

KENNEDY, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 98–822

FRIENDS OF THE EARTH, INCORPORATED, ET AL.,
PETITIONERS v. LAIDLAW ENVIRONMENTAL
SERVICES (TOC), INC.

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

[January 12, 2000]

JUSTICE KENNEDY, concurring.

Difficult and fundamental questions are raised when we ask whether exactions of public fines by private litigants, and the delegation of Executive power which might be inferable from the authorization, are permissible in view of the responsibilities committed to the Executive by Article II of the Constitution of the United States. The questions presented in the petition for certiorari did not identify these issues with particularity; and neither the Court of Appeals in deciding the case nor the parties in their briefing before this Court devoted specific attention to the subject. In my view these matters are best reserved for a later case. With this observation, I join the opinion of the Court.