SUPREME COURT OF THE UNITED STATES

No. 02–403

FEDERAL ELECTION COMMISSION, PETITIONER *v.* CHRISTINE BEAUMONT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 16, 2003]

JUSTICE KENNEDY, concurring in the judgment.

My position, expressed in dissenting opinions in previous cases, has been that the Court erred in sustaining certain state and federal restrictions on political speech in the campaign finance context and misapprehended basic First Amendment principles in doing so. See *Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 409 (2000) (KENNEDY, J., dissenting); *Austin* v. *Michigan Chamber of Commerce*, 494 U. S. 652, 699 (1990) (KENNEDY, J., dissenting); *Colorado Republican Federal Campaign Comm.* v. *Federal Election Comm'n*, 518 U. S. 604, 626 (1996) (KENNEDY, J., concurring in judgment and dissenting in part). I adhere to this view, and so can give no weight to those authorities in the instant case.

That said, it must be acknowledged that *Federal Election Comm'n* v. *Massachusetts Citizens for Life, Inc.,* 479 U. S. 238 (1986) (MCFL), contains language supporting the Court's holding here that corporate contributions can be regulated more closely than corporate expenditures. The language upon which the Court relies tends to reconcile the tension between the approach in *MCFL* and the Court's earlier decision in *Federal Election Comm'n* v. *National Right to Work Comm.*, 459 U. S. 197 (1982).

Were we presented with a case in which the distinction between contributions and expenditures under the whole

scheme of campaign finance regulation were under review, I might join JUSTICE THOMAS' opinion. The Court does not undertake that comprehensive examination here, however. And since there is language in *MCFL* that supports today's holding, I concur in the judgment.