

Justices dissenting (except as to standing and mootness): Stevens, Souter, Ginsburg, Breyer

171. Act of March 27, 2002, the Bipartisan Campaign Reform Act of 2002 (Pub. L. 107–155, § 307(b); 2 U.S.C. § 441a(a)(3))

Aggregate limits on the amount of money individuals are allowed to contribute to candidates, Political Action Committees, national party committees, and state or local party committees, violate the First Amendment because there is an insufficient “fit” between the governmental objective, to avoid “quid pro quo” political corruption, and the means utilized. Although similar aggregate limits had been previously upheld as a means to prevent channeling unrestricted funds through non-candidate groups to evade individual contribution rules, the intervening passage of a variety of anti-circumvention laws undercuts this rationale.

McCutcheon v. Federal Election Commission 572 U.S. ___, No. 12–536, slip op. (2014)

Justices concurring: Roberts, C.J., Scalia, Kennedy, Alito

Justice concurring in judgment only: Thomas

Justices dissenting: Breyer, Ginsburg, Sotomayor, Kagan

172. Act of July 30, 2002 (Pub. L. 107–204, Title I, §§ 101(e)(6), 107(d)(3), 116 Stat. 750; 15 U.S.C.S. §§ 7211(e)(6) and 7217(d)(3))

Two provisions of the Sarbanes-Oxley Act, providing that members of the Public Company Accounting Oversight Board could only be removed by the Commissioners of the Securities and Exchange Commission “for good cause shown” and “in accordance with” specified procedures, violated the Constitution’s separation of powers. Because the removal decision was vested in Commissioners who themselves were protected from removal by the President absent a showing of “inefficiency, neglect of duty, or malfeasance in office,” the Court held that the dual for-cause limitations on the removal of Board members withdrew from the President any decision on whether that good cause existed.

Free Enterprise Fund v. Public Company Accounting Oversight Bd., 561 U.S. ___, No. 08–861, slip op. (2010).

Justices concurring: Roberts, C.J., Scalia, Thomas, Kennedy, Alito

Justices dissenting: Stevens, Breyer, Ginsburg, Sotomayor

173. Act of May 27, 2003 (Pub. L. 108–25, Title III, § 301(f), 117 Stat. 711, 734; 22 U.S.C.S. § 7631(f))

A condition on the provision of federal funds intended to combat HIV/AIDS requiring a recipient to have a policy “explicitly opposing prostitution and sex trafficking” is a violation of First Amendment free speech rights. While the government can ensure it is not funding speech