

36. Act of June 16, 1906 (34 Stat. 269, § 2)

Provision of Oklahoma Enabling Act restricting relocation of the state capital prior to 1913, held not supportable by Article IV, § 3, authorizing admission of new states.

*Coyle v. Smith*, 221 U.S. 559 (1911).

Concurring: Lurton, White, Harlan, Day, Hughes, Van Devanter, Lamar

Dissenting: McKenna, Holmes

37. Act of February 20, 1907 (34 Stat. 898, § 3)

Provision in the Immigration Act of 1907 penalizing “whoever . . . shall keep, maintain, control, support, or harbor in any house or other place, for the purpose of prostitution . . . any alien woman or girl, within 3 years after she shall have entered the United States,” held an exercise of police power not within the control of Congress over immigration (whether drawn from the Commerce Clause or based on inherent sovereignty).

*Keller v. United States*, 213 U.S. 138 (1909).

Concurring: Brewer, White, Peckham, McKenna, Day, Fuller, C.J.

Dissenting: Holmes, Harlan, Moody

38. Act of March 1, 1907 (34 Stat. 1028)

Provisions authorizing certain Indians “to institute their suits in the Court of Claims to determine the validity of any acts of Congress passed since . . . 1902, insofar as said acts . . . attempt to increase or extend the restrictions upon alienation . . . of allotments of lands of Cherokee citizens . . . ,” and giving a right of appeal to the Supreme Court, held an attempt to enlarge the judicial power restricted by Article III, § 2, to cases and controversies.

*Muskrat v. United States*, 219 U.S. 346 (1911).

39. Act of May 27, 1908 (35 Stat. 313, § 4)

Provision making locally taxable “all land [of Indians of the Five Civilized Tribes] from which restrictions have been or shall be removed,” held a violation of the Fifth Amendment, in view of the Atoka Agreement, embodied in the Curtis Act of June 28, 1898, providing tax-exemption for allotted lands while title in original allottee, not exceeding 21 years.

*Choate v. Trapp*, 224 U.S. 665 (1912).

40. Act of February 9, 1909, § 2 (35 Stat. 614, as amended)

Provision of Narcotic Drugs Import and Export Act creating a presumption that possessor of cocaine knew of its illegal importation into the United States held, in light of the fact that more cocaine is pro-