 (1984).

[1047] 467 U.S. at 92. *See also* Hillside Dairy, Inc. v. Lyons, 539 U.S. 59 (2003) (authorization of state laws regulating milk solids does not authorize milk pricing and pooling laws). Earlier cases had required express statutory sanction of state burdens on commerce but under circumstances arguably less suggestive of congressional approval. *E.g.*, Sporhase v. Nebraska ex rel. Douglas, 458 U.S. 941, 958–60 (1982) (congressional deference to state water law in 37 statutes and numerous interstate compacts did not indicate congressional sanction for *invalid* state laws imposing a burden on commerce); New England Power Co. v. New Hampshire, 455 U.S. 331, 341 (1982) (disclaimer in Federal Power Act of intent to deprive a state of "lawful authority" over interstate transmissions held not to evince a congressional intent "to alter the limits of state power otherwise imposed by the Commerce Clause"). *But see* White v. Massachusetts Council of Construction Employers, 460 U.S. 204 (1983) (Congress held to have sanctioned municipality's favoritism of city residents through funding statute under which construction funds were received).

[1048] Maine v. Taylor, 477 U.S. 131 (1986) (holding that Lacey Act's reinforcement of state bans on importation of fish and wildlife neither authorizes state law otherwise invalid under the Clause nor shifts analysis from the presumption of invalidity for discriminatory laws to the balancing test for state laws that burden commerce only incidentally).