

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

144. Act of October 17, 1988 (Pub. L. 100–497, § 11(d)(7), 102 Stat. 2472, 25 U.S.C. § 2710(d)(7))

A provision of the Indian Gaming Regulatory Act authorizing an Indian tribe to sue a State in federal court to compel performance of a duty to negotiate in good faith toward the formation of a compact violates the Eleventh Amendment. In exercise of its powers under Article I, Congress may not abrogate States' Eleventh Amendment immunity from suit in federal court. *Pennsylvania v. Union Gas Co.*, 491 U.S. 1 (1989), is overruled.

*Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996).

Justices concurring: Rehnquist, C.J., O'Connor, Scalia, Kennedy, Thomas

Justices dissenting: Stevens, Souter, Ginsburg, Breyer

145. Act of October 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, Rehnquist, C.J.

146. Act of November 30, 1989 (Pub. L. 101–194, § 601, 103 Stat. 1760, 5 U.S.C. app. § 501)

Section 501(b) of the Ethics in Government Act, as amended in 1989 to prohibit Members of Congress and federal employees from accepting honoraria, violates the First Amendment as applied to Executive Branch employees below grade GS–16. The ban is limited to expressive activity and does not include other outside income, and the “speculative benefits” of the ban do not justify its “crudely crafted burden” on expression.

*United States v. National Treasury Employees Union*, 513 U.S. 454 (1995).

Justices concurring: Stevens, Kennedy, Souter, Ginsburg, Breyer

Justice concurring in part and dissenting in part: O'Connor

Justices dissenting: Rehnquist, C.J., Scalia, Thomas

147. Act of July 26, 1990 (Pub. L. No. 101–336, Title I, 104 Stat. 327, 42 U.S.C. §§ 12112–12117)

Title I of the Americans with Disabilities Act of 1990 (ADA), exceeds congressional power to enforce the Fourteenth Amendment, and violates the Eleventh Amendment, by subjecting states to suits brought by state employees in federal courts to collect money damages for the