

162. Act of April 9, 1996, 110 Stat. 1200 (Pub. L. 104–130, 2 U.S.C. §§ 691 et seq.)

The Line Item Veto Act, which gives the President the authority to “cancel in whole” three types of provisions that have been signed into law, violates the Presentment Clause of Article I, section 7. In effect, the law grants to the President “the unilateral power to change the text of duly enacted statutes.” This Line Item Veto Act authority differs in important respects from the President’s constitutional authority to “return” (veto) legislation: the statutory cancellation occurs after rather than before a bill becomes law, and can apply to a part of a bill as well as the entire bill.

Clinton v. City of New York, 524 U.S. 417 (1998).

Justices concurring: Stevens, Kennedy, Souter, Thomas, Ginsburg, Rehnquist, C.J.

Justices dissenting: Scalia, O’Connor, Breyer

163. Act of April 26, 1996 (Pub. L. No. 104–134 § 504(a)(16), 110 Stat. 1321–55)

A restriction in the appropriations act for the Legal Services Corporation that prohibits funding for any organization that participates in litigation that challenges a federal or state welfare law constitutes viewpoint discrimination in violation of the First Amendment. Moreover, the restrictions on LSC advocacy “distort [the] usual functioning” of the judiciary, and are “inconsistent with accepted separation-of-powers principles.” “An informed, independent judiciary presumes an informed, independent bar,” yet the restriction “prohibits speech and expression on which courts must depend for the proper exercise of judicial power.”

Legal Services Corp. v. Valazquez, 531 U.S. 533 (2001).

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

Justices dissenting: Scalia, O’Connor, Thomas, Rehnquist, C.J.

164. Act of September 21, 1996 (Pub. L. No. 104–199 § 2(a), 110 Stat. 2419, 1 U.S.C. § 7)

Section 3 of the Defense of Marriage Act (DOMA), providing that for purposes of any federal act, ruling, regulation, or interpretation, the word “spouse” would mean a person of the opposite sex who is a husband or a wife, struck down as “motivated by improper animus or purpose.” Court concluded that “no legitimate purpose overcomes the purpose and effect to disparage and injure those whom the State, by its marriage laws, sought to protect in personhood and dignity,” thus violating basic due process and equal protection principles applicable to the Federal Government.

United States v. Windsor, 570 U.S. ___, No. 12–307, slip op. (2013).

Justices concurring: Kennedy, Ginsburg, Breyer, Sotomayor, Kagan