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1. Act of September 24, 1789 (1 Stat. 81, § 13, in part).

Provision that ". . . [the Supreme Court] shall have power to issue . . . writs of mandamus, in cases warranted by the principles and usages of law, to any . . . persons holding office, under authority of the United States" as applied to the issue of mandamus to the Secretary of State requiring him to deliver to plaintiff a commission (duly signed by the President) as justice of the peace in the District of Columbia held an attempt to enlarge the original jurisdiction of the Supreme Court, fixed by Article III, § 2.

Marbury v. Madison, 5 U.S. (1 Cr.) 137 (1803).

2. Act of February 20, 1812 (2 Stat. 677).

Provisions establishing board of revision to annul titles conferred many years previously by governors of the Northwest Territory were held violative of the due process clause of the Fifth Amendment.

Reichart v. Felps, 73 U.S. (6 Wall.) 160 (1868).

3. Act of March 6, 1820 (3 Stat. 548, § 8, proviso).

The Missouri Compromise, prohibiting slavery within the Louisiana Territory north of 36° 30' except Missouri, held not warranted as a regulation of Territory belonging to the United States under Article IV, § 3, clause 2 (and see Fifth Amendment).

Scott v. Sandford, 60 U.S. (19 How.) 393 (1857).
Concurring: Chief Justice Taney.
Concurring specially: Justices Wayne, Nelson, Grier, Daniel, Campbell, and Catron.
Dissenting: Justices McLean, Curtis.

4. Act of February 25, 1862 (12 Stat. 345, § 1); July 11, 1862 (12 Stat. 532, § 1); March 3, 1863 (12 Stat. 711, § 3), each in part only.

"Legal tender clauses," making noninterest-bearing United States notes legal tender in payment of "all debts, public and private," so far as applied to debts contracted before passage of the act, held not within express or implied powers of Congress under Article I, § 8, and inconsistent with Article I, § 10, and Fifth Amendment.

Hepburn v. Griswold, 75 U.S. (8 Wall.) 603 (1870); overruled in *Knox v. Lee* (*Legal Tender Cases*), 79 U.S. (12 Wall.) 457 (1871).
Concurring: Chief Justice Chase, and Justices Nelson, Clifford, Grier, and Field.
Dissenting: Justices Miller, Swayne, and Davis.

5. Act of May 20, 1862 (§ 35, 12 Stat. 394); Act of May 21, 1862 (12 Stat. 407); Act of June 25, 1864 (13 Stat. 187); Act of July 23, 1866 (14 Stat. 216); Revised Statutes Relating to the District of Columbia, Act of June 22, 1874, (§§ 281, 282, 294, 304, 18 Stat. pt. 2).

Provisions of law requiring, or construed to require, racial separation in the schools of the District of Columbia, held to violate the equal protection component of the due process clause of the Fifth Amendment.

Bolling v. Sharpe, 347 U.S. 497 (1954).

6. Act of March 3, 1863 (12 Stat. 756, § 5).

"So much of the fifth section . . . as provides for the removal of a judgment in a State court, and in which the cause was tried by a jury to the circuit court of the United States for a retrial on the facts and law, is not in pursuance of the Constitution, and is void" under the Seventh Amendment.

The Justices v. Murray, 76 U.S. (9 Wall.) 274 (1870).

7. Act of March 3, 1863 (12 Stat. 766, § 5).

Provision for an appeal from the Court of Claims to the Supreme Court—there being, at the time, a further provision (§ 14) requiring an estimate by the Secretary of the Treasury before payment of final judgment, held to contravene the judicial finality intended by the Constitution, Article III.

Gordon v. United States, 69 U.S. (2 Wall.) 561 (1865). (Case was dismissed without opinion; the grounds upon which this decision was made were stated in a posthumous opinion by Chief Justice Taney printed in the appendix to volume 117 U.S. 697.)

8. Act of June 30, 1864 (13 Stat. 311, § 13).

Provision that "any prize cause now pending in any circuit court shall, on the application of all parties in interest . . . be transferred by that court to the Supreme Court. . . ," as applied in a case where no action had been taken in the Circuit Court on the appeal from the district court, held to propose an appeal procedure not within Article III, § 2.

The Alicia, 74 U.S. (7 Wall.) 571 (1869).

9. Act of January 24, 1865 (13 Stat. 424).

Requirement of a test oath (disavowing actions in hostility to the United States) before admission to appear as attorney in a federal court by virtue of any previous admission, held invalid as applied to an attorney who had been pardoned by the President for all offenses during the Rebellion—as ex post facto (Article I, § 9, clause 3) and an interference with the pardoning power (Article II, § 2, clause 1).

Ex parte Garland, 71 U.S. (4 Wall.) 333 (1867).

Concurring: Justices Field, Wayne, Grier, Nelson, and Clifford.
Dissenting: Justices Miller, Swayne, and Davis, and Chief Justice Chase.

10. Act of March 2, 1867 (14 Stat. 484, § 29).

General prohibition on sale of naphtha, etc., for illuminating purposes, if inflammable at less temperature than 110° F., held invalid "except so far as the section named operates within the United States, but without the limits of any State," as being a mere police regulation.

United States v. Dewitt, 76 U.S. (9 Wall.) 41 (1870).

11. Act of May 31, 1870 (16 Stat. 140, §§ 3, 4).

Provisions penalizing (1) refusal of local election official to permit voting by persons offering to qualify under State laws, applicable to any citizens; and (2) hindering of any person from qualifying or voting, held invalid under Fifteenth Amendment.

United States v. Reese, 92 U.S. 214 (1876).
Concurring: Chief Justice Waite, and Justices Miller, Field, Bradley, Swayne, Davis, and Strong.
Dissenting: Justices Clifford, Hunt.

12. Act of July 12, 1870 (16 Stat. 235).

Provision making Presidential pardons inadmissible in evidence in Court of Claims, prohibiting their use by that court in deciding claims or appeals, and requiring dismissal of appeals by the Supreme Court in cases where proof of loyalty had been made otherwise than as prescribed by law, held an interference with judicial power under Article III, § 1, and with the pardoning power under Article II, § 2, clause 1.

United States v. Klein, 80 U.S. (13 Wall.) 128 (1872).
Concurring: Chief Justice Chase, and Justices Nelson, Swayne, Davis, Strong, Clifford, and Field.
Dissenting: Justices Miller, Bradley.

13. Act of June 22, 1874 (18 Stat. 1878, § 4).

Provision authorizing federal courts, in suits for forfeitures under revenue and custom laws, to require production of documents, with allegations expected to be proved therein to be taken as proved on failure to produce such documents, was held violative of the search and seizure provision of the Fourth Amendment and the self-incrimination clause of the Fifth Amendment.

Boyd v. United States, 116 U.S. 616 (1886).
Concurring: Justices Bradley, Field, Harlan, Woods, Matthews, Gray, and Blatchford.
Concurring specially: Justice Miller and Chief Justice Waite.

14. Revised Statutes 1977 (Act of May 31, 1870, 16 Stat. 144).

Provision that "all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts . . . as is enjoyed by white citizens . . . ," held invalid under the Thirteenth Amendment.

Hodges v. United States, 203 U.S. 1 (1906), overruled in *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 441–43 (1968).
Concurring: Justices Brewer, Brown, Fuller, Peckham, McKenna, Holmes, Moody, and Chief Justice White.
Dissenting: Justices Harlan, Day.

15. Revised Statutes 4937–4947 (Act of July 8, 1870, 16 Stat. 210), and Act of August 14, 1876 (19 Stat. 141).

Original trademark law, applying to marks "for exclusive use within the United States," and a penal act designed solely for the protection of rights defined in the earlier measure, held not supportable by Article I, § 8, clause 8 (copyright clause), nor Article I, § 8, clause 3, by reason of its application to intrastate as well as interstate commerce.

Trade-Mark Cases, 100 U.S. 82 (1879).

16. Revised Statutes 5132, subdivision 9 (Act of March 2, 1867, 14 Stat. 539).

Provision penalizing "any person respecting whom bankruptcy proceedings are commenced . . . who, within 3 months before the commencement of proceedings in bankruptcy, under the false color and pretense of carrying on business and dealing in the ordinary course of trade, obtains on credit from any person any goods or chattels with intent to defraud . . . ," held a police regulation not within the bankruptcy power (Article I, § 4, clause 4).

United States v. Fox, 95 U.S. 670 (1878).

17. Revised Statutes 5507 (Act of May 31, 1870, 16 Stat. 141, 4).

Provision penalizing "every person who prevents, hinders, controls, or intimidates another from exercising . . . the right of suffrage, to whom that right is guaranteed by the Fifteenth Amendment to the Constitution of the United States, by means of bribery . . . ," held not authorized by the Fifteenth Amendment.

James v. Bowman, 190 U.S. 127 (1903).
Concurring: Justices Brewer, Fuller, Peckham, Holmes, and Day, and Chief Justice White.
Dissenting: Justices Harlan and Brown.

18. Revised Statutes 5519 (Act of April 20, 1871, 17 Stat. 13, § 2).

Section providing punishment in case "two or more persons in any State . . . conspire . . . for the purpose of depriving . . . any per-

son . . . of the equal protection of the laws . . . or for the purpose of preventing or hindering the constituted authorities of any State . . . from giving or securing to all persons within such State . . . the equal protection of the laws . . . ," held invalid as not being directed at state action proscribed by the Fourteenth Amendment.

United States v. Harris, 106 U.S. 629 (1883).
Concurring: Justices Woods, Miller, Bradley, Gray, Field, Matthews, and Blatchford, and Chief Justice White.
Dissenting: Justice Harlan.
In *Baldwin v. Franks*, 120 U.S. 678 (1887), an attempt was made to distinguish the *Harris* case and to apply the statute to a conspiracy directed at aliens within a State, but the provision was held not enforceable in such limited manner.

19. Revised Statutes of the District of Columbia, § 1064 (Act of June 17, 1870, 16 Stat. 154, § 3).

Provision that "prosecutions in the police court [of the District of Columbia] shall be by information under oath, without indictment by grand jury or trial by petit jury," as applied to punishment for conspiracy, held to contravene Article III, § 2, clause 3, requiring jury trial of all crimes.

Callan v. Wilson, 127 U.S. 540 (1888).

20. Act of March 1, 1875 (18 Stat. 336, §§ 1, 2).

Provision "That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations . . . of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude"—subject to penalty, held not to be supported by the Thirteenth or Fourteenth Amendments.

Civil Rights Cases, 109 U.S. 3 (1883), as to operation within States.
Concurring: Justices Bradley, Miller, Field, Woods, Matthews, Gray, and Blatchford, and Chief Justice Waite.
Dissenting: Justice Harlan.

21. Act of March 3, 1875 (18 Stat. 479, § 2).

Provision that "if the party [i.e., a person stealing property from the United States] has been convicted, then the judgment against him shall be conclusive evidence in the prosecution against [the] receiver that the property of the United States therein described has been embezzled, stolen, or purloined," held to contravene the Sixth Amendment.

Kirby v. United States, 174 U.S. 47 (1899).
Concurring: Justices Harlan, Gray, Shiras, White and Peckham, and Chief Justice Fuller.

Dissenting: Justices Brown and McKenna.

22. Act of July 12, 1876 (19 Stat. 80, § 6, in part).

Provision that "postmasters of the first, second, and third classes . . . may be removed by the President by and with the advice and consent of the Senate," held to infringe the executive power under Article II, § 1, clause 1.

Myers v. United States, 272 U.S. 52 (1926).
Concurring: Chief Justice Taft, and Justices Van Devanter, Sutherland, Butler, Sanford, and Stone.
Dissenting: Justices Holmes, McReynolds and Brandeis.

23. Act of August 11, 1888 (25 Stat. 411).

Directive, in a provision for the purchase or condemnation of a certain lock and dam in the Monongahela River, that ". . . in estimating the sum to be paid by the United States, the franchise of said corporation to collect tolls shall not be considered or estimated . . . ," held to contravene the Fifth Amendment.

Monongahela Navigation Co. v. United States, 148 U.S. 312 (1893).

24. Act of May 5, 1892 (27 Stat. 25, § 4).

Provision of a Chinese exclusion act, that Chinese persons "convicted and adjudged to be not lawfully entitled to be or remain in the United States shall be imprisoned at hard labor for a period not exceeding 1 year and thereafter removed from the United States . . . (such conviction and judgment being had before a justice, judge, or commissioner upon a summary hearing), held to contravene the Fifth and Sixth Amendments.

Wong Wing v. United States, 163 U.S. 228 (1896).
Concurring: Justices Shiras, Harlan, Gray, Brown, White, and Peckham, and Chief Justice Fuller.
Concurring in part and dissenting in part: Justice Field.

25. Joint Resolution of August 4, 1894 (28 Stat. 1018, No. 41).

Provision authorizing the Secretary of the Interior to approve a second lease of certain land by an Indian chief in Minnesota (granted to lessor's ancestor by art. 9 of a treaty with the Chippewa Indians), held an interference with judicial interpretation of treaties under Article III, § 2, clause 1 (and repugnant to the Fifth Amendment).

Jones v. Meehan, 175 U.S. 1 (1899).

26. Act of August 27, 1894 (28 Stat. 553–60, §§ 27–37).

Income tax provisions of the tariff act of 1894. "The tax imposed by §§ 27 and 37, inclusive . . . so far as it falls on the income of real estate and of personal property, being a direct tax within the meaning of the Constitution, and, therefore, unconstitutional and void because not apportioned according to representation [Article I, § 2, clause 3],

all those sections, constituting one entire scheme of taxation, are necessarily invalid" (158 U.S. 601, 637).

Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429 (1895), and rehearing, 158 U.S. 601 (1895).
Concurring: Chief Justice Fuller, and Justices Gray, Brewer, Brown, Shiras, Jackson.
Concurring specially: Justice Field.
Dissenting: Justices White and Harlan.

27. Act of January 30, 1897, (29 Stat. 506).

Prohibition on sale of liquor ". . . to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government. . . ," held a police regulation infringing state powers, and not warranted by the commerce clause, Article I, § 8, clause 3.

Matter of Heff, 197 U.S. 488 (1905), overruled in *United States v. Nice*, 241 U.S. 591 (1916).
Concurring: Justices Brewer, Brown, White, Peckham, McKenna, Holmes, and Day, and Chief Justice Fuller.
Dissenting: Justice Harlan.

28. Act of June 1, 1898 (30 Stat. 428).

Section 10, penalizing "any employer subject to the provisions of this act" who should "threaten any employee with loss of employment . . . because of his membership in . . . a labor corporation, association, or organization" (the act being applicable "to any common carrier . . . engaged in the transportation of passengers or property . . . from one State . . . to another State . . . ," etc.), held an infringement of the Fifth Amendment and not supported by the commerce clause.

Adair v. United States, 208 U.S. 161 (1908).
Concurring: Justices Harlan, Brewer, White, Peckham, and Day, and Chief Justice Fuller.
Dissenting: Justices McKenna and Holmes.

29. Act of June 13, 1898 (30 Stat. 448, 459).

Stamp tax on foreign bills of lading, held a tax on exports in violation of Article I, § 9.

Fairbank v. United States, 181 U.S. 283 (1901).
Concurring: Justices Brewer, Brown, Shiras, Peckham, and Chief Justice Fuller.
Dissenting: Justices Harlan, Gray, White, and McKenna.

30. Same (30 Stat. 448, 460).

Tax on charter parties, as applied to shipments exclusively from ports in United States to foreign ports, held a tax on exports in violation of Article I, § 9.

United States v. Hvoslef, 237 U.S. 1 (1915).

31. Same (30 Stat. 448, 461).

Stamp tax on policies of marine insurance on exports, held a tax on exports in violation of Article I, § 9.

Thames & Mersey Marine Ins. Co. v. United States, 237 U.S. 19 (1915).

32. Act of June 6, 1900 (31 Stat. 359, § 171).

Section of the Alaska Code providing for a six-person jury in trials for misdemeanors, held repugnant to the Sixth Amendment, requiring "jury" trial of crimes.

Rassmussen v. United States, 197 U.S. 516 (1905).
Concurring: Justices White, Brewer, Peckham, McKenna, Holmes, and Day, and Chief Justice Fuller.
Concurring specially: Justices Harlan and Brown.

33. Act of March 3, 1901 (31 Stat. 1341, § 935).

Section of the District of Columbia Code granting the same right of appeal, in criminal cases, to the United States or the District of Columbia as to the defendant, but providing that a verdict was not to be set aside for error found in rulings during trial, held an attempt to take an advisory opinion, contrary to Article III, § 2.

United States v. Evans, 213 U.S. 297 (1909).

34. Act of June 11, 1906 (34 Stat. 232).

Act providing that "every common carrier engaged in trade or commerce in the District of Columbia . . . or between the several States . . . shall be liable to any of its employees . . . for all damages which may result from the negligence of any of its officers . . . or by reason of any defect . . . due to its negligence in its cars, engines . . . roadbed," etc., held not supportable under Article I, § 8, clause 3 because it extended to intrastate as well as interstate commercial activities.

The Employers' Liability Cases, 207 U.S. 463 (1908). (The act was upheld as to the District of Columbia in *Hyde v. Southern Ry.*, 31 App. D.C. 466 (1908); and as to the Territories, in *El Paso & N.E. Ry. v. Gutierrez*, 215 U.S. 87 (1909).)
Concurring: Justices White and Day.
Concurring specially: Justices Peckham and Brewer and Chief Justice Fuller.
Dissenting: Justices Moody, Harlan, McKenna, and Holmes.

35. 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: Justices Lurton, White, Harlan, Day, Hughes, Van Devanter, and Lamar.
Dissenting: Justices McKenna and Holmes.

36. Act of February 20, 1907 (34 Stat. 889, § 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: Justices Brewer, White, Peckham, McKenna, and Day, and Chief Justice Fuller.
Dissenting: Justices Holmes, Harlan, and Moody.

37. 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).

38. 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).

39. 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 produced domestically than is brought into the country and in absence of any showing that defendant could have known his cocaine was imported, if it was, inapplicable to support conviction from mere possession of cocaine.

Turner v. United States, 396 U.S. 398 (1970).
Concurring specially: Justices Black and Douglas.

40. Act of August 19, 1911 (37 Stat. 28).

A proviso in § 8 of the Federal Corrupt Practices Act fixing a maximum authorized expenditure by a candidate for Senator "in any

campaign for his nomination and election," as applied to a primary election, held not supported by Article I, § 4, giving Congress power to regulate the manner of holding elections for Senators and Representatives.

Newberry v. United States, 256 U.S. 232 (1921), overruled in *United States v. Classic*, 313 U.S. 299 (1941).
Concurring: Justices McReynolds, McKenna, Holmes, Day, and Van Devanter.
Concurring specially: Justices Pitney, Brandeis, and Clarke.
Dissenting: Chief Justice White (concurring in part).

41. Act of June 18, 1912 (37 Stat. 136, § 8).

Part of § 8 giving Juvenile Court of the District of Columbia (proceeding upon information) concurrent jurisdiction of desertion cases (which were, by law, punishable by fine or imprisonment in the workhouse at hard labor for 1 year), held invalid under the Fifth Amendment, which gives right to presentment by a grand jury in case of infamous crimes.

United States v. Moreland, 258 U.S. 433 (1922).
Concurring: Justices McKenna, Day, Van Devanter, Pitney, and McReynolds.
Dissenting: Justices Brandeis, Holmes, and Chief Justice Taft.

42. Act of March 4, 1913 (37 Stat. 988, part of par. 64).

Provision of the District of Columbia Public Utility Commission Act authorizing appeal to the United States Supreme Court from decrees of the District of Columbia Court Appeals modifying valuation decisions of the Utilities Commission, held an attempt to extend the appellate jurisdiction of the Supreme Court to cases not strictly judicial within the meaning of Article III, § 2.

Keller v. Potomac Elec. Co., 261 U.S. 428 (1923).

43. Act of September 1, 1916 (39 Stat. 675).

The original Child Labor Law, providing "that no producer . . . shall ship . . . in interstate commerce . . . any article or commodity the product of any mill . . . in which within 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work more than 8 hours in any day or more than 6 days in any week . . . ," held not within the commerce power of Congress.

Hammer v. Dagenhart, 247 U.S. 251 (1918).
Concurring: Justices Day, Van Devanter, Pitney, and McReynolds, and Chief Justice White.
Dissenting: Justices Holmes, McKenna, Brandeis, and Clarke.

44. Act of September 8, 1916 (39 Stat. 757, § 2(a), in part).

Provision of the income tax law of 1916, that a "stock dividend shall be considered income, to the amount of its cash value," held invalid (in spite of the Sixteenth Amendment) as an attempt to tax

something not actually income, without regard to apportionment under Article I, § 2, clause 3.

Eisner v. Macomber, 252 U.S. 189 (1920).
Concurring: Justices Pitney, McKenna, Van Devanter, and McReynolds, and Chief Justice White.
Dissenting: Justices Holmes, Day, Brandeis, Clarke.

45. Act of October 6, 1917 (40 Stat. 395).

The amendment of §§ 24 and 256 of the Judicial Code (which prescribe jurisdiction of district courts) "saving . . . to claimants the rights and remedies under the workmen's compensation law of any State," held an attempt to transfer federal legislative powers to the States—the Constitution, by Article III, § 2, and Article I, § 8, having adopted rules of general maritime law.

Knickerbocker Ice Co. v. Stewart, 253 U.S. 149 (1920).
Concurring: Justices McReynolds, McKenna, Day and Van Devanter, and Chief Justice White.
Dissenting: Justices Holmes, Pitney, Brandeis, and Clarke.

46. Act of September 19, 1918 (40 Stat. 960).

That part of the Minimum Wage Law of the District of Columbia which authorized the Wage Board "to ascertain and declare . . . (a) Standards of minimum wages for women in any occupation within the District of Columbia, and what wages are inadequate to supply the necessary cost of living to any such women workers to maintain them in good health and to protect their morals . . . ," held to interfere with freedom of contract under the Fifth Amendment.

Adkins v. Children's Hospital, 261 U.S. 525 (1923), overruled in *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937).
Concurring: Justices Sutherland, McKenna, Van Devanter, McReynolds, and Butler.
Dissenting: Chief Justice Taft, and Justices Sanford, and Holmes.

47. Act of February 24, 1919 (40 Stat. 1065, § 213, in part).

That part of § 213 of the of Revenue Act of 1919 which provided that ". . . for the purposes of the title . . . the term 'gross income' . . . includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of . . . judges of the Supreme and inferior courts of the United States . . . the compensation received as such) . . ." as applied to a judge in office when the act was passed, held a violation of the guaranty of judges' salaries, in Article III, § 1.

Evans v. Gore, 253 U.S. 245 (1920).
Miles v. Graham, 268 U.S. 501 (1925), held it invalid as applied to a judge taking office subsequent to the date of the act. Both cases were overruled by *O'Malley v. Woodrough*, 307 U.S. 277 (1939).
Concurring: Justices Van Devanter, McKenna, Day, Pitney, McReynolds, and Clarke, and Chief Justice White.

Dissenting: Justices Holmes and Brandeis.

48. Act of February 24, 1919 (40 Stat. 1097, § 402(c)).

That part of the estate tax law providing that the "gross estate" of a decedent should include value of all property "to the extent of any interest therein of which the decedent has at any time made a transfer or with respect to which he had at any time created a trust, in comtemplation of or intended to take effect in possession or enjoyment at or after his death (whether such transfer or trust is made or created before or after the passage of this act), except in case of a *bona fide* sale . . ." as applied to a transfer of property made prior to the act and intended to take effect "in possession or enjoyment" at death of grantor, but not in fact testamentary or designed to evade taxation, held confiscatory, contrary to Fifth Amendment.

Nichols v. Coolidge, 274 U.S. 531 (1927).
Concurring: Justices McReynolds, Van Devanter, Sutherland, and Butler, and Chief Justice Taft.
Concurring specially (only in the result): Justices Holmes, Brandeis, Sanford, and Stone.

49. Act of February 24, 1919, title XII (40 Stat. 1138, entire title).

The Child Labor Tax Act, providing that "every person . . . operating . . . any . . . factory . . . in which children under the age of 14 years have been employed or permitted to work . . . shall pay . . . in addition to all other taxes imposed by law, an excise tax equivalent to 10 percent of the entire net profits received . . . for such year from the sale . . . of the product of such . . . factory . . .," held beyond the taxing power under Article I, § 8, clause 1, and an infringement of state authority.

Bailey v. Drexel Furniture Co. (*Child Labor Tax Case*), 259 U.S. 20 (1922).
Concurring: Chief Justice Taft, and Justices McKenna, Holmes, Day, Van Devanter, Pitney, McReynolds, and Brandeis.
Dissenting: Justice Clarke.

50. Act of October 22, 1919 (41 Stat. 298, § 2), amending Act of August 10, 1917 (40 Stat. 277, § 4).

(a) § 4 of the Lever Act, providing in part "that it is hereby made unlawful for any person willfully . . . to make any unjust or unreasonable rate or charge in handling or dealing in or with any necessaries . . . and fixing a penalty, held invalid to support an indictment for charging an unreasonable price on sale—as not setting up an ascertainable standard of guilt within the requirement of the Sixth Amendment.

United States v. L. Cohen Grocery Co., 255 U.S. 81 (1921).
Concurring: Chief Justice White, and Justices McKenna, Holmes, Van Devanter, McReynolds, and Clarke.
Concurring specially: Justices Pitney and Brandeis.

(b) That provision of § 4 making it unlawful "to conspire, combine, agree, or arrange with any other person to . . . exact excessive prices for any necessaries" and fixing a penalty, held invalid to support an indictment, on the reasoning of the *Cohen Grocery* case.

Weeds, Inc. v. United States, 255 U.S. 109 (1921).
Concurring: Chief Justice White, and Justices McKenna, Holmes, Van Devanter, McReynolds, and Clarke.
Concurring specially: Justices Pitney and Brandeis.

51. Act of August 24, 1921 (42 Stat. 187, Future Trading Act).

(a) § 4 (and interwoven regulations) providing a "tax of 20 cents a bushel on every bushel involved therein, upon each contract of sale of grain for future delivery, except . . . where such contracts are made by or through a member of a board of trade which has been designated by the Secretary of Agriculture as a 'contract market' . . .," held not within the taxing power under Article I, § 8.

Hill v. Wallace, 259 U.S. 44 (1922).

(b) § 3, providing "That in addition to the taxes now imposed by law there is hereby levied a tax amounting to 20 cents per bushel on each bushel involved therein, whether the actual commodity is intended to be delivered or only nominally referred to, upon each . . . option for a contract either of purchase or sale of grain . . . ," held invalid on the same reasoning.

Trusler v. Crooks, 269 U.S. 475 (1926).

52. Act of November 23, 1921 (42 Stat. 261, 245, in part).

Provision of Revenue Act of 1921 abating the deduction (4 percent of mean reserves) allowed from taxable income of life insurance companies in general by the amount of interest on their tax-exempts, and so according no relative advantage to the owners of the tax-exempt securities, held to destroy a guaranteed exemption.

National Life Ins. Co. v. United States, 277 U.S. 508 (1928).
Concurring: Justices McReynolds, Van Devanter, Sutherland, Butler, and Sanford, and Chief Justice Taft.
Dissenting: Justices Brandeis, Holmes, and Stone.

53. Act of June 10, 1922 (42 Stat. 634).

A second attempt to amend §§ 24 and 256 of the Judicial Code, relating to jurisdiction of district courts, by saving "to claimants for compensation for injuries to or death of persons other than the master or members of the crew of a vessel, their rights and remedies under the workmen's compensation law of any State . . ." held invalid on authority of *Knickerbocker Ice Co. v. Stewart*.

Washington v. Dawson & Co., 264 U.S. 219 (1924).
Concurring: Justices McReynolds, McKenna, Holmes, Van Devanter, Sutherland, Butler, and Sanford, and Chief Justice Taft.

Dissenting: Justice Brandeis.

54. Act of June 2, 1924 (43 Stat. 313).

The gift tax provisions of the Revenue Act of 1924, applicable to gifts made during the calendar year, were held invalid under the Fifth Amendment insofar as they applied to gifts made before passage of the act.

Untermyer v. Anderson, 276 U.S. 440 (1928).
Concurring: Justices McReynolds, Sanford, Van Devanter, Sutherland, and Butler, and Chief Justice Taft.
Dissenting: Justices Holmes, Brandeis, and Stone.

55. Act of February 26, 1926 (44 Stat. 70, § 302, in part).

Stipulation creating a conclusive presumption that gifts made within two years prior to the death of the donor were made in contemplation of death of donor and requiring the value thereof to be included in computing the death transfer tax on decedent's estate was held to effect an invalid deprivation of property without due process.

Heiner v. Donnan, 285 U.S. 312 (1932).
Concurring: Justices Sutherland, Van Devanter, McReynolds, Butler, and Roberts, and Chief Justice Hughes.
Dissenting: Justices Stone and Brandeis.

56. Act of February 26, 1926 (44 Stat. 95, § 701).

Provision imposing a special excise tax of $1,000 on liquor dealers operating in States where such business is illegal, was held a penalty, without constitutional support following repeal of the Eighteenth Amendment.

United States v. Constantine, 296 U.S. 287 (1935).
Concurring: Justices Roberts, Van Devanter, McReynolds, Sutherland, and Butler, and Chief Justice Hughes.
Dissenting: Justices Cardozo, Brandeis, and Stone.

57. Act of March 20, 1933 (48 Stat. 11, § 17, in part).

Clause in the Economy Act of 1933 providing ". . . all laws granting or pertaining to yearly renewable term war risk insurance are hereby repealed," held invalid to abrogate an outstanding contract of insurance, which is a vested right protected by the Fifth Amendment.

Lynch v. United States, 292 U.S. 571 (1934).

58. Act of May 12, 1933 (48 Stat. 31).

Agricultural Adjustment Act providing for processing taxes on agricultural commodities and benefit payments therefore to farmers, held not within the taxing power under Article I, § 8, clause 1.

United States v. Butler, 297 U.S. 1 (1936).
Concurring: Justices Roberts, Van Devanter, McReynolds, Sutherland, and Butler, and Chief Justice Hughes.

Dissenting: Justices Stone, Brandeis, and Cardozo.

59. Joint Resolution of June 5, 1933 (48 Stat. 113, § 1).

Abrogation of gold clause in Government obligations, held a repudiation of the pledge implicit in the power to borrow money (Article I, § 8, clause 2), and within the prohibition of the Fourteenth Amendment, against questioning the validity of the public debt. (The majority of the Court, however, held plaintiff not entitled to recover under the circumstances.)

Perry v. United States, 294 U.S. 330 (1935).
Concurring: Chief Justice Hughes, and Justices Brandeis, Roberts, and Cardozo.
Concurring specially: Justice Stone.
Dissenting: Justices McReynolds, Van Devanter, Sutherland, and Butler.

60. Act of June 16, 1933 (48 Stat. 195, the National Industrial Recovery Act).

(a) Title I, except § 9.

Provisions relating to codes of fair competition, authorized to be approved by the President in his discretion "to effectuate the policy" of the act, held invalid as a delegation of legislative power (Article I, § 1) and not within the commerce power (Article I, § 8, clause 3).

Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935).
Concurring: Chief Justice Hughes, and Justices Van Devanter, McReynolds, Brandeis, Sutherland, Butler, and Roberts.
Concurring specially: Justices Cardozo and Stone.

(b) § 9(c).

Clause of the oil regulation section authorizing the President "to prohibit the transportation in interstate . . . commerce of petroleum . . . produced or withdrawn from storage in excess of the amount permitted . . . by any State law . . ." and prescribing a penalty for violation of orders issued thereunder, held invalid as a delegation of legislative power.

Panama Refining Co. v. Ryan, 293 U.S. 388 (1935).
Concurring: Chief Justice Hughes, and Justices Van Devanter, McReynolds, Brandeis, Sutherland, Butler, Stone, and Roberts.
Dissenting: Justice Cardozo.

61. Act of June 16, 1933 (48 Stat. 307, § 13).

Temporary reduction of 15 percent in retired pay of judges, retired from service but subject to performance of judicial duties under the Act of March 1, 1929 (45 Stat. 1422), was held a violation of the guaranty of judges' salaries in Article III, § 1.

Booth v. United States, 291 U.S. 339 (1934).

62. Act of April 27, 1934 (48 Stat. 646 § 6), amending § 5(i) of Home Owners' Loan Act of 1933.

Provision for conversion of state building and loan associations into federal associations, upon vote of 51 percent of the votes cast at a meeting of stockholders called to consider such action, held an encroachment on reserved powers of State.

Hopkins Savings Ass'n v. Cleary, 296 U.S. 315 (1935).

63. Act of May 24, 1934 (48 Stat. 798).

Provision for readjustment of municipal indebtedness, though "adequately related" to the bankruptcy power, was held invalid as an interference with state sovereignty.

Ashton v. Cameron County Dist., 298 U.S. 513 (1936).
Concurring: Justices McReynolds, Van Devanter, Sutherland, Butler, and Roberts.
Dissenting: Justices Cardozo, Brandeis, and Stone, and Chief Justice Hughes.

64. Act of June 27, 1934 (48 Stat. 1283).

The Railroad Retirement Act, establishing a detailed compulsory retirement system for employees of carriers subject to the Interstate Commerce Act, held, not a regulation of commerce within the meaning of Article I, § 8, clause 3, and violative of the due process clause (Fifth Amendment).

Railroad Retirement Bd. v. Alton Ry., 295 U.S. 330 (1935).
Concurring: Justices Roberts, Van Devanter, McReynolds, Sutherland, and Butler.
Dissenting: Chief Justice Hughes, and Justices Brandeis, Stone, and Cardozo.

65. Act of June 28, 1934 (48 Stat. 1289, ch. 869).

The Frazier-Lemke Act, adding subsection (s) to § 75 of the Bankruptcy Act, designed to preserve to mortgagors the ownership and enjoyment of their farm property and providing specifically, in paragraph 7, that a bankrupt left in possession has the option at any time within 5 years of buying at the appraised value—subject meanwhile to no monetary obligation other than payment of reasonable rental, held a violation of property rights, under the Fifth Amendment.

Louisville Bank v. Radford, 295 U.S. 555 (1935).

66. Act of August 24, 1935 (48 Stat. 750).

Amendments of Agricultural Adjustment Act held not within the taxing power, the amendments not having cured the defects of the original act held unconstitutional in *United States v. Butler*, 297 U.S. 1 (1936).

Rickert Rice Mills v. Fontenot, 297 U.S. 110 (1936).

67. Act of August 30, 1935 (49 Stat. 991).

Bituminous Coal Conservation Act of 1935, held to impose, not a tax within Article I, § 8, but a penalty not sustained by the commerce clause (Article I, § 8, clause 3).

Carter v. Carter Coal Co., 298 U.S. 238 (1936).
Concurring: Justices Sutherland, Van Devanter, McReynolds, Butler, and Roberts.
Concurring specially: Chief Justice Hughes.
Concurring in part and dissenting in part: Justices Cardozo, Brandeis, and Stone.

68. Act of June 25, 1938 (52 Stat. 1040).

Federal Food, Drug, and Cosmetic Act of 1938, § 301(f), prohibiting the refusal to permit entry or inspection of premises by federal officers held void for vagueness and as violative of the due process clause of the Fifth Amendment.

United States v. Cardiff, 344 U.S. 174 (1952).
Concurring: Justices Douglas, Black, Reed, Frankfurter, Jackson, Clark, and Minton, and Chief Justice Vinson.
Dissenting: Justice Burton.

69. Act of June 30, 1938 (52 Stat. 1251).

Federal Firearms Act, § 2(f), establishing a presumption of guilt based on a prior conviction and present possession of a firearm, held to violate the test of due process under the Fifth Amendment.

Tot v. United States, 319 U.S. 463 (1943).
Concurring: Justices Roberts, Reed, Frankfurter, Jackson, and Rutledge, and Chief Justice Stone.
Concurring specially: Justices Black and Douglas.

70. Act of August 10, 1939 (§ 201(d), 53 Stat. 1362, as amended, 42 U.S.C. § 402(g)).

Provision of Social Security Act that grants survivors' benefits based on the earnings of a deceased husband and father covered by the Act to his widow and to the couple's children in her care but that grants benefits based on the earnings of a covered deceased wife and mother only to the minor children and not to the widower held violative of the right to equal protection secured by the Fifth Amendment's due process clause, since it unjustifiably discriminates against female wage earners required to pay social security taxes by affording them less protection for their survivors than is provided for male wage earners.

Weinberger v. Wiesenfeld, 420 U.S. 636 (1975).

71. Act of October 14, 1940 (54 Stat. 1169 § 401(g)); as amended by Act of January 20, 1944 (58 Stat. 4, § 1).

Provision of Aliens and Nationality Code (8 U.S.C. § 1481(a)(8)), derived from the Nationality Act of 1940, as amended, that citizen-

ship shall be lost upon conviction by court martial and dishonorable discharge for deserting the armed services in time of war, held invalid as imposing a cruel and unusual punishment barred by the Eighth Amendment and not authorized by the war powers conferred by Article I, § 8, clauses 11 to 14.

Trop v. Dulles, 356 U.S. 86 (1958).
Concurring: Chief Justice Warren and Justice Whittaker.
Concurring specially: Justices Black, Douglas, and Brennan.
Dissenting: Justices Frankfurter, Burton, Clark, and Harlan.

72. Act of November 15, 1943 (57 Stat. 450).

Urgent Deficiency Appropriation Act of 1943, § 304, providing that no salary should be paid to certain named federal employees out of moneys appropriated, held to violate Article I, § 9, clause 3, forbidding enactment of bill of attainder or ex post facto law.

United States v. Lovett, 328 U.S. 303 (1946).
Concurring: Justices Black, Douglas, Murphy, Rutledge, and Burton, and Chief Justice Stone.
Concurring specially: Justices Frankfurter and Reed.

73. Act of September 27, 1944 (58 Stat. 746, § 401(J)); and Act of June 27, 1952 (66 Stat. 163, 267–268, § 349(a)(10)).

§ 401(J) of Immigration and Nationality Act of 1940, added in 1944, and § 49(a)(10) of the Immigration and Nationality Act of 1952 depriving one of citizenship, without the procedural safeguards guaranteed by the Fifth and Sixth Amendments, for the offense of leaving or remaining outside the country, in time of war or national emergency, to evade military service held invalid.

Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963).
Concurring: Justices Goldberg, Black, Douglas, and Chief Justice Warren.
Concurring specially: Justice Brennan.
Dissenting: Justices Harlan, Clark, Stewart, and White.

74. Act of July 31, 1946 (ch. 707, § 7, 60 Stat. 719).

District court decision holding invalid under First and Fifth Amendments statute prohibiting parades or assemblages on United States Capitol grounds is summarily affirmed.

Chief of Capitol Police v. Jeanette Rankin Brigade, 409 U.S. 972 (1972).

75. Act of June 25, 1948 (62 Stat. 760).

Provision of Lindberg Kidnapping Act which provided for the imposition of the death penalty only if recommended by the jury held unconstitutional inasmuch as it penalized the assertion of a defendant's Sixth Amendment right to jury trial.

United States v. Jackson, 390 U.S. 570 (1968).
Concurring: Justices Stewart, Douglas, Harlan, Brennan, Fortas, and Chief Justice Warren.

Dissenting: Justices White and Black.

76. Act of August 18, 1949 (63 Stat. 617, 40 U.S.C. § 13k).

Provision, insofar as it applies to the public sidewalks surrounding the Supreme Court building, which bars the display of any flag, banner, or device designed to bring into public notice any party, organization, or movement, held violative of the free speech clause of the First Amendment.

United States v. Grace, 461 U.S. 171 (1983).
Concurring: Justices White, Brennan, Blackmun, Powell, Rehnquist, O'Connor, and Chief Justice Burger.
Concurring in part and dissenting in part: Justices Marshall and Stevens.

77. Act of May 5, 1950 (64 Stat. 107).

Article 3(a) of the Uniform Code of Military Justice, subjecting civilian ex-servicemen to court martial for crime committed while in military service, held to violate Article III, § 2, and the Fifth and Sixth Amendments.

Toth v. Quarles, 350 U.S. 11 (1955).
Concurring: Justices Black, Frankfurter, Douglas, Clark, Harlan, and Chief Justice Warren.
Dissenting: Justices Reed, Burton, and Minton.

78. Act of May 5, 1950 (64 Stat. 107).

Insofar as Article 2(11) of the Uniform Code of Military Justice subjects civilian dependents accompanying members of the armed forces overseas in time of peace to trial, in capital cases, by court martial, it is violative of Article III, § 2, and the Fifth and Sixth Amendments.

Reid v. Covert, 354 U.S. 1 (1957).
Concurring: Justices Black, Douglas, and Chief Justice Warren.
Concurring specifically: Justices Frankfurter and Harlan.
Dissenting: Justices Clark and Burton.

Insofar as the aforementioned provision is invoked in time of peace for the trial of noncapital offenses committed on land bases overseas by employees of the armed forces who have not been inducted or who have not voluntarily enlised therein, it is violative of the Sixth Amendment.

McElroy v. United States ex rel. Guagliardo, 361 U.S. 281 (1960).
Concurring: Justices Clark, Black, Douglas, and Brennan, and Chief Justice Warren.
Dissenting: Justices Harlan and Frankfurter.
Concurring in Part and dissenting in Part: Justices Whittaker and Stewart.

Insofar as the aforementioned provision is invoked in time of peace for the trial of noncapital offenses committed by civilian dependents accompanying members of the armed forces overseas, it is violative of Article III, § 2, and the Fifth and Sixth Amendments.

Kinsella v. United States ex rel. Singleton, 361 U.S. 234 (1960).
Concurring: Justices Clark, Black, Douglas, and Brennan, and Chief Justice Warren.
Dissenting: Justices Harlan and Frankfurter.
Concurring in part and dissenting in part: Justices Whittaker and Stewart.

Insofar as the aforementioned provision is invoked in time of peace for the trial of a capital offense committed by a civilian employee of the armed forces overseas, it is violative of Article III, § 2, and the Fifth and Sixth Amendments.

Grisham v. Hagan, 361 U.S. 278 (1960).
Concurring: Justices Clark, Black, Douglas, and Brennan, and Chief Justice Warren.
Dissenting: Justices Harlan and Frankfurter.
Concurring in part and dissenting in part: Justices Whittaker and Stewart.

79. Act of August 16, 1950 (64 Stat. 451, as amended).

Statutory scheme authorizing the Postmaster General to close the mails to distributors of obscene materials held unconstitutional in the absence of procedural provisions to assure prompt judicial determination that protected materials were not being restrained.

Blount v. Rizzi, 400 U.S. 410 (1971).

80. Act of August 28, 1950 (§ 202(c)(1)(D), 64 Stat. 483, 42 U.S.C. § 402(c)(1)(C)).

District court decision holding invalid as a violation of the equal protection component of the Fifth Amendment's due process clause a Social Security provision entitling a husband to insurance benefits through his wife's benefits, provided he received at least one-half of his support from her at the time she became entitled, but requiring no such showing of support for the wife to qualify for benefits through her husband, is summarily affirmed.

Califano v. Silbowitz, 430 U.S. 934 (1977).

81. Act of August 28, 1950 (§ 202(f)(1)(E), 64 Stat. 485, 42 U.S.C. § 402(f)(1)(D)).

Social Security Act provision awarding survivor's benefits based on earnings of a deceased wife to widower only if he was receiving at least half of his support from her at the time of her death, whereas widow receives benefits regardless of dependency, held violative of equal protection element of Fifth Amendment's due process clause because of its impermissible sex classification.

Califano v. Goldfarb, 430 U.S. 199 (1977).
Concurring: Justices Brennan, White, Marshall, and Powell.
Concurring specially: Justice Stevens.
Dissenting: Justices Rehnquist, Stewart, Blackmun, and Chief Justice Burger.

82. Act of September 23, 1950 (Title I, § 5, 64 Stat. 992).

Provision of Subversive Activities Control Act making it unlawful for member of Communist front organization to work in a defense plant held to be an overbroad infringement of the right of association protected by the First Amendment.

United States v. Robel, 389 U.S. 258 (1967).
Concurring: Chief Justice Warren and Justices Black, Douglas, Stewart, and Fortas.
Concurring specially: Justice Brennan.
Dissenting: Justices White and Harlan.

83. Act of September 23, 1950 (64 Stat. 993, § 6).

Subversive Activities Control Act of 1950, § 6, providing that any member of a Communist organization, which has registered or has been ordered to register, commits a crime if he attempts to obtain or use a passport, held violative of due process under the Fifth Amendment.

Aptheker v. Secretary of State, 378 U.S. 500 (1964).
Concurring: Justices Goldberg, Brennan, and Stewart, and Chief Justice Warren.
Concurring specially: Justices Black and Douglas.
Dissenting: Justices Clark, Harlan, and White.

84. Act of September 28, 1950 (Title I, §§ 7, 8, 64 Stat. 993).

Provisions of Subversive Activities Control Act of 1950 requiring in lieu of registration by the Communist Party registration by Party members may not be applied to compel registration by, or to prosecute for refusal to register, alleged members who have asserted their privilege against self-incrimination, inasmuch as registration would expose such persons to criminal prosecution under other laws.

Albertson v. Subversive Activities Control Board, 382 U.S. 70 (1965).

85. Act of October 30, 1951 § 5(f)(ii), 65 Stat. 683, 45 U.S.C. § 231a(c)(3)(ii)).

Provision of Railroad Retirement Act similar to section voided in *Goldfarb* (no. 81, *supra*).

Railroad Retirement Bd. v. Kalina, 431 U.S. 909 (1977).

86. Act of June 27, 1952 (Title III, 349, 66 Stat. 267).

Provision of Immigration and Nationality Act of 1952 providing for revocation of United States citizenship of one who votes in a foreign election held unconstitutional under § 1 of the Fourteenth Amendment.

Afroyim v. Rusk, 387 U.S. 253 (1967).
Concurring: Justices Black, Douglas, Brennan, and Fortas, and Chief Justice Warren.
Dissenting: Justices Harlan, Clark, Stewart, and White.

87. Act of June 27, 1952 (66 Stat. 163, 269, § 352(a)(1)).

§ 352(a)(1) of the Immigration and Nationality Act of 1952, depriving a naturalized person of citizenship for "having a continuous

residence for three years" in state of his birth or prior nationality, held violative of the due process clause of the Fifth Amendment.

Schneider v. Rusk, 377 U.S. 163 (1964).

Concurring: Justices Douglas, Black, Stewart, and Goldberg, and Chief Justice Warren.

Dissenting: Justices Clark, Harlan, and White.

88. Act of August 16, 1954 (68A Stat. 525, Int. Rev. Code of 1954, §§ 4401–4423).

Provisions of tax laws requiring gamblers to pay occupational and excise taxes may not be used over an assertion of one's privilege against self-incrimination either to compel extensive reporting of activities, leaving the registrant subject to prosecution under the laws of all the States with the possible exception of Nevada, or to prosecute for failure to register and report, because the scheme abridged the Fifth Amendment privilege.

Marchetti v. United States, 390 U.S. 39 (1968), and *Grosso v. United States*, 390 U.S. 62 (1968).

Concurring: Justices Harlan, Black, Douglas, White, and Fortas.

Concurring specially: Justices Brennan and Stewart.

Dissenting: Chief Justice Warren.

89. Act of August 16, 1954 (68A Stat. 560, Marijuana Tax Act, §§ 4741, 4744, 4751, 4753).

Provisions of tax laws requiring possessors of marijuana to register and to pay a transfer tax may not be used over an assertion of the privilege against self-incrimination to compel registration or to prosecute for failure to register.

Leary v. United States, 395 U.S. 6 (1969).

Concurring specially: Chief Justice Warren and Justice Stewart.

90. Act of August 16, 1954 (68A Stat. 728, Int. Rev. Code of 1954, §§ 5841, 5851).

Provisions of tax laws requiring the possessor of certain firearms, which it is made illegal to receive or to possess, to register with the Treasury Department may not be used over an assertion of the privilege against self-incrimination to prosecute one for failure to register or for possession of an unregistered firearm since the statutory scheme abridges the Fifth Amendment privilege.

Haynes v. United States, 390 U.S. 85 (1968).

Concurring: Justices Harlan, Black, Douglas, Brennan, Stewart, White, and Fortas.

Dissenting: Chief Justice Warren.

91. Act of August 16, 1954 (68A Stat. 867, Int. Rev. Code of 1954, § 7302).

Provision of tax laws providing for forfeiture of property used in violating internal revenue laws may not be constitutionally used in face of invocation of privilege against self-incrimination to condemn money in possession of gambler who had failed to comply with the

registration and reporting scheme held void in *Marchetti v. United States*, 390 U.S. 39 (1968).

United States v. United States Coin & Currency, 401 U.S. 715 (1971).
Concurring: Justices Harlan, Black, Douglas, Brennan, and Marshall.
Dissenting: Justices White, Stewart, Blackmun, and Chief Justice Burger.

92. Act of July 18, 1956 (§ 106, Stat. 570).

Provision of Narcotic Drugs Import and Export Act creating a presumption that possessor of marijuana knew of its illegal importation into the United States held, in absence of showing that all marijuana in United States was of foreign origin and that domestic users could know that their marijuana was more likely than not of foreign origin, unconstitutional under the due process clause of the Fifth Amendment.

Leary v. United States, 395 U.S. 6 (1969).
Concurring specially: Justice Black.

93. Act of August 10, 1956 (70A Stat. 65, Uniform Code of Military Justice, Articles 80, 130, 134).

Servicemen may not be charged under the Act and tried in military courts because of the commission of non-service connected crimes committed off-post and off-duty which are subject to civilian court jurisdiction where the guarantees of the Bill of Rights are applicable.

O'Callahan v. Parker, 395 U.S. 258 (1969), overruled in *Solorio v. United States*, 483 U.S. 435 (1987).
Concurring: Justices Douglas, Black Brennan, Fortas, and Marshall, and Chief Justice Warren.
Dissenting: Justices Harlan, Stewart, and White.

94. Act of August 10, 1956 (70A Stat. 35, § 772(f)).

Proviso of statute permitting the wearing of United States military apparel in theatrical productions only if the portrayal does not tend to discredit the armed force imposes an unconstitutional restraint upon First Amendment freedoms and precludes a prosecution under 18 U.S.C. § 702 for unauthorized wearing of uniform in a street skit disrespectful of the military.

Schacht v. United States, 398 U.S. 58 (1970).

95. Act of September 2, 1958 (§ 5601(b)(1), 72 Stat. 1399).

Provision of Internal Revenue Code creating a presumption that one's presence at the site of an unregistered still shall be sufficient for conviction under a statute punishing possession, custody, or control of an unregistered still unless defendant otherwise explained his presence at the site to the jury held unconstitutional because the presumption is not a legitimate, rational, or reasonable inference that defendant was engaged in one of the specialized functions proscribed by the statute.

United States v. Romano, 382 U.S. 136 (1965).

96. Act of September 2, 1958 (§ 1(25)(B), 72 Stat. 1446), and Act of September 7, 1962 (§ 401, 76 Stat. 469).

Federal statutes providing that spouses of female members of the Armed Forces must be dependent in fact in order to qualify for certain dependent's benefits, whereas spouses of male members are statutorily deemed dependent and automatically qualified for allowances, whatever their actual status, held an invalid sex classification under the equal protection principles of the Fifth Amendment's due process clause.

Frontiero v. Richardson, 411 U.S. 677 (1973).
Concurring: Justices Brennan, Douglas, White, and Marshall.
Concurring specially: Justices Powell and Blackmun and Chief Justice Burger; Justice Stewart.
Dissenting: Justice Rehnquist.

97. Act of September 14, 1959 (§ 504, 73 Stat. 536).

Provision of Labor-Management Reporting and Disclosure Act of 1959 making it a crime for a member of the Communist Party to serve as an officer or, with the exception of clerical or custodial positions, as an employee of a labor union held to be a bill of attainder and unconstitutional.

United States v. Brown, 381 U.S. 437 (1965).
Concurring: Chief Justice Warren and Justices Black, Douglas, Brennan, and Goldberg.
Dissenting: Justices White, Clark, Harlan, and Stewart.

98. Act of October 11, 1962 (§ 305, 76 Stat. 840).

Provision of Postal Services and Federal Employees Salary Act of 1962 authorizing Post Office Department to detain material determined to be "communist political propaganda" and to forward it to the addressee only if he requested it after notification by the Department, the material to be destroyed otherwise, held to impose on the addressee an affirmative obligation which amounted to an abridgment of First Amendment rights.

Lamont v. Postmaster General, 381 U.S. 301 (1965).

99. Act of October 15, 1962 (76 Stat. 914).

Provision of District of Columbia laws requiring that a person to be eligible to receive welfare assistance must have resided in the District for at least one year impermissibly classified persons on the basis of an assertion of the right to travel interstate and therefore held to violate the due process clause of the Fifth Amendment.

Shapiro v. Thompson, 394 U.S. 618 (1969).
Concurring: Justices Brennan, Douglas, Stewart, White, Fortas, and Marshall.
Dissenting: Chief Justice Warren and Justices Black and Harlan.

100. Act of December 16, 1963 (77 Stat. 378, 20 U.S.C. § 754).

Provision of Higher Education Facilities Act of 1963 which in effect removed restriction against religious use of facilities constructed

with federal funds after 20 years held to violate the establishment clause of the First Amendment inasmuch as the property will still be of considerable value at the end of the period and removal of the restriction would constitute a substantial governmental contribution to religion.

Tilton v. Richardson, 403 U.S. 672 (1971).

101. Act of July 30, 1965 (§ 339, 79 Stat. 409).

Section of Social Security Act qualifying certain illegitimate children for disability insurance benefits by presuming dependence but disqualifying other illegitimate children, regardless of dependency, if the disabled wage earner parent did not contribute to the child's support before the onset of the disability or if the child did not live with the parent before the onset of disability, held to deny latter class of children equal protection as guaranteed by the due process clause of the Fifth Amendment.

Jiminez v. Weinberger, 417 U.S. 628 (1974).

Concurring: Chief Justice Burger and Justices Douglas, Brennan, Stewart White, Marshall, Blackmun, and Powell.

Dissenting: Justice Rehnquist.

102. Act of September 3, 1966 (§ 102(b), 80 Stat. 831), and Act of April 8, 1974 (§§ 6(a)(1) amending § 3(d) of Act, 6(a)(2) amending 3 (e)(2)(C), 6(a)(5) amending § 3(s)(5), and 6(a)(6) amending § 3(x)).

Those section of the Fair Labor Standards Act extending wage and hour coverage to the employees of state and local governments held invalid because Congress lacks the authority under the commerce clause to regulate employee activities in areas of traditional governmental functions of the States.

National League of Cities v. Usery, 426 U.S. 833 (1976).

Concurring: Justices Rehnquist, Stewart, Blackmun, Powell, and Chief Justice Burger.

Dissenting: Justices Brennan, White, and Marshall; Justice Stevens.

103. Act of January 2, 1968 (§ 163(a)(2), 81 Stat. 872).

District court decisions holding unconstitutional under Fifth Amendment's due process clause section of Social Security Act that reduced, perhaps to zero, benefits coming to illegitimate children upon death of parent in order to satisfy the maximum payment due the wife and legitimate children are summarily affirmed.

Richardson v. Davis, 409 U.S. 1069 (1972).

104. Act of January 2, 1968 (§ 203, 81 Stat. 882).

Provision of Social Security Act extending benefits to families whose dependent children have been deprived of parental support because of the unemployment of the father but not giving benefits when the mother becomes unemployed held to impermissibly classify on the basis of sex and violate the Fifth Amendment's due process clause.

Califano v. Westcott, 443 U.S. 76 (1979).

105. Act of June 22, 1970 (ch. III, 84 Stat. 318).

Provision of Voting Rights Act Amendments of 1970 which set a minimum voting age qualification of 18 in state and local elections held to be unconstitutional because beyond the powers of Congress to legislate.

Oregon v. Mitchell, 400 U.S. 112 (1970).
Concurring: Justices Harlan, Stewart, Blackmun, and Chief Justice Burger.
Concurring specially: Justice Black.
Dissenting: Justices Douglas, Brennan, White, and Marshall.

106. Act of December 29, 1970 (§ 8(a), 84 Stat. 1598, 29 U.S.C. § 637(a)).

Provision of Occupational Safety and Health Act authorizing inspections of covered work places in industry without warrants held to violate Fourth Amendment.

Marshall v. Barlow's Inc., 436 U.S. 307 (1978).
Concurring: Justices White, Stewart, Marshall, Powell, and Chief Justice Burger.
Dissenting: Justices Stevens, Blackmun, and Rehnquist.

107. Act of January 11, 1971, (§ 2, 84 Stat. 2048).

Provision of Food Stamp Act disqualifying from participation in program any household containing an individual unrelated by birth, marriage, or adoption to any other member of the household violates the due process clause of the Fifth Amendment.

Department of Agriculture v. Moreno, 413 U.S. 528 (1973).
Concurring: Justices Brennan, Douglas, Stewart, White, Marshall, Blackmun, and Powell.
Dissenting: Justice Rehnquist and Chief Justice Burger.

108. Act of January 11, 1971 (§ 4, 84 Stat. 2049).

Provision of Food Stamp Act disqualifying from participation in program any household containing a person 18 years or older who had been claimed as a dependent child for income tax purposes in the present or preceding tax year by a taxpayer not a member of the household violates the due process clause of the Fifth Amendment.

Department of Agriculture v. Murry, 413 U.S. 508 (1973).
Concurring: Justices Douglas, Brennan, Stewart, White, and Marshall.
Dissenting: Justices Blackmun, Rehnquist, Powell, and Chief Justice Burger.

109. Federal Election Campaign Act of February 7, 1972 (86 Stat. 3), as amended by the Federal Campaign Act Amendments of 1974 (88 Stat. 1263), adding or amending 18 U.S.C. §§ 608(a), 608(e), and 2 U.S.C. § 437c.

Provisions of election law that forbid a candidate or the members of his immediate family from expending personal funds in excess of specified amounts, that limit to $1,000 the independent expenditures of any person relative to an identified candidate, and that forbid ex-

penditures by candidates for federal office in excess of specified amounts violate the First Amendment speech guarantees; provisions of the law creating a commission to oversee enforcement of the Act are an invalid infringement of constitutional separation of powers in that they devolve responsibilities upon a commission four of whose six members are appointed by Congress and all six of whom are confirmed by the House of Representatives as well as by the Senate, not in compliance with the appointments clause.

Buckley v. Valeo, 424 U.S. 1 (1976).
Concurring: Justices Brennan, Stewart, Blackmun, Powell, and Rehnquist, and Chief Justice Burger.
Dissenting (expenditure provisions only): Justice White.
Dissenting (candidate's personal funds only): Justice Marshall.

110. Act of October 1, 1976 (title II, 90 Stat. 1446); Act of October 12, 1979 (101(c), 93 Stat. 657)).

Provisions of appropriations laws rolling back automatic pay increases for federal officers and employees is unconstitutional as to Article III judges because, the increases having gone into effect, they violate the security of compensation clause of Article III, § 1.

United States v. Will, 449 U.S. 200 (1980).

111. Act of November 6, 1978 (§ 241(a), 92 Stat. 2668, 28 U.S.C. § 1471)

Assignment to judges who do not have tenure and guarantee of compensation protections afforded Article III judges of jurisdiction over all proceedings arising under or in the bankruptcy act and over all cases relating to proceedings under the bankruptcy act is invalid, inasmuch as judges without Article III protection may not receive at least some of this jurisdiction.

Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982).
Concurring: Justices Brennan, Marshall, Blackmun, and Stevens.
Concurring specially: Justices Rehnquist and O'Connor.
Dissenting: Justices White and Powell and Chief Justice Burger.

112. Act of May 30, 1980 (94 Stat. 399, 45 U.S.C. § 1001 et seq.) as amended by the Act of October 14, 1980 (94 Stat. 1959).

Acts of Congress applying to bankruptcy reorganization of one railroad and guaranteeing employee benefits is repugnant to the requirement of Article I, § 8, cl. 4, that bankruptcy legislation be "uniform."

Railroad Labor Executives Ass'n v. Gibbons, 455 U.S. 457 (1982).

113. Act of March 3, 1873 (ch. 258, § 2, 17 Stat. 599, recodified in 39 U.S.C. § 3001(e)(2)).

Comstock Act provision barring from the mails any unsolicited advertisement for contraceptives, as applied to circulars and flyers promoting prophylactics or containing information discussing the de-

sirability and availability of prophylactics, violates the free speech clause of the First Amendment.

Bolger v. Youngs Drug Products Corp., 463 U.S. 60 (1983).
Justices concurring: Marshall, White, Blackmun, Powell, and Chief Justice Burger.
Justices concurring specially: Rehnquist and O'Connor; Stevens.

114. Act of Feb. 15, 1938, ch. 29, 52 Stat. 30.

District of Columbia Code § 22–1115, prohibiting the display of any sign within 500 feet of a foreign embassy if the sign tends to bring the foreign government into "public odium" or "public disrepute," violates the First Amendment.

Boos v. Barry, 485 U.S. 312 (1988).
Justices concurring: O'Connor, Brennan, Marshall, Stevens, Scalia.
Justices dissenting: Chief Justice Rehnquist, and White and Blackmun.

115. Act of June 27, 1952 (ch. 477, § 244(e)(2), 66 Stat. 214, 8 U.S.C. § 1254 (c)(2).

Provision of the immigration law that permits either House of Congress to veto the decision of the Attorney General to suspend the deportation of certain aliens violates the bicameralism and presentation requirements of lawmaking imposed upon Congress by Article I, §§ 1 and 7.

INS v. Chadha, 462 U.S. 919 (1983).
Justices concurring: Chief Justice Burger, and Brennan, Marshall, Blackmun, and Stevens.
Justice concurring specially: Powell.
Justices dissenting: Rehnquist and White.

116. Act of September 2, 1958 (Pub. L. 85–921, § 1, 72 Stat. 1771, 18 U.S.C. § 504(1)).

Exemptions from ban on photographic reproduction of currency "for philatelic, numismatic, educational, historical, or newsworthy purposes" violates the First Amendment because it discriminates on the basis of the content of a publication.

Regan v. Time, Inc., 468 U.S. 641 (1984).
Justices concurring: White, Brennan, Blackmun, Marshall, Powell, Rehnquist, O'Connor, and Chief Justice Burger.
Justice dissenting: Stevens.

117. Act of November 7, 1967 (Pub. L. 90–129, § 201(8), 81 Stat. 368), as amended by Act of August 13, 1981 (Pub. L. 97–35, § 1229, 95 Stat. 730, 47 U.S.C. § 399).

Communications Act provision banning noncommercial educational stations receiving grants from the Corporation for Public Broadcasting from engaging in editorializing violates the First Amendment.

FCC v. League of Women Voters, 468 U.S. 364 (1984).
Justices concurring: Brennan, Marshall, Blackmun, Powell, and O'Connor.
Justices dissenting: White, Rehnquist, Stevens, and Chief Justice Burger.

118. Act of December 10, 1971 (Pub. L. 92–178, § 801, 85 Stat. 570, 26 U.S.C § 9012(f)).

Provision of Presidential Election Campaign Fund Act limiting to $1,000 the amount that independent committees may expend to further the election of a presidential candidate financing his campaign with public funds is an impermissible limitation of freedom of speech and association protected by the First Amendment.

FEC v. National Conservative Political Action Comm., 470 U.S. 480 (1985).
Justices concurring: Rehnquist, Brennan, Blackmun, Powell, O'Connor, Stevens, and Chief Justice Burger.
Justices dissenting: White and Marshall.

119. Act of May 11, 1976, Pub. L. 92–225, § 316, 90 Stat. 490, 2 U.S.C. § 441b.

Provision of Federal Election Campaign Act requiring that independent corporate campaign expenditures be financed by voluntary contributions to a separate segregated fund violates the First Amendment as applied to a corporation organized to promote political ideas, having no stockholders, and not serving as a front for a business corporation or union.

FEC v. Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986).
Justices concurring: Brennan, Marshall, Powell, and Scalia.
Justice concurring specially: O'Connor.
Justices dissenting: Chief Justice Rehnquist, and Justices White, Blackmun, and Stevens.

120. Act of November 9, 1978 (Pub. L. 95–621, § 202(c)(1), 92 Stat. 3372, 15 U.S.C. § 3342(c)(1).

Decision of Court of Appeals holding unconstitutional provision giving either House of Congress power to veto rules of Federal Energy Regulatory Commission on certain natural gas pricing matters is summarily affirmed on the authority of *Chadha*.

Process Gas Consumers Group v. Consumer Energy Council, 463 U.S. 1216 (1983).

121. Act of May 28, 1980 (Pub. L. 96–252, § 21(a)), 94 Stat. 393, 15 U.S.C. § 57a–1(a).

Decision of Court of Appeals holding unconstitutional provision of FTC Improvements Act giving Congress power by concurrent resolution to veto final rules of the FTC is summarily affirmed on the basis of *Chadha*.

United States Senate v. FTC, 463 U.S. 1216 (1983).

122. Act of Jan. 12, 1983 (Pub. L. 97–459, § 207), 96 Stat. 2519, 25 U.S.C. § 2206.

Section of Indian Land Consolidation Act providing for escheat to tribe of fractionated interests in land representing less than 2% of a tract's total acreage violates the Fifth Amendment's takings clause by completely abrogating rights of intestacy and devise.

Hodel v. Irving, 481 U.S. 704 (1987).

Justices concurring: O'Connor, Brennan, Marshall, Blackmun, Powell, Scalia, and Chief Justice Rehnquist.

Justices concurring specially: Stevens and White.

123. Act of Jan. 15, 1985, (Pub. L. 99–240, § 5(d)(2)(C)), 99 Stat. 1842, 42 U.S.C. § 2021e(d)(2)(C).

"Take-title" incentives contained in the Low-Level Radioactive Waste Policy Amendments Act of 1985, designed to encourage states to cooperate in the federal regulatory scheme, offend principles of federalism embodied in the Tenth Amendment. These incentives, which require that non-participating states take title to waste or become liable for generators' damages, cross the line distinguishing encouragement from coercion. Congress may not simply commandeer the legislative and regulatory processes of the states, nor may it force a transfer from generators to state governments. A required choice between two unconstitutionally coercive regulatory techniques is also impermissible.

New York v. United States, 112 S. Ct. 2408 (1992).

Justices concurring: O'Connor, Scalia, Kennedy, Souter, Thomas, and Chief Justice Rehnquist.

Justices dissenting: White, Blackmun, and Stevens.

124. Act of December 12, 1985 (Pub. L. 99–177, § 251), 99 Stat. 1063, 2 U.S.C. § 901.

That portion of the Balanced Budget and Emergency Deficit Control Act which authorizes the Comptroller General to determine the amount of spending reductions which must be accomplished each year to reach congressional targets and which authorizes him to report a figure to the President which the President must implement violates the constitutional separation of powers inasmuch as the Comptroller General is subject to congressional control (removal) and cannot be given a role in the execution of the laws.

Bowsher v. Synar, 478 U.S. 714 (1986).

Justices concurring: Chief Justice Burger, and Brennan, Powell, Rehnquist, and O'Connor.

Justices concurring specially: Stevens and Marshall.

Justices dissenting: White and Blackmun.

125. Act of Oct. 30, 1986 (Pub. L. 99–591, title VI, § 6007(f)), 100 Stat. 3341, 49 U.S.C. App. § 2456(f).

The Metropolitan Washington Airports Act of 1986, which transferred operating control of two Washington, D.C., area airports from the Federal Government to a regional airports authority, violates separation of powers principles by conditioning that transfer on the establishment of a Board of Review, composed of Members of Congress and having veto authority over actions of the airports authority's board of directors.

Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, 501 U.S. 252 (1991)
Justices concurring: Stevens, Blackmun, O'Connor, Scalia, Kennedy, and Souter.
Justices dissenting: White, Marshall, and Chief Justice Rehnquist.

126. Act of April 28, 1988 (Pub. L. 100–297 § 6101), 102 Stat. 424, 47 U.S.C. § 223(b)(1).

Amendment to Communications Act of 1934 imposing an outright ban on "indecent" but not obscene messages violates the First Amendment, since it has not been shown to be narrowly tailored to further the governmental interest in protecting minors from hearing such messages.

Sable Communications of California v. FCC, 492 U.S. 115 (1989).

127. Act of Oct. 28, 1989 (Pub. L. 101–131), 103 Stat. 777, 18 U.S.C. § 700.

The Flag Protection Act of 1989, criminalizing burning and certain other forms of destruction of the United States flag, violates the First Amendment. Most of the prohibited acts involve disrespectful treatment of the flag, and evidence a purpose to suppress expression out of concern for its likely communicative impact.

United States v. Eichman, 496 U.S. 310 (1990).
Justices concurring: Brennan, Marshall, Blackmun, Scalia, Kennedy.
Justices dissenting: Stevens, White, O'Connor, and Chief Justice Rehnquist.