Per Curiam

SUPREME COURT OF MAYFLOWER

No. 07IM–17

IN RE IMPEACHMENT OF M1KEASWELL, LIEUTENANT GOVERNOR OF MAYFLOWER

ON EXHIBITION OF ARTICLES OF IMPEACHMENT BY THE STATE SENATE

[July 12, 2023]

PER CURIAM.

In most legislatures, all engrossed bills, resolutions, and acts of the legislature are duly signed by the presiding officer of both houses of the legislature. But in some legislatures, and most notably the U. S. Congress, courts traditionally refuse to hear claims of whether an act of the legislature is truly considered adoptive when it is alleged to have inadequately followed the legislature's internal procedural rules. In these states, the signature of both presiding officers is considered sufficient attestations that the item they sign has followed all rules and that the matter is settled there. This doctrine is also known as the Enrolled Bill Rule.

Our state has never formally acknowledged or paid respect to the Enrolled Bill Rule, but we are now presented in this case with an allegation of procedural inadequacy. Given such, and at the present juncture of this case, we must first resolve the two questions: (1) whether the judiciary may hear claims of procedural inadequacy when reviewing the stature of any engrossed bill, act, or other form of congressional action; and, (2) whether the journal can be considered of evidentiary value in considering such or if the

signature/declaration of the Presiding Officer is sufficient to demonstrate compliance with legislative procedure. Reflecting on the present case, we hold that the judiciary may adjudicate these claims of procedural inadequacy to the extent to resolve claims that, if left unheard, may render the constitutional safeguards on the legislature as useless. We further hold that the presiding officer's declaration affirming the passage of an act of the legislature on the night of its consideration is sufficient to determine whether the matter has been given all due regard to procedural safeguards.

Applying these holdings to the case before us, we find that the stature of the articles of impeachment before us are sufficient to resume our consideration.

I

On June 24th, the Mayflower State Senate voted to adopt articles of impeachment against the Respondent, the Lieutenant Governor of Mayflower. The vote was recorded in the journal as four in favor, three against, one abstaining, and two in absence. The total membership at the time was counted to be ten Senators, which brings the traditional requirement of simple majority to be six members. With one member abstaining and three absent, the chamber considered total membership on that vote to mean six members. That brought the simple majority threshold to mean four members. The presiding officer declared that the vote was sufficient, and the resolution engrossed. No objection was made to this declaration on the floor.

The articles of impeachment were then exhibited to us by a member of the legislature—but not the presiding officer on the night of their consideration. Respondent contested that the vote was insufficient to meet the simple majority requirement for all actions done by the legislature. They further contested that the member of the senate was not authorized by the legislature to exhibit the articles for our consideration. We originally reserved the docketing of the

articles of impeachment until we resolved this issue. We now proceed to consider the exhibition of the articles of impeachment.

II

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution." Mayf. Const. art. XI, §2. In past, we have interpreted this clause to include exceptions where our judicial power is limited. *See*, *e.g.*, *Ipadpuppydogdude1alt* v. *Mayflower Dep't of State*, 6 M. S. C. 79 (2022) (noting the requirement of a Plaintiff's standing to bring suit); *See*, *e.g.*, *In re* Impeachment of AA_MP, 7 M. S. C. ____ (2023) (dismissing a case as moot). We are now asked to confer whether another exception exists in this case that would prevent us from hearing it.

The biggest obstacle we face is the political questions doctrine, which has been adopted in the United States as widely prohibiting courts from hearing claims of matters relegated largely to the other branches and is "primarily a function of the separation of powers." *Baker* v. *Carr*, 369 U. S. 186, 210 (1961). We must balance the need for relief sought in our courts with the need to avoid superseding the other branches.

The power of legislating is "herein vested in the Legislature," Mayf. Const. art. IV, and their rule making power is also retained within themselves. Mayf. Const. art. IV, §8. Undoubtably, the legislature holds this sole power. But where the other branches exceed their authority, the question turns less political and more so a judicial review of such action. For example, when the actual substance of an engrossed bill is an unconstitutional exercise of power, we are empowered to resolve these claims, because "it is emphatically the duty of the Judicial Department to say what the law is." *Marbury* v. *Madison*, 5 U. S. 137, 137 (1803). To limit our review from considering the actual methodology of

engrossing a bill is unnecessary as an unconstitutional exercise is still a prohibited power. We must enforce the Constitution and say what the law is when it regards questions of an insufficiently engrossed bill.

But there are other rules that the legislature has inscribed upon themselves that are insufficient to call into question the stature of the act itself. And this case presents one. The State Senate's rules require that articles of impeachment be exhibited by the presiding officer to our Court. Though this rule was not followed in the articles we consider before us, we cannot find it just to then reverse the act as unconstitutional nor can we allow our court to be the enforcer of the Senate's rules unless we are constitutionally compelled to do so. For our review into the stature of a statute to be appropriate, it must involve an important constitutional matter that, left unresolved, would subject the legislature to be untouchable by the constitutional safeguards that govern it—such as the requirement of a simple majority to adopt the act. In all other regards, including the one where Respondent alleges that the articles were not properly exhibited, we leave that to the legislature whom is empowered to seek recourse within themselves.

III

The signing of an engrossed bill, or in our case, the presiding officer's declaration of such in open session, serves an important purpose. "The signing by [the presiding officer] in open session, of an enrolled bill, is an official attestation by the [chamber] of such bill as one that has passed Congress. It is a declaration […] through their presiding officers, to the [Governor] that a bill, thus attested, has received, in due form, the sanction of the legislative branch of the government, and that it is delivered to him in obedience to the constitutional requirement that all bills which pass Congress shall be presented to him. And when a bill, thus

attested, receives his approval, and is deposited in the public archives, its authentication as a bill that has passed Congress should be deemed complete and unimpeachable." *Field* v. *Clark*, 143 U. S. 649, 672 (1892).

In the case we have before us, the articles of impeachment were, in open session, declared by the Senate's President *pro tempore*, who was presiding at the time, as adopted, and passed without any objection from an opposing member of the legislature. The journal reflected this and so do all videography records of the session in which the articles were considered at. This is presiding officer's attestation that the act is sufficient and has met all procedural safeguards that are prescribed within their internal rules. Our review thus ends here. Reliant on the President *pro tempore*'s declaration, we also find the articles before us as sufficient.

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The Articles of Impeachment have been received and docketed by the Court.

It is so ordered.