SUPREME COURT OF THE UNITED STATES

No. 96–643

STEEL COMPANY, AKA CHICAGO STEEL AND PICKLING COMPANY, PETITIONER *v.* CITIZENS FOR A BETTER ENVIRONMENT

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

[March 4, 1998]

JUSTICE O'CONNOR, with whom JUSTICE KENNEDY joins, concurring.

I join the Court's opinion. I agree that our precedent supports the Court's holding that respondent lacks Article III standing because its injuries cannot be redressed by a judgment that would, in effect, require only the payment of penalties to the United States Treasury. As the Court notes, *ante*, at 24, had respondent alleged a continuing or imminent violation of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 100 Stat. 1755, 42 U. S. C. §11046, the requested injunctive relief may well have redressed the asserted injury.

I also agree with the Court's statement that federal courts should be certain of their jurisdiction before reaching the merits of a case. As the Court acknowledges, however, several of our decisions "have diluted the absolute purity of the rule that Article III jurisdiction is always an antecedent question." *Ante*, at 16–17. The opinion of the Court adequately describes why the assumption of jurisdiction was defensible in those cases, see *ante*, at 13–16, and why it is not in this case, see *ante*, at 7–8. I write separately to note that, in my view, the Court's opinion should not be read as cataloging an exhaustive list of circumstances under

which federal courts may exercise judgment in "reserv[ing] difficult questions of . . . jurisdiction when the case alternatively could be resolved on the merits in favor of the same party," *Norton* v. *Mathews*, 427 U. S. 524, 532 (1976).