

CL. 2—Supremacy of the Constitution, Laws, and Treaties

petitioner here was engaged in an activity incidental to its business of lending money, an essentially private function; therefore § 26 cannot operate to strike down a sales tax upon purchases made in furtherance of petitioner's lending functions."²⁶⁷ The Court rejected this argument and invalidated the tax, writing: "The argument that the lending functions of the federal land banks are proprietary rather than governmental misconceives the nature of the Federal Government with respect to every function which it performs. The federal government is one of delegated powers, and from that it necessarily follows that any constitutional exercise of its delegated powers is governmental. It also follows that, when Congress constitutionally creates a corporation through which the federal government lawfully acts, the activities of such corporation are governmental."²⁶⁸

Similarly, the lease by a federal land bank of oil and gas in a mineral estate, which it had reserved in land originally acquired through foreclosure and thereafter had conveyed to a third party, was held immune from a state personal property tax levied on the lease and on the royalties accruing thereunder. The fact that at the time of the conveyance and lease, the bank had recouped its entire loss resulting from the foreclosure did not operate to convert the mineral estate and lease into a non-governmental activity no longer entitled to exemption.²⁶⁹ However, in the absence of federal legislation, a state law laying a percentage tax on the users of safety deposit services, measured by the bank's charges therefore, was held valid as applied to national banks. The tax, being on the user, did not, the Court held, impose an intrinsically unconstitutional burden on a federal instrumentality.²⁷⁰

Royalties.—In 1928, the Court went so far as to hold that a state could not tax as income royalties for the use of a patent issued by the United States.²⁷¹ This proposition was soon overruled in *Fox Film Corp. v. Doyal*,²⁷² where a privilege tax based on gross income and applicable to royalties from copyrights was upheld. Likewise a state may lay a franchise tax on corporations, measured by the net income from all sources and applicable to income from copyright royalties.²⁷³

Immunity of Lessees of Indian Lands.—Another line of anomalous decisions conferring tax immunity upon lessees of restricted

²⁶⁷ 314 U.S. at 101.

²⁶⁸ 314 U.S. at 102 (citations omitted).

²⁶⁹ *Federal Land Bank v. Kiowa County*, 368 U.S. 146 (1961).

²⁷⁰ *Colorado Bank v. Bedford*, 310 U.S. 41 (1940).

²⁷¹ *Long v. Rockwood*, 277 U.S. 142 (1928).

²⁷² 286 U.S. 123 (1932).

²⁷³ *Educational Films Corp. v. Ward*, 282 U.S. 379 (1931).