

[Federal Banking Law Reporter Cases \(1945 to present\), Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, U.S. Supreme Court, ¶100-028, \(Mar. 26, 1996\)](#)

Federal Banking Law Reporter Cases (1945 to present)

No. 94-1837.

Federal Banking Law Reporter Cases (1945 to present) ¶100-028

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¶100-028.

Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner

United States Supreme Court. No. 94-1837. March 26, 1996. Opinion in full text.

Certiorari to the United States Court of Appeals for the Eleventh Circuit.

National Banks--Insurance Sales--State Law--Federal Preemption.-- Twelve USC 92, which allows national banks to sell insurance in towns populated by less than 5,000, preempted a state statute prohibiting insurance sales by state-licensed insurance agents owned or controlled by banks affiliated with bank holding companies. Under ordinary preemption principles, an irreconcilable conflict exists between Section 92 and the state law limitation, since the federal statute authorizes national banks to engage in activities that the state statute expressly forbids. Furthermore, the language of Section 92, which without relevant qualification, says that national banks may act as agents for insurance sales, suggests a permissive interpretation. Moreover, the language portrays insurance sales as a national bank power and the history of national bank powers is one of ordinarily preempting contrary state law. In addition, the McCarran-Ferguson Act's anti-preemption rule, codified at 15 USC 1012(b), does not apply. Section 1012(b) expressly states that a statute which "specifically relates to the business of insurance" is exempt from its anti-preemptive effect. Section 92's language and purpose indicate that the provision specifically relates to the business of insurance.

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BARNETT BANK OF MARION COUNTY, N. A. v. NELSON, FLORIDA INSURANCE COMMISSIONER, et al.

Certiorari to the United States Court of Appeals for the Eleventh Circuit

No. 94-1837

Argued January 16, 1996

Decided March 26, 1996

A 1916 federal law (Federal Statute) permits national banks to sell insurance in small towns, but a Florida law (State Statute) prohibits such banks from selling most types of insurance. When petitioner Barnett Bank, a national bank doing business in a small Florida town, bought a state licensed insurance agency, respondent State Insurance Commissioner ordered the agency to stop selling the prohibited forms of insurance. In this action for declaratory and injunctive relief, the District Court held that the State Statute was not pre-empted, but only because of the McCarran-Ferguson Act's special insurance-related anti-pre-emption rule. That rule provides that a federal law will *not* pre-empt a state law enacted for the purpose of regulating the business

of insurance *unless* the federal statute *specifically relates to the business of insurance*. 15 U.S.C. §1012(b) (emphasis added). The Court of Appeals affirmed.

Held: The Federal Statute pre-empts the State Statute. Pp. 4-17.

(a) Under ordinary pre-emption principles, the State Statute would be pre-empted, for it is clear that Congress, in enacting the Federal Statute, intended to exercise its constitutionally delegated authority to override contrary state law. The Federal and State Statutes are in “irreconcilable conflict,” *Rice v. Norman Williams Co.*, 458 U.S. 654, 659, since the Federal Statute authorizes national banks to engage in activities that the State Statute expressly forbids. Thus, the State’s prohibition would seem to “stan[d] as an obstacle to the accomplishment” of one of the Federal Statute’s purposes, *Hines v. Davidowitz*, 312 U.S. 52, 67, unless, as the State contends, Congress intended to limit federal permission to sell insurance to those circumstances permitted by state law. However, by providing, without relevant qualification, that national banks “may . . . act as the agent” for insurance sales, 12 USC §92, the Federal Statute’s language suggests a broad, not a limited, permission. That this authority is granted in addition to the powers now vested . . . in national [banks], *ibid.* (emphasis added), is also significant. Legislative grants of both enumerated and incidental powers to national banks historically have been interpreted as grants of authority not normally limited by, but rather ordinarily pre-empting, contrary state law. See, e.g., *First Nat. Bank of San Jose v. California*, 262 U.S. 366, 368-369. Where, as here, Congress has not expressly conditioned the grant of power upon a grant of state permission, this Court has ordinarily found that no such condition applies. See *Franklin Nat. Bank v. New York*, 347 U.S. 373. The State’s argument that special circumstances surrounding the Federal Statute’s enactment demonstrate Congress’ intent to grant only a limited permission is unpersuasive. Pp. 4-11.

(b) The McCarran-Ferguson Act’s anti-pre-emption rule does not govern this case, because the Federal Statute specifically relates to the business of insurance. This conclusion rests upon the Act’s language and purposes, taken together. The word “relates” is highly general; and in ordinary English, the Federal Statute which focuses directly upon industry-specific selling practices and affects the relation of insured to insurer and the spreading of risk “specifically” relates to the insurance business. The Act’s mutually reinforcing purposes that state regulation and taxation of the insurance business is in the public interest, and that Congress’ “*silence* . . . shall not be construed to impose any barrier to [such] regulation or taxation,” 15 U.S.C. §1011 (emphasis added) also support this view. This phrase, especially the word “silence,” indicates that the Act seeks to protect state regulation primarily against inadvertent federal intrusion, not to insulate state insurance regulation from the reach of all federal law. The circumstances surrounding the Act’s enactment also suggest that the Act was passed to ensure that generally phrased congressional statutes, which do not mention insurance, are not applied to the issuance of insurance policies, thereby interfering with state regulation in unanticipated ways. The parties’ remaining arguments to the contrary are unconvincing. Pp. 11-17.

43 F. 3d 631, reversed.

Breyer, J., delivered the opinion for a unanimous Court.

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SUPREME COURT OF THE UNITED STATES

No. 94-1837

BARNETT BANK OF MARION COUNTY, N. A., PETITIONER v. BILL NELSON, FLORIDA INSURANCE COMMISSIONER, et al.

on writ of certiorari to the United States Court of Appeals for the Eleventh Circuit

[March 26, 1996]

Justice Breyer delivered the opinion of the Court.

The question in this case is whether a federal statute that permits national banks to sell insurance in small towns pre-empts a state statute that forbids them to do so. To answer this question, we must consider both ordinary pre-emption principles, and also a special federal anti-pre-emption rule, which provides that a federal statute will *not* pre-empt a state statute enacted for the purpose of regulating the business of insurance *unless* the federal statute *specifically relates to the business of insurance*. McCarran-Ferguson Act, 15 U.S.C. §1012(b) (emphasis added). We decide that the McCarran-Ferguson Act's special anti-pre-emption rule does not govern this case, because the federal statute in question specifically relates to the business of insurance. We conclude that, under ordinary pre-emption principles, the federal statute pre-empts the state statute, thereby prohibiting application of the state statute to prevent a national bank from selling insurance in a small town.

I

In 1916 Congress enacted a federal statute that says that certain national banks may sell insurance in small towns. It provides in relevant part:

In addition to the powers now vested by law in national [banks] organized under the laws of the United States *any such [bank] located and doing business in any place [with a population] . . . [of not more than] five thousand . . . may* , under such rules and regulations as may be prescribed by the Comptroller of the Currency, *act as the agent for any fire, life, or other insurance company* authorized by the authorities of the State . . . to do business [there], . . . by soliciting and selling insurance . . . Provided, however, That no such bank shall . . . guarantee the payment of any premium . . . And provided further, That the bank shall not guarantee the truth of any statement made by an assured [when applying] . . . for insurance. Act of Sept. 7, 1916 (Federal Statute), 39 Stat. 753, 12 U.S.C. §92 (emphases changed).

In 1974 Florida enacted a statute that prohibits certain banks from selling most kinds of insurance. It says:

No [Florida licensed] insurance agent . . . who is associated with, . . . owned or controlled by . . . a financial institution shall engage in insurance agency activities . . . Fla. Stat. Ann. §626.988(2) (Supp. 1996) (State Statute).

The term financial institution includes

any bank . . . [except for a] bank which is not a subsidiary or affiliate of a bank holding company and is located in a city having a population of less than 5,000 . . . §626.988(1)(a).

Thus, the State Statute says, in essence, that banks cannot sell insurance in Florida except that an *unaffiliated* small town bank (*i.e.* , a bank that is not affiliated with a bank holding company) may sell insurance in a small town. *Ibid.*

In October 1993 petitioner Barnett Bank, an affiliate[d] national bank which does business through a branch in a small Florida town, bought a Florida licensed insurance agency. The Florida State Insurance Commissioner, pointing to the State Statute, (and noting that the unaffiliated small town bank exception did not apply), ordered Barnett's insurance agency to stop selling the prohibited forms of insurance. Barnett, claiming that the Federal Statute pre-empted the State Statute, then filed this action for declaratory and injunctive relief in federal court.

The District Court held that the Federal Statute did not pre-empt the State Statute, but only because of the special insurance-related federal anti-pre-emption rule. The McCarran-Ferguson Act, which creates that rule, says:

No act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance . . . McCarran-Ferguson Act (or Act), §2(b), 59 Stat. 34, 15 U.S.C. §1012(b).

The District Court decided both (1) that the Federal Statute did not fall within the McCarran-Ferguson Act's exception because it did not specifically relat[e] to the business of insurance; and (2) that the State Statute was a law enacted . . . for the purpose of regulating the business of insurance. *Barnett Bank of Marion County, N. A. v. Gallagher* , 839 F. Supp. 835, 840-841, 843 (MD Fla. 1993) (internal quotation marks omitted). Consequently,

the McCarran-Ferguson Act, in the District Court's view, instructs courts not to construe the Federal Statute to invalidate the State Statute. 15 U.S.C. §1012(b). The Eleventh Circuit Court of Appeals, for similar reasons, agreed that the Federal Statute did not pre-empt the State Statute. *Barnett Bank of Marion County, N. A. v. Gallagher* , 43 F. 3d 631, 634-637 (1995).

We granted certiorari due to uncertainty among lower courts about the pre-emptive effect of this Federal Statute. See *Owensboro Nat. Bank v. Stephens* , 44 F. 3d 388 (CA6 1994) (pre-emption of Kentucky statute that prevents national banks from selling insurance in small towns); *First Advantage Ins., Inc. v. Green* , 652 So. 2d 562 (La. Ct. App.), rev. den., 654 So. 2d 331 (1995) (no pre-emption). We now reverse the Eleventh Circuit.

II

We shall put the McCarran-Ferguson Act's special anti-pre-emption rule to the side for the moment, and begin by asking whether, in the absence of that rule, we should construe the Federal Statute to pre-empt the State Statute. This question is basically one of congressional intent. Did Congress, in enacting the Federal Statute, intend to exercise its constitutionally delegated authority to set aside the laws of a State? If so, the Supremacy Clause requires courts to follow federal, not state, law. U.S. Const., Art. VI, cl. 2; see *California Fed. Sav. & Loan Assn. v. Guerra* , 479 U.S. 272, 280-281 (1987) (reviewing pre-emption doctrine).

Sometimes courts, when facing the pre-emption question, find language in the federal statute that reveals an explicit congressional intent to pre-empt state law. *E.g.* , *Jones v. Rath Packing Co.* , 430 U.S. 519, 525, 530-531 (1977). More often, explicit pre-emption language does not appear, or does not directly answer the question. In that event, courts must consider whether the federal statute's structure and purpose, or nonspecific statutory language, nonetheless reveal a clear, but implicit, pre-emptive intent. *Id.*, at 525; *Fidelity Fed. Sav. & Loan Assn. v. De la Cuesta* , 458 U.S. 141, 152-153 (1982). A federal statute, for example, may create a scheme of federal regulation so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it. *Rice v. Santa Fe Elevator Corp.* , 331 U.S. 218, 230 (1947). Alternatively, federal law may be in irreconcilable conflict with state law. *Rice v. Norman Williams Co.* , 458 U.S. 654, 659 (1982). Compliance with both statutes, for example, may be a physical impossibility, *Florida Lime & Avocado Growers, Inc. v. Paul* , 373 U.S. 132, 142-143 (1963); or, the state law may stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Hines v. Davidowitz* , 312 U.S. 52, 67 (1941).

In this case we must ask whether or not the Federal and State Statutes are in irreconcilable conflict. The two statutes do not impose directly conflicting duties on national banks as they would, for example, if the federal law said, you must sell insurance, while the state law said, you may not. Nonetheless, the Federal Statute authorizes national banks to engage in activities that the State Statute expressly forbids. Thus, the State's prohibition of those activities would seem to stand as an obstacle to the accomplishment of one of the Federal Statute's purposes unless, of course, that federal purpose is to grant the bank only a very *limited* permission, that is, permission to sell insurance *to the extent that state law also grants permission to do so*.

That is what the State of Florida and its supporting *amici* argue. They say that the Federal Statute grants national banks a permission that is limited to circumstances where state law is not to the contrary. In their view, the Federal Statute removes only federal legal obstacles, not state legal obstacles, to the sale of insurance by national banks. But we do not find this, or the State's related, ordinary pre-emption arguments convincing.

For one thing, the Federal Statute's language suggests a broad, not a limited, permission. That language says, without relevant qualification, that national banks may . . . act as the agent for insurance sales. 12 U.S.C. §92. It specifically refers to rules and regulations that will govern such sales, while citing as their source not state law, but the federal Comptroller of the Currency. *Ibid.* It also specifically refers to state regulation, while limiting that reference to licensing not of banks or insurance agents, but of the insurance companies whose policies the bank, as insurance agent, will sell. *Ibid.*

For another thing, the Federal Statute says that its grant of authority to sell insurance is an addition to the *powers* now vested by law in national [banks]. *Ibid.* (emphasis added). In using the word *powers*, the statute chooses a legal concept that, in the context of national bank legislation, has a history. That history is one

of interpreting grants of both enumerated and incidental powers to national banks as grants of authority not normally limited by, but rather ordinarily pre-empting, contrary state law. See, e.g., *First Nat. Bank of San Jose v. California*, 262 U.S. 366, 368-369 (1923) (national banks' power to receive deposits pre-empts contrary state escheat law); *Easton v. Iowa*, 188 U.S. 220, 229-230 (1903) (national banking system normally independent, so far as powers conferred are concerned, of state legislation); cf. *Waite v. Dowley*, 94 U.S. 527, 533 (1877) ([W]here there exists a concurrent right of legislation in the States and in Congress, and the latter has exercised its power, there remains in the States no authority to legislate on the same matter).

Thus, this Court, in a case quite similar to this one, held that a federal statute permitting, but not requiring, national banks to receive savings deposits, pre-empts a state statute prohibiting certain state and national banks from using the word savings in their advertising. *Franklin Nat. Bank v. New York*, 347 U.S. 373, 375-379 (1954) (Federal Reserve Act provision that national banks may continue . . . to receive . . . savings deposits read as declaratory of the right of a national bank to enter into or remain in that type of business). See also *De la Cuesta*, *supra*, at 154-159 (1982) (federal regulation permitting, but not requiring, national banks to include in mortgage contracts a debt accelerating due on sale clause, pre-empts a state law forbidding the use of such a clause); cf. *Lawrence County v. Lead-Deadwood School Dist. No. 40-1*, 469 U.S. 256 (1985) (federal statute providing that local government units may expend federal funds for any governmental purpose pre-empts state law restricting their expenditure).

In defining the pre-emptive scope of statutes and regulations granting a power to national banks, these cases take the view that normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted. To say this is not to deprive States of the power to regulate national banks, where (unlike here) doing so does not prevent or significantly interfere with the national bank's exercise of its powers. See, e.g., *Anderson Nat. Bank v. Luckett*, 321 U.S. 233, 247-252 (1944) (state statute administering abandoned deposit accounts did not unlawfully encroach on the rights and privileges of national banks); *McClellan v. Chipman*, 164 U.S. 347, 358 (1896) (application to national banks of state statute forbidding certain real estate transfers by insolvent transferees would not destroy or hamper national banks' functions); *National Bank v. Commonwealth*, 9 Wall. 353, 362 (1870) (national banks subject to state law that does not interfere with, or impair [national banks'] efficiency in performing the functions by which they are designed to serve [the Federal] Government).

Nor do these cases control the interpretation of federal banking statutes that accompany a grant of explicit power with an explicit statement that the exercise of that power is subject to state law. See e.g., 12 U.S.C. §36(c) (McFadden Act) (authorizing national banks to operate branches, but only where state law authorizes state banks to do so); §92a (Comptroller of Currency may grant fiduciary powers by special permit to national banks applying therefor, when not in contravention of State or local law). Surprisingly, this Court has interpreted those explicit provisions to mean what they say. See, e.g., *First Nat. Bank in Plant City v. Dickinson*, 396 U.S. 122, 131 (1969) (under McFadden Act, state branching restrictions apply to national banks); *First Nat. Bank of Logan v. Walker Bank & Trust Co.*, 385 U.S. 252, 260-261 (1966) (same); see also *Van Allen v. Assessors*, 3 Wall. 573, 586 (1866) (enforcing 1864 amendments to National Bank Act expressly authorizing state taxation of national bank shares).

But, as we pointed out, *supra*, at 6-7, where Congress has not expressly conditioned the grant of power upon a grant of state permission, the Court has ordinarily found that no such condition applies. In *Franklin Nat. Bank*, the Court made this point explicit. It held that Congress did not intend to subject national banks' power to local restrictions, because the federal power-granting statute there in question contained no indication that Congress [so] intended . . . as it has done *by express language* in several other instances. 347 U.S., at 378, and n. 7 (emphasis added) (collecting examples).

The Federal Statute before us, as in *Franklin Nat. Bank*, explicitly grants a national bank an authorization, permission, or power. And, as in *Franklin Nat. Bank*, it contains no indication that Congress intended to subject that power to local restriction. Thus, the Court's discussion in *Franklin Nat. Bank*, the holding of that case, and

the other precedent we have cited above, strongly argue for a similar interpretation here a broad interpretation of the word may that does not condition federal permission upon that of the State.

Finally, Florida and its supporters challenge this interpretation by arguing that special circumstances surrounding the enactment of the Federal Statute nonetheless demonstrate Congress' intent to grant only a limited permission (subject to State approval). They point to a letter to Congress written by the Comptroller of the Currency in 1916. The Comptroller attached a draft of what became the Federal Statute, and the letter explains to Congress why the Comptroller wants Congress to enact his proposal. The letter says that, since 1900, many small town national banks had failed; that some States had authorized small town state banks to sell insurance; that providing small town national banks with authority to sell insurance would help them financially; and that doing so would also improve their competitive position vis-a-vis state banks. The relevant language in the letter (somewhat abridged) reads as follows:

[Since 1900, of 3,084 small national banks, 438] have either failed or gone into liquidation. . . .

[T]here are many banks located in [small towns] . . . where the small deposits which the banks receive may make it somewhat difficult [to earn] . . . a satisfactory return

For some time I have been giving careful consideration to the question as to how the powers of these small national banks might be enlarged so as to provide them with additional sources of revenue and place them in a position where they could better compete with local State banks and trust companies which are sometimes authorized under the law to do a class of business not strictly that of commercial banking. . . .

[The federal banking laws, while granting national banks certain incidental powers, do not give them] either expressly nor by necessary implication the power to act as agents for insurance companies. . . .

.

My investigations lead me respectfully to recommend to Congress an amendment to the national-bank act by which national banks located in [small towns] . . . may be permitted to act as agents for insurance companies. . . .

It seems desirable from the standpoint of public policy and banking efficiency that this authority should be limited to banks in small communities. This additional income will strengthen them and increase their ability to make a fair return

I think it would be unwise and therefore undesirable to confer this privilege generally upon banks in large cities where the legitimate business of banking affords ample scope for the energies of trained and expert bankers

I inclose . . . a draft . . . designed to empower national banks located in [small] towns . . . under such regulations and restrictions as may from time to time be approved and promulgated by the Comptroller of the Currency, to act as agents for the placing of insurance policies 53 Cong. Rec. 11001 (1916) (Letter from Comptroller Williams to the Chairman of the Senate Bank and Currency Committee).

Assuming for argument's sake that this letter is relevant, and in response to the arguments of Florida and its supporters, we point out that the letter does not significantly advance their cause. Although the letter mentions that enlarging the powers of small national banks will help them better compete with local State banks, it primarily focuses upon small town national banks' need for added revenue an objective met by a broad insurance-selling authority that is not limited by state law. The letter refers to limitations that *federal* regulation might impose, but it says nothing about limitations imposed by *state* regulation or *state* law. The letter makes clear that authority to sell insurance in small towns is an added incidental power of a national bank a term that, in light of this Court's then-existing cases, suggested freedom from conflicting state regulation. See *Easton*, 188 U.S., at 229-230; *First Nat. Bank*, 262 U.S., at 368-369. The letter sets forth as potential objections to the proposal, (or to its extension to larger national banks), concerns about distracting banking management or inhibiting the development of banking expertise not concerns related to state regulatory control.

We have found nothing elsewhere in the Federal Statute's background or history that significantly supports the State's arguments. And as far as we are aware, the Comptroller's subsequent interpretation of the Federal Statute does not suggest that the statute provides only a limited authority subject to similar state approval. Cf. 12 CFR §7.7100 (1995); OCC Interpretive Letter No. 366, CCH Fed. Banking L. Rep. ¶85,536, p. 77,833 (1986).

In light of these considerations, we conclude that the Federal Statute means to grant small town national banks authority to sell insurance, whether or not a State grants its own state banks or national banks similar approval. Were we to apply ordinary legal principles of pre-emption, the federal law would pre-empt that of the State.

III

We now must decide whether ordinary legal principles of pre-emption, or the special McCarran-Ferguson Act anti-pre-emption rule, governs this case. The lower courts held that the McCarran-Ferguson Act's special anti-pre-emption rule applies, and instructs courts not to construe the Federal Statute to invalidate, impair, or supersede that of the State. 15 U.S.C. §1012(b). By its terms, however, the Act does not apply when the conflicting federal statute *specifically relates to the business of insurance*. *Ibid.* (emphasis added). In our view, the Federal Statute in this case specifically relates to the business of insurance therefore the McCarran-Ferguson Act's special anti-pre-emption rule does not apply.

Our conclusion rests upon the McCarran-Ferguson Act's language and purpose, taken together. Consider the language specifically relates to the business of insurance. In ordinary English, a statute that says that banks may act as insurance agents, and that the Comptroller of the Currency may regulate their insurance-related activities, *relates* to the insurance business. The word *relates* is highly general, and this Court has interpreted it broadly in other pre-emption contexts. See, e.g., *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 47 (1987) (words "relate to" have "broad common-sense meaning, such that a state law relate[s] to a benefit plan . . . if it has a connection with or reference to such a plan") (quoting *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 739 (1985), and *Shaw v. Delta Air Lines Inc.*, 463 U.S. 85, 97 (1983)); *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 383-384 (1992) (interpreting similarly the words "relating to" in the Airline Deregulation Act).

More importantly, in ordinary English, this statute *specifically* relates to the insurance business. Specifically can mean explicitly, particularly, [or] definitely, Black's Law Dictionary 1398 (6th ed. 1990), thereby contrasting a *specific* reference with an *implicit* reference made by more general language to a broader topic. The general words business activity, for example, will sometimes include, and thereby implicitly refer, to insurance; the particular words finance, banking, and insurance make that reference explicitly *and specifically*.

Finally, using ordinary English, one would say that this statute specifically relates to the *business of insurance*. The statute explicitly grants national banks permission to act as the agent for any fire, life, or other insurance company, to solici[t] and sell[] insurance, to collec[t] premiums, and to receive for services so rendered . . . fees or commissions, subject to Comptroller regulation. 12 U.S.C. §92. It also sets forth certain specific rules prohibiting banks from guaranteeing the payment of any premium on insurance policies issued through its agency . . . and the truth of any statement made by an assured in filing his application for insurance. *Ibid.* The statute thereby not only focuses directly upon industry-specific selling practices, but also affects the relation of insured to insurer and the spreading of risk matters that this Court, in other contexts, has placed at the core of the McCarran-Ferguson Act's concern. See *Union Labor Life Ins. Co. v. Pireno*, 458 U.S. 119, 129 (1982) (citing *Group Life & Health Ins. Co. v. Royal Drug Co.*, 440 U.S. 205 (1979)); see also *Department of Treasury v. Fabe*, 508 U.S. 491, 502-504 (1993).

Consider, too, the McCarran-Ferguson Act's basic purposes. The Act sets forth two mutually reinforcing purposes in its first section, namely that continued regulation and taxation by the several States of the business of insurance is in the public interest, and that *silence* on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States. 15 U.S.C. §1011 (emphasis added). The latter phrase, particularly the word *silence*, indicates that the Act does not seek to insulate state insurance regulation from the reach of all federal law. Rather, it seeks to protect state regulation primarily against *inadvertent* federal intrusion say, through enactment of a federal statute that describes an affected activity in broad, general terms, of which the insurance business happens to comprise one part.

The circumstances surrounding enactment of the McCarran-Ferguson Act suggest the same. Just prior to the law's enactment, this Court, in *United States v. South-Eastern Underwriters Assn.*, 322 U.S. 533 (1944), held that a federal antitrust law, the Sherman Act, applied to the business of insurance. The Sherman Act's highly general language said nothing specifically about insurance. See 15 U.S.C. §1 (forbidding every contract, combination . . . or conspiracy, in restraint of trade or commerce among the several States). The Sherman Act applied only to activities in or affecting interstate commerce. *Hopkins v. United States*, 171 U.S. 578, 586 (1898). Many lawyers and insurance professionals had previously thought, (relying, in part, on this Court's opinion in *Paul v. Virginia*, 8 Wall. 168, 183 (1869), and other cases), that the issuance of an insurance policy was not a transaction of commerce, and therefore fell outside the Sherman Act's scope. *South-Eastern Underwriters* told those professionals that they were wrong about interstate commerce, and that the Sherman Act did apply. And *South-Eastern Underwriters'* principle meant, consequently, that other generally phrased congressional statutes might also apply to the issuance of insurance policies, thereby interfering with state regulation of insurance in similarly unanticipated ways.

In reaction to *South-Eastern Underwriters*, Congress moved quickly, enacting McCarran-Ferguson to restore the supremacy of the States in the realm of insurance regulation. *Fabe, supra*, at 500. But the circumstances we have just described mean that *restor[ation]* of supremacy basically required setting aside the unanticipated effects of *South-Eastern Underwriters*, and cautiously avoiding similar unanticipated interference with state regulation in the future. It did not require avoiding federal pre-emption by future federal statutes that indicate, through their specific relat[ion] to insurance, that Congress had focused upon the insurance industry, and therefore, in all likelihood, consciously intended to exert upon the insurance industry whatever pre-emptive force accompanied its law. See also, *e.g.*, insofar as relevant, 91 Cong. Rec. 483 (1945) (statement of Sen. O'Mahoney, floor manager of the Act, that the Act was intended to be a sort of catch-all provision to take into consideration other acts of Congress which might affect the insurance industry, but of which we did not have knowledge at the time); *ibid.* (similar statement of Sen. Ferguson).

The language of the Federal Statute before us is not general. It refers specifically to insurance. Its state regulatory implications are not surprising, nor do we believe them inadvertent. See Part II, *supra*. Consequently, considerations of purpose, as well as of language, indicate that the Federal Statute falls within the scope of the McCarran-Ferguson's specifically relates exception to its anti-pre-emption rule. Cf. *John Hancock Mut. Life Ins. Co. v. Harris Trust & Sav. Bank*, 510 U.S. ___ (1993) (slip op., at 9-11) (adopting the United States' view that language in the Employee Retirement Income Security Act of 1974 defining a guaranteed benefit policy as a certain kind of insurance policy, obviously and specifically relates to the business of insurance) (internal quotation marks omitted).

We shall mention briefly why we are not convinced by several of the parties' remaining arguments. Florida says that the Federal Statute specifically relates to banking, not to insurance. But, a statute may specifically relate to more than one thing. Just as an ordinance forbidding dogs in city parks specifically relates to dogs and to parks, so a statute permitting banks to sell insurance can specifically relate to banks and to insurance. Neither the McCarran-Ferguson Act's language, nor its purpose, requires the Federal Statute to relate *predominantly* to insurance. To the contrary, specific detailed references to the insurance industry in proposed legislation normally will achieve the McCarran-Ferguson Act's objectives, for they will call the proposed legislation to the attention of interested parties, and thereby normally guarantee, should the proposal become law, that Congress will have focused upon its insurance-related effects.

An *amicus* argues that our interpretation would give the Act little meaning, because whenever a state statute "regulates" the business of insurance, any conflicting federal statute necessarily will "specifically relate" to the insurance business. Brief for American Council of Life Insurance as *Amicus Curiae* 4. We disagree. Many federal statutes with potentially pre-emptive effect, such as the bankruptcy statutes, use general language that does not appear to specifically relate to insurance; and where those statutes conflict with state law that was enacted for the purpose of regulating the business of insurance, the McCarran-Ferguson Act's anti-pre-emption rule will

apply. See generally *Fabe*, 508 U.S., at 501 (noting the parties' agreement that federal bankruptcy priority rules, although conflicting with state law, do not specifically relate to the business of insurance.)

The lower courts argued that the Federal Statute's 1916 date of enactment was significant, because Congress would have then believed that state insurance regulation was beyond its Commerce Clause power to affect. The lower courts apparently thought that Congress therefore could not have intended the Federal Statute to pre-empt contrary state law. The short answer to this claim is that there is no reason to think that Congress believed state insurance regulation beyond its constitutional powers to affect insofar as Congress exercised those powers to create, to empower, or to regulate, national banks. See *McCulloch v. Maryland*, 4 Wheat. 316 (1819); *Farmers' and Mechanics' Nat. Bank v. Dearing*, 91 U.S. 29, 33 (1875); see also, e.g., *Easton v. Iowa*, 188 U.S., at 238. We have explained, see Part II, *supra*, why we conclude that Congress indeed *did* intend the Federal Statute to pre-empt conflicting state law.

Finally, Florida points to language in *Fabe*, which states that the McCarran-Ferguson Act imposes what is, in effect, a clear-statement rule that forbids pre-emption unless a federal statute specifically requires otherwise. 508 U.S., at 507. Florida believes that this statement in *Fabe* means that the Federal Statute would have to use the words state law is pre-empted, or the like, in order to fall within the McCarran-Ferguson Act exception. We do not believe, however, that *Fabe* imposes any such requirement. Rather, the quoted language in *Fabe* was a general description of the Act's effect. It simply pointed to the existence of the clause at issue here the exception for federal statutes that specifically relat[e] to the business of insurance. But it did not purport authoritatively to interpret the specifically relates clause. That matter was not at issue in *Fabe*. We therefore believe that *Fabe* does not require us to reach a different result here.

For these reasons, the judgment of the Court of Appeals is reversed.

It is so ordered.