

Sec. 8—Powers of Congress

Cl. 4—Naturalization and Bankruptcies

of the bankruptcy power, and may be modified by a reasonable extension of the period for redemption from such sale.¹³¹³ Moreover, the Court expanded the bankruptcy court's power over the property of the estate by affording the trustee affirmative relief on counterclaim against a creditor filing a claim against the estate.¹³¹⁴

Underlying most Court decisions and statutes in this area is the desire to achieve equity and fairness in the distribution of the bankrupt's funds.¹³¹⁵ *United States v. Speers*,¹³¹⁶ codified by an amendment to the Bankruptcy Act,¹³¹⁷ furthered this objective by strengthening the position of the trustee as regards the priority of a federal tax lien unrecorded at the time of bankruptcy.¹³¹⁸ The Supreme Court has held, in other cases dealing with the priority of various creditors' claims, that claims arising from the tort of the receiver is an "actual and necessary" cost of administration,¹³¹⁹ that benefits under a nonparticipating annuity plan are not wages and are therefore not given priority,¹³²⁰ and that when taxes are allowed against a bankrupt's estate, penalties due because of the trustee's failure to pay the taxes incurred while operating a bankrupt business are also allowable.¹³²¹ The Court's attitude with regard to these and other developments is perhaps best summarized in the opinion in *Continental Bank v. Rock Island Ry.*,¹³²² where Justice Sutherland wrote, on behalf of a unanimous court: "[T]hese acts, far-reaching though they may be, have not gone beyond the limit of Congressional power; but rather have constituted extensions into a field whose boundaries may not yet be fully revealed."¹³²³

Constitutional Limitations on the Bankruptcy Power

In the exercise of its bankruptcy powers, Congress must not transgress the Fifth and Tenth Amendments. The Bankruptcy Act provides that use immunity may be granted "for persons required to submit to examination, to testify, or to provide information" in a bankruptcy case.¹³²⁴ Congress may not take from a creditor specific property previously acquired from a debtor, nor circumscribe the creditor's right to such an unreasonable extent as to deny him due pro-

¹³¹³ *Wright v. Union Central Ins. Co.*, 304 U.S. 502 (1938).

¹³¹⁴ *Katchen v. Landy*, 382 U.S. 323 (1966).

¹³¹⁵ *Bank of Marin v. England*, 385 U.S. 99, 103 (1966).

¹³¹⁶ 382 U.S. 266 (1965). *Cf.* *United States v. Vermont*, 337 U.S. 351 (1964).

¹³¹⁷ Act of July 5, 1966, 80 Stat. 269, 11 U.S.C. § 501, repealed.

¹³¹⁸ 382 U.S. at 271-72.

¹³¹⁹ *Reading Co. v. Brown*, 391 U.S. 471 (1968).

¹³²⁰ *Joint Industrial Bd. v. United States*, 391 U.S. 224 (1968).

¹³²¹ *Nicholas v. United States*, 384 U.S. 678 (1966).

¹³²² 294 U.S. 648 (1935).

¹³²³ 294 U.S. at 671.

¹³²⁴ 11 U.S.C. § 344.