

REHNQUIST, C. J., concurring

SUPREME COURT OF THE UNITED STATES

No. 98–387

**GREATER NEW ORLEANS BROADCASTING
ASSOCIATION, INC., ETC., ET AL., PETI-
TIONERS v. UNITED STATES ET AL.**

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

[June 14, 1999]

CHIEF JUSTICE REHNQUIST, concurring.

Title 18 U. S. C. §1304 regulates broadcast advertising of lotteries and casino gambling. I agree with the Court that “[t]he operation of §1304 and its attendant regulatory regime is so pierced by exemptions and inconsistencies,” *ante*, at 16, that it violates the First Amendment. But, as the Court observes:

“There surely are practical and non-speech-related forms of regulation— including a prohibition or supervision of gambling on credit; limitations on the use of cash machines on casino premises; controls on admissions; pot or betting limits; location restrictions; and licensing requirements— that could more directly and effectively alleviate some of the social costs of casino gambling.” *Ante*, at 18.

Were Congress to undertake substantive regulation of the gambling industry, rather than simply the manner in which it may broadcast advertisements, “exemptions and inconsistencies” such as those in §1304 might well prove constitutionally tolerable. “The problem of legislative classification is a perennial one, admitting of no doctrinaire definition. Evils in the same field may be of different dimensions and proportions, requiring different reme-

