Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BRITISH2004, PETITIONER *v.* OZZYMEN, SPEAKER OF THE HOUSE

CERTIORARI TO THE UNITED STATES FEDERAL GOVERNMENT

No. 3–7. Argued August 10, 2017—Decided August 14, 2017.*

On August 1, 2017, an expulsion resolution was begun in the House of Representatives against the respondent, Speaker of the House Ozzymen. After the resolution received four votes in opposition, respondent closed the proceeding, believing his abstention to lower the quorum required before votes may be closed. On August 2, 2017, respondent proposed the House Resolution on Proposals; after receiving nine votes in the affirmative, with ten cast in total, he closed it. Then, a second expulsion on August 8 was presented against the respondent. After several hours of being opened, with only one vote in opposition (but many in abstention), the respondent closed the vote. Petitioners British2004 and AntonioMPicarelli make several charges: (1) that the Speaker may not vote on resolutions and (2) that the respondent illegally closed votes.

Held: The Speaker of the House may not vote on expulsions and proceedings requiring 2/3rds majorities in the House but may vote on resolutions of simple nature, and illegally closed the proceedings at issue.

(a) The Constitution mandates that the Speaker of the House "shall not vote on any bill unless the Representatives are equally divided." Art. I, § 2, cl. 4. However, context in other clauses shows that the author of the Constitution meant for "bill" to incorporate expulsion votes and those requiring 2/3rds majorities. Pp. 5–12.

(b) The Speaker of the House is bound by the rules of the House itself, which require that resolutions remain open for at least twenty-four hours unless a majority of the *entire* body has voted and that expulsions be open for at least forty-eight hours. By closing both votes prematurely, he acted

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* Together with No. 3–10, *AntonioMPicarelli* v. *Ozzymen*, also on certiorari to the same federal organ.

Syllabus

illegally. Pp. 12–13.

(c) Because "The Constitution "employ[s] words in their natural sense," sense," unless context expressly dictates otherwise, *Gibbons* v. *Ogden*, 9 Wheat. 1, 71 (1824), simple resolutions cannot be included in the meaning of "bill" as used in the Constitution. Accordingly, as a Member of the House, the Speaker is allowed to vote on them. Pp. 13–14.

Vote of Speaker of the House Ozzymen on the August 1 expulsion, vacated. Speaker of the House Ozzymen's closing of the August 1 expulsion, reversed. Vote of Speaker of the House Ozzymen on the House Resolution on Proposals, affirmed. Speaker of the House Ozzymen's closing of the August 8 expulsion, reversed.

HOLMES, C. J., delivered the opinion of the Court with respect to Parts I and II, in which FRANKFURTER, MARSHALL, GORSUCH, and SUTHERLAND, JJ., joined, an opinion with respect to Part III, in which FRANKFURTER, MARSHALL, GORSUCH, SCALIA, ALITO, REHNQUIST, and SUTHERLAND, JJ., joined, and an opinion with respect to Part IV, in which FRANKFURTER, MARSHALL, GORSUCH, SCALIA, ALITO, and REHNQUIST, JJ., joined. SCALIA, J., filed an opinion concurring in part, concurring in the judgement in part, and dissenting in part, in which ALITO and REHNQUIST, JJ., joined. SUTHERLAND, J., filed an opinion concurring in part, concurring in the judgement in part, and dissenting in part. GINSBURG, J., took no part in the consideration or decision of the cases.

SUPREME COURT OF THE UNITED STATES

Nos. 3–7 and 3–10

BRITISH2004, PETITIONER

3–7 *v.*

OZZYMEN, SPEAKER OF THE HOUSE

ANTONIOMPICARELLI, PETITIONER

3–10 *v.*

OZZYMEN, SPEAKER OF THE HOUSE

ON WRITS OF CERTIORARI TO THE UNITED STATES FEDERAL GOVERNMENT

[August 14, 2017]

CHIEF JUSTICE HOLMES delivered the opinion of the Court with respect to Parts I and II, in which JUSTICE FRANKFURTER, JUSTICE MARSHALL, JUSTICE GORSUCH, and JUSTICE SUTHERLAND join, an opinion with respect to Part III, in which JUSTICE FRANKFURTER, JUSTICE MARSHALL, JUSTICE GORSUCH, JUSTICE SCALIA, JUSTICE ALITO, JUSTICE REHNQUIST, and JUSTICE SUTHERLAND join, and an opinion with respect to Part IV, in which JUSTICE FRANKFURTER, JUSTICE MARSHALL, JUSTICE GORSUCH, JUSTICE SCALIA, JUSTICE ALITO, and JUSTICE REHNQUIST join.

These cases involve several challenges made against actions taken by Speaker of the House Ozzymen. For the reasons discussed below, we vacate the vote he cast on his first expulsion, reverse his decision to close the vote on that expulsion, reverse

his decision to close the vote on the House Resolution on Proposals, affirm his vote on the House Resolution on Proposals, and reverse his decision to close the vote on his second expulsion.

I
A

On August 1, 2017, Representative BernardCaldwell introduced a resolution to strip respondent of his position as Speaker. Under the Constitution, that resolution was an "expulsion" and required a two-thirds majority. Art. I, § 11, cl. 2. The resolution argued that he was no longer fit to serve in his role because of his inability to properly execute its duties and a poor working relationship with much of the House. It charged that he had "violated [the] First Amendment" when he kicked Representatives from the House Discord server and that he had defamed and impugned the dignity of other Representatives through comments he had made both in public and private. For example, he told Representative Caldwell that he was "shit at making bills" and said he would "expose his ass." As a third charge, the resolution claimed he had interfered with the business of the House Judiciary Committee (of which he is not a member) by firing its advisors merely for "disagreeing with him." Then the resolution turned to his activity as Speaker, saying he had not hosted a "session in over a week and a half" even though the Constitution requires that each House "assemble at least once every week." Art. I, § 4. Finally, the resolution charged that he only "won the Speaker election by promising jobs to Representatives" (namely the role of Speaker pro tempore) and therefore did not deserve to retain the role.

In light of those many charges, the House Judiciary Committee voted almost unanimously to report the Speaker's expulsion to the House floor. It then went to vote before the

House. Despite the strong showing in committee, the expulsion quickly received four votes in opposition. Hoping to avoid a prolonged threat to his leadership the Speaker closed the vote, arguing a two-thirds majority was no longer plausible because of his own abstention. For this, petitioner British2004 filed suit on the basis that both the House Expulsions Resolution and the Constitution denied him a vote on those proceedings. This, he said, meant a two-thirds majority was still achievable and the Speaker could not close the vote. To preserve the status quo, this Court stayed the resolution's vote, barring him from reopening it. We granted certiorari on this question, 3 U. S. ___ (2017).

B

A day after his expulsion was introduced, on August 2nd, the respondent presented a rule-making resolution entitled the "House Resolution on Proposals." He commenced voting on the same, and a few Representatives (himself included) voted in favor of adopting it. Mere hours after the vote began, the respondent closed the vote to ensure its passage. At the time of vote closure, ten Representatives had voted on the matter. There are twenty-one currently serving. Of the ten who had voted within the three-and-a-half hours voting was open, two voted against the measure. Petitioner British2004 identified several potential improprieties which occurred during voting. Firstly, he believes that the respondent, Speaker Ozzymen, is not entitled to a vote on rule-making resolutions "unless the Representatives are equally divided." U. S. Const., Art. I, § 2, cl. 4. He also posits that the Speaker may not close the vote on a rule-making resolution unless either a "majority of the House has voted" (which was not the case) or "24 hour[s]" had passed since voting was commenced. Brief for Petitioners 6.

The Resolution on Proposals, if passed, would have codified existing House precedent which limits how often a proposal

may be introduced, by requiring that "a complete seven days has passed" since the item last failed. It also empowers the Speaker to enforce the rule unilaterally. Believing that the resolution was not properly adopted, petitioner British2004 filed suit; this Court stayed the resolution's vote to preserve the status quo. Certiorari was granted on the questions discussed above, 3 U. S. ___ (2017).

C

Because of several actions taken by the respondent after his first expulsion was denied, a second was brought before the House. This one passed committee unanimously. The charges, too, were far more severe this time around.

Firstly, the Speaker was accused of falsely passing the House Resolution on Proposals despite it not having acquired a simple majority in favor. The expulsion attributed this either to corruption or incompetence, neither of which (it says) render him fit to serve. Secondly, the expulsion claimed he had violated House rules by appointing more than one Clerk and multiple Speakers pro tempore. Then, it reiterated the point from the first expulsion about him removing Representatives from official House communications. It says that in doing so he was "obstructing the duties of Representatives." "Communication," it goes on, "provide[s] efficient announcements, information, and overall better . . . debates and discussions." And so "petty arguments" do not justify removal from a channel which is (apparently) designated for "just that." But removal of *Representatives* is not all he was targeted for. He was also accused of improprieties stemming from his removal of "*visitors*" and overall "disrespect towards American citizens" over the House communications channel. Again, his disrespect towards other Representatives was raised. His inability to "control his anger" resulted in him "belittling [and insulting] Representative Caldwell in a public chat," viewable not just by "Representatives," but by the "American public."

The fact that he counted his own vote on his first expulsion was mentioned in the second. He also, apparently, was not able to "control sessions . . . [or] Representatives" and could not keep the House in order. The respondent had also removed Representative Caldwell from both "official committee communications" and its "voting terminal" even though he was a member thereof. He was also accused of "deleting votes" on the committee "voting terminal," and himself voting in violation of House rules.

This expulsion attempt garnered far more support than the previous one. By the time the Speaker decided to close the vote, it had only a single vote in opposition. It did, however, also have many abstentions. House rules require that every forum vote be open for 48 hours before they may be closed, so petitioner AntonioMPicarelli disagrees that it was no longer conceivable that the expulsion could be passed only three hours in, when abstentions could still be changed within that period. He accordingly filed suit, asking that the vote be resumed. We granted certiorari on that question as well, 3 U. S. ___ (2017).

II

The first question at hand is whether the Speaker of the House may vote on his own expulsion. The petitioners raise two points in support of their position that he may not. First, that the House Expulsions Resolution would restrain him from voting because the expulsion is against him—and, second, that the Constitution itself prevents him from voting on *any* expulsion.

It is important to note that the Expulsions Resolution is constitutionally suspect; denying a Representative their ability to vote on House business presents a host of concerns. Passing on the constitutionality of another branch's actions, however, is "the gravest and most delicate duty that this Court is called upon to perform." *Blodgett* v. *Holden*, 275 U. S. 142, 147–148

(1927) (Holmes, J., concurring). We address those questions only when absolutely necessary to rule on the particular claims before us. See *Ashwander* v. *TVA*, 297 U. S. 288, 346–348 (1936) (Brandeis, J., concurring). In this case, because of the latter point raised by the petitioners (that the Constitution, too, bars the Speaker from voting on the expulsion), we need not consider the constitutionality of the Expulsions Resolution unless we find that the Constitution doesn't restrain the Speaker from voting. It would not be "outcome determinative." *SigmaHD* v. *United States Marshals Service*, 3 U. S. ___, ___ (2017) (slip op., at 5) (HOLMES, C. J., dissenting).

The relevant clause of the Constitution says the Speaker of the House "shall not vote on any bill unless the Representatives are equally divided." Art. I, § 2, cl. 4. Initially, the meaning of the clause is relatively clear: The Speaker shall not vote on any *bill*, and a bill is a "draft of a law presented to a legislature for enactment." Merriam-Webster's Dictionary (2017). The answer would then be clear in that an expulsion does not qualify as a "bill." But see Black's Law Dictionary 164 (6th ed. 1990) (Black's) ("[T]his word has many meanings and applications."); see also U. S. Const., Art. I, § 3, cl. 10 ("The President pro tempore shall not vote on any bill *that is not an expulsion or 2/3rds vote* unless the Senators are equally divided.") (capitalization altered) (emphasis added). To further complicate things, usage elsewhere indicates that the term is meant to have its ordinary meaning. See U. S. Const., Art. I, § 6 ("Every *bill* which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States.") (emphasis added). There is therefore a certain degree of ambiguity involved with the interpretation of the clause, and so we turn to the ordinary canons of legal interpretation to find our answer.

Three canons are of particular importance in interpreting the clause: The surplusage canon, the canon of defeasance in consistent usage, and the harmonious reading canon. We now

consider all three in turn.

A

The surplusage canon is a basic presumption that the legislature does not waste words. "[W]ords cannot be meaningless, else they would not have been used." *United States* v. *Butler*, 297 U. S. 1, 65 (1936). This canon is relevant here because the respondent's argument that the Speaker is not precluded from voting on expulsions is plainly at odds with the limitations placed on the Senate President pro tempore in its sister clause. Would not the exception of "bills" that are "expulsion[s] or [two-thirds] votes" in the sister clause be rendered meaningless if the Speaker's clause did not prevent him from voting on them to begin with? The respondents argue that the phrasing is just a product of unartful drafting and that the Framers meant nothing by it. They instead say we should defer to the ordinary meaning of "bill," which does not include expulsions and the like.

Thomas M. Cooley once said, "courts must … lean in favor of a construction which will render every word operative, rather than one which may make some idle and nurgatory." Thomas M. Cooley, A Treatise on Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union 58 (1868) (Cooley). But, in the view of the dissenters, by adopting the reading proposed by the petitioners, we would be doing just that: We would render the term "bill" meaningless. They argue that if the Framers intended for expulsions to be included as part of the prohibition, they would have simply said so. Perhaps they would have retained a prohibition similar to the one in the real-life Constitution for the President of the Senate, and would have simply denied the Speaker a "vote." But the term "bill" does not have as rigid a meaning as the dissenters proclaim. See Black's 164. There are a multitude of applications of the term, and it is this Court's job to find the one which gives every word in the Constitution

its effect.

"Whenever a reading arbitrarily ignores linguistic components or inadequately accounts for them, the reading may be presumed inoperable." E.D. Hirsch, Validity in Interpretation 236 (1967). It is therefore a "cardinal rule of … interpretation that no provision should be construed to be entirely redundant." *Kungys* v. *United States*, 485 U. S. 759, 778 (1988) (plurality opinion). That is not to say it would be inappropriate for a court to disregard "grammatical and ordinary sense of the words" if not doing so would "lead to some absurdity." *Grey* v. *Pearson*, 6 H.L. Cas. 61, 106 (1857) (per Lord Wensleydale). Blackstone explained that if "words bear … a very absurd signification, if literally understood, we must a little deviate from the received sense of them." William Blackstone, Commentaries on the Laws of England § 2, at 60 (4th ed. 1770). But both respondent and the dissenters advocate disregarding the meaning of not one, but eight, words, and there is no "absurd signification" which should justify doing so. *Ibid.* What, however, is absurd is the proposition that the Framers meant literally nothing when they granted an exception relating to "expulsion[s] and [two-thirds] votes" for the President pro tempore.

Words occasionally take on slightly "unnatural meaning[s]" to fit with the rest of a law. *Moskal* v. *United States*, 498 U. S. 103, 120–121 (1990) (Scalia, J., dissenting). While this is usually not necessary, see *ibid.*, when it is, it is evident from the context. For example, as was discussed in *Moskal*, a statute (18 U. S. C. § 2314) prohibits a person from, "with unlawful or fraudulent intent, transports in interstate … commerce any falsely made, forged, altered or counterfeited securities …, knowing the same to have been falsely made, forged, altered or counterfeited." Moskal, a used car salesman, had fabricated odometer readings on several of those cars in order to obtain titles with those readings. Upon his conviction under the statute, he argued on appeal that the titles (obviously not forged or

counterfeited) were not "falsely made" because the people who made them believed them to be accurate. The Court soundly rejected that idea because it would make "falsely made" synonymous to the terms "forged" and "counterfeited." Because it should be presumed that the term was not intended to be redundant, it must have a different meaning. Any other reading would "violat[e] the established principle that a court should give effect, if possible, to every clause or word of a statute." *Moskal*, *supra*, at 109 (internal quotation marks omitted). And though this reading did indeed cause "falsely made" to take on an unnatural meaning, the surplusage canon nonetheless required it.

It would not then be improper for the term "bill" to assume an unnatural meaning if both text and context require it. The question then is if they do.

This Court has expressed "deep reluctance" to interpret provisions of the law in such a way that would "render superfluous other provisions in the same" law. *Pa. Dep't of Pub. Welfare* v. *Davenport*, 495 U. S. 552, 562 (1990). We have simultaneously recognized that the "canon that a court should give effect to every provision" of a law may be defeated if it is sufficiently demonstrated that it was "unlikely that" a clause was "intended … to carry the … meaning" the canon gives it. *Landgraf* v. *USI Film Prods.*, 511 U. S. 244, 257–261 (1994). The use of the word "bill" is of critical importance here in this consideration. We must now determine whether usage elsewhere in the Constitution of the term would override the surplusage canon.

B

The Constitution uses the term "bill" in many other areas. For example, aside from the clause of concern and its sister clause relating to the President pro tempore, there is an identical clause applicable to the Vice President, in his capacity as Senate President. It also provides that "[e]ach House shall

keep a database of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and yeas and nays of the members of either House on any question shall be recorded in such database; as well as the vote on that particular *bill*." U. S. Const., Art. I, § 5, cl. 2 (emphasis added). This clause seemingly supports, rather than contradicts, the interpretation offered by the surplusage canon. If "any question" is a "bill" in this context, then it is conceivable that expulsions and two-thirds votes are properly considered "bills" in another.

There is a clause which provides that "[e]very *bill* which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not, he shall return it with his objections to that House in which it shall have originated. If after such reconsideration; two thirds of that House shall agree to pass the bill, it shall be sent, to the other House. If approved by two thirds of that House, it shall become a law." U. S. Const., Art. I, § 6. In another place, the Constitution speaks about referendums to veto "bill[s]." U. S. Const., amend. XX. These, however, are likely used in a different context. And as Chief Justice Marshall once wrote, "the same words have not necessarily the same meaning attached to them when found in different parts of the same instrument: their meaning is controlled by context." *Cherokee Nation* v. *Georgia*, 30 U. S. (5 Pet.) 1, 19 (1831). For example, take an example provided by Henry Campbell Black: There is a statute which says that anyone who, "being married, … marr[ies] any other person during the life of the former husband or wife" has committed a felony. While the first use of the term "marry" refers to a valid marriage, the second time refers merely to a marriage ceremony (although without effect). See Henry Campbell Black, Handbook on the Construction and Interpretation of the Laws 146–147 (2d ed. 1911). The statute would not make sense otherwise. Similarly, when read in context, the

usage of the term "bill" is different in those other contexts. In the pertinent clauses, "bill" has a broader meaning than it does in some others specifically because of the modifier the Constitution itself attaches to them. The final question to be answered, though, is if it at all makes sense, in terms of harmonious reading, for "bill," modifier and all, to have a uniform meaning throughout the Constitution. In short: It does not.

C

"[O]ne part is not to be allowed to defeat another, if by any reasonable construction they can be made to stand together." Cooley 58. The harmony between the provisions of the Constitution is to be presumed. If "bill" has a uniform meaning throughout the Constitution, and includes both expulsions and two-thirds votes as we've found, there would be a plethora of conflicts which would occur. The first of which is obvious. Expulsions are incorporated into the meaning of "bill" by article I, section 3. If that then is a "bill," within the meaning of article I, section 6 as well, then it would have to go through the Senate and receive the President's signature as well. But see U. S. Const., Art. I, § 11, cl. 1. The two parts of the Constitution would not be compatible under that reading. And there is the matter of impeachment. Impeachment requires two-thirds in both the House and Senate. It would then be incorporated into the meaning of "bill" by article I, section 3, and if that too is subject to Presidential signature, it would conflict with clause 7 of that same section.

Then there is the case of Vice Presidential appointment. The process, as is, provides that "the President shall nominate a Vice President who shall take office upon confirmation by a [two-thirds] vote of both Houses of Congress." U. S. Const., Amend. XV, § 2. If it was subject to the incorporated meaning, it would also require Presidential signature and the nominee would not simply "take office upon confirmation." Not to men-

tion, the President made the nomination to begin with, so a further signature would be redundant.

In light of all that, it is clear the incorporated meaning is limited only to the context under which it exists: the clause with which we are concerned, and its sister clauses pertaining to the Senate President and pro tempore.

III

The second question relates to the Speaker's closing of votes in violation of House rules. This question is far more straightforward than the previous one. Each House of Congress is vested with the power to "determine the rules of its proceedings." U. S. Const., Art. I, § 5. Not its presiding officer, the House as a whole. So when the Speaker operates in derogation of those rules, he violates not just the rules, but the Constitution; and when such a violation is egregious enough, it warrants judicial enforcement of the same.

First, the respondent is accused of closing the vote on the House Resolution on Proposals without either "24 hours" passing or the resolution receiving the "backing of a majority." Brief for Petitioners 4. The House Resolution to Clarify Leadership requires that one of those standards be met before a vote may be closed. It is clear that neither requirement was met, which means that the Speaker was without authority, under the resolution, to end the vote.

As a second matter, the Speaker closed the vote on his expulsion and declared it failed after only a single vote was cast against it. The House Resolution on Forum Votes provides a vote may only be closed forty-eight hours after it began. The petitioner therefore argues that none of the many abstentions cast were final, and so the expulsion could still possibly have been successful. We agree. The resolution is clear: forty-eight hours must elapse before the vote may be closed.

IV

Finally, the petitioner believes the respondent is not entitled

to a vote on rule-making resolutions in the House. This argument is fallacious for a few reasons. First, the respondent is, in addition to being Speaker, a regular member of the House of Representatives. It goes without saying that ordinary members of the House are entitled to vote on its rule-making resolutions. What, then, would be the reason the respondent cannot as well? Petitioner's claim that because he is barred from voting on expulsions and two-thirds votes, he must therefore also be prevented from voting on rulemaking resolutions.

The Constitution "employ[s] words in their natural sense" unless context expressly dictates otherwise. *Gibbons* v. *Ogden*, 9 Wheat. 1, 71 (1824). Indeed, "*every* word employed in the Constitution is to be expounded in its plain, obvious, and common sense, unless the context furnishes some ground to control, qualify, or *enlarge* it." Joseph Story, Commentaries on the Constitution of the United States 157–158 (1833). Although the context may enlarge the meaning of "bill" in its usage in the relevant clause insofar as to include expulsions and two-thirds votes, there is no indication it provides that it is to be enlarged further to include that which is not mentioned explicitly.

"Interpreters should not be required to divine arcane nuances or to discover hidden meanings." A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 69 (2012). The notion that rule-making resolutions are included in the limitations on the Speaker is one such "hidden meaning" we are asked to discover. Because there is no contextual exception which would include rule-making resolutions, we should consider the alternative proposition: That "bill" in its usage here has a "technical meaning" that "diverges from everyday usage." *Id.*, at 73.

Based on a review of all available "technical meanings" for the term "bill," none would definitively include simple rulemaking resolution. For that reason, given there is no contextual exception which benefits the petitioner's position on this

question, we must conclude that the Speaker, if a member of the House, is permitted to vote on rule-making resolutions.

* * *

For the foregoing reasons, we vacate the vote he cast on his first expulsion, reverse his decision to close the vote on that expulsion, reverse his decision to close the vote on the House Resolution on Proposals, affirm his vote on the House Resolution on Proposals, and reverse his decision to close the vote on his second expulsion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

Nos. 3–7 and 3–10

BRITISH2004, PETITIONER

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OZZYMEN, SPEAKER OF THE HOUSE

ON WRITS OF CERTIORARI TO THE UNITED STATES FEDERAL GOVERNMENT

[August 14, 2017]

JUSTICE SCALIA, with whom JUSTICE ALITO and JUSTICE REHNQUIST join, concurring in part, concurring in the judgement in part, and dissenting in part.

I agree with the Court insofar as to say the Speaker of the House may not close proceedings at-will, see *ante*, at 12, and may vote on resolutions of a "simple" nature, see *ante*, at 12–14. However, the Court holds that when the Constitution mentions "bills" it actually includes proceedings of non-legislative weight (*i. e.* resolutions)—but only certain kinds in some clauses. *Ante*, at 5–12. That of course makes no sense, and the majority's 14 pages of explanation make it no less harebrained than it really is.

I

The Constitution mandates that "[t]he Speaker of the House shall *not vote on any bill*; unless the Representatives are equally divided, and shall not be counted as a Representative to achieve quorum at a session." Art. I, § 2, cl. 4 (emphasis

added). A separate pair of clauses, laying out the authority of the Senate's leadership, also prescribe rules pertaining to bills. The first states: "The President of the Senate shall not vote on any bill; unless the Senators are equally divided, and shall not be counted as a Senator to achieve quorum at a session." Art. I, § 3, cl. 9. And the second: "The President Pro Tempore shall not vote on any bill that is not an expulsion or a 2/3rds vote; unless the Senators are equally divided, and shall not be counted as a Senator to achieve quorum at a session." Art. I, § 3, cl. 10. These three clauses provide a textual scheme for when Congress' leaders are allowed to exercise their votes.

Aside from the matter of improperly closing votes, this case requires us to decide if "bill" as used in the Constitution incorporates items of non-legislative weight. You would think the answer would be clear as day—but no. The Speaker of the House voted on a resolution he proposed, the House Resolution on Proposals. The Constitution prohibits the Speaker from voting "*on any bill*" (emphasis added). Resolutions carry no legislative weight, and thus are not bills. The House Resolution on Proposals, being a resolution, is not a bill—which means the Speaker was allowed to vote on it. So why then does the Court rule that expulsion proceedings and votes requiring 2/3rds majorities—types of resolution which are not bills—are bills and thus cannot be voted on by the Speaker?[1] Because they want it to be so. In spite of their desires, THE CHIEF JUSTICE's opinion is (it must be said) claptrap at its finest.

Words cannot have meaning if bills now include non-bills, because that is what the majority decrees today. One would think "the plain, obvious, and rational meaning of [the text] is always

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[1] THE CHIEF JUSTICE, knowing the absurdity of his argument, draws a middle-line: Only *some* kind of resolutions are now bills, *e. g.* resolutions such as expulsion votes. *Ante*, at 12. This strategic play to placate both parties, to me, is worse than just coming out and proclaiming that all resolutions are bills.

to be preferred to any curious, narrow, hidden sense that nothing but the exigency of a hard case and the ingenuity and study of an acute and powerful intellect would discover." *Lynch* v. *Alworth-Stevens Co.*, 267 U. S. 364, 370 (1925) (internal quotation marks omitted). Under "usual rules of interpretation," *King* v. *Burwell*, 576 U. S. ___, ___ (2015) (Scalia, J., dissenting) (slip op., at 2), the petitioners should lose this case. But we are no longer operating in normal territory; no, we must yield to the predominant creed of the Court: A group of nine Members must fix the Constitution where they feel it is broken.

II

The Court interprets "bill" as used in the Constitution to include expulsions and resolutions requiring 2/3rds approval in Congress. It believes that is so because in context, the Constitution incorporates those two items into the fold of what "bill" means. And thus we arrive at the anvil on which the majority pounds its legal gavel: context. Somehow, a clause relating to the President pro tempore of the Senate (no less a different one from the President of the Senate clause, which is almost an exact replica to the clause at issue today) affects the powers of the Speaker of the House. Context is important, yes, but the majority pulls this context out of thin air.

I agree that proper interpretation of either the Constitution or a statute requires "paying attention to the whole . . . , not homing in on isolated words or even isolated sections." 576 U. S., at ___ (Scalia, J., dissenting) (slip op., at 3). But context exists to help us judges understand a law and its terms, not to rewrite them. Without even the slightest showing of restraint, rewrite the Constitution today five Justices do.

To interpret law, judges must "accept and apply the presumption," *ibid.*, that lawmakers use words in their "natural and ordinary signification." *Pensacola Telegraph Co.* v. *West-*

ern Union Telegraph Co., 96 U. S. 1, 12 (1878). And while doing so will not always prevail, the more unnatural or obscure the interpretation of the text, the more compelling the contextual evidence should be to support it. The majority today defines "bill" in a way unheard of: who ever dreamt of bills being anything other than drafts of laws in a legislative body? Unless the Constitution expressly defines them as such (it does not), I see no way we can hold the definition to include resolutions. But I thought to myself: "What if I am wrong?" Indeed, maybe there is some source that could justify the majority's definition. Except there is not. I consulted various dictionaries. Henry Campbell Black defined bills, in the sphere of legislative proceedings, as: "The draft of a proposed law from the time of its introduction in a legislative house through all the various stages in both houses." Black's Law Dictionary 152 (5th ed. 1979) (hereinafter Black). Noah Webster's definition is parallel: "A form or draft of a law, presented to a legislature, but not enacted." N. Webster, An American Dictionary of the English Language 88 (2nd ed. 1841) (reprinted 1866). And we know that a law is, in the generic sense, a body of "rules of action or conduct prescribed by a controlling authority, and having binding legal force," *United States Fidelity and Gauranty Co.* v. *Guenther*, 281 U. S. 34 (1930); see also Black 795. Indeed, even the most widely-used online dictionary today's definition of a bill comports with those cited *supra* (on the meaning of "bill": "a draft of a law presented to a legislature for enactment," Definition of Bill, Merriam-Webster Dictionary (August 12, 2017), https://www.merriam-webster.com/dictionary/bill). These definitions expressly contradict the majority's redefining of the word.[2]

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[2] The majority references Black's Law Edition, *ante*, at 6, to pretend that the term bill's multiple definitions somehow allow them to change it and begin a poetical dive into the surplusage canon, *ante*, at 7 ("the term 'bill' does not have as rigid a meaning as the dissenters proclaim" (citing Black's

The majority relies on one clause to be that compelling context requisite in cases like these. The Constitution touches on three Congressional leaders and their powers of the vote; they are—in order of appearance—the Speaker of the House, the Vice President (as President of the Senate), and the Senate's President pro tempore. The majority focuses on the part to do with the President pro tempore, which states that he "shall not vote on any bill *that is not an expulsion or a 2/3rds vote*." I could see how facially one could assume this means resolutions containing expulsions or ones requiring a 2/3rds majority are bills. But even were it so, they *extend* this clause's exemptions to the Speaker of the House. Why? Your guess is as good as mine. Of course, it is a well-known fact that the principal author of the Constitution, Fruitsz, has no claim to being a good

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Law Dictionary 164 (6th ed. 1990)). They are right; bill has plenty of meanings. See, *e.g.*, *id.*, at 165 (defining "bill obligatory" as "a bond absolute for the payment of money"); *ibid.* (defining "bill of attainder" as "Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial."); *id.*, at 167 (defining "bill of sight" as a "[c]ustomhouse document, allowing a cosingee to see the goods before paying duties."). But we are not talking here about contract law (bill obligatory), criminal law (bill of attainder), or maritime law (bill of sight): We are talking about legislation. In the sphere of legislation, the term bill has an ordinary, *uniform* meaning: "The draft of a proposed law from the time of its introduction in a legislative body through all the various stages in both houses . . . An 'Act' is the appropriate term for it after it has been acted on by, and passed by, the legislature," *ibid.* The majority choosing to lay their laurels for the doctrine of surplusage on a statement as misleading as this is balderdash.

Furthermore, the Court's strict adherence to the principle that in statutory construction, every word should be given some effect, *United States* v. *Menasche*, 348 U. S. 528, 538–539 (1955), ignores the principle's limitation; "[i]t should not be used to *distort ordinary meaning*," *Moskal* v. *United States*, 498 U. S. 103, 120 (1990) (Scalia, J., dissenting) (emphasis added). That the Court does here—and its justifications are as a result disingenuous and wrong. We ought to be ashamed of ourselves.

writer; many clauses in the Constitution are obscure and difficult to understand. But bad writing does not give us permission to redefine words used. Even were it so, the context my colleagues rely on is not even pertinent to the Speaker clause. Had they done their homework, they would have found the Vice President clause, which says: "The President of the Senate shall not vote on any bill; unless the Senators are equally divided, and shall not be counted as a Senator to achieve quorum at a session." Substitute "Speaker of the House" for "President of the Senate," "Representatives" and "Representative" for "Senators" and "Senator," and you arrive at the Speaker clause; so what exactly are we doing here? Assume for a moment that the majority's conclusion is correct (it certainly is not). Using their "apply one clause to another" scheme, then it would only make sense to apply this exemption to the House's Speaker pro tempore—not the Speaker himself. Even so, why would the Constitution only provide this exemption in the President pro tempore clause if it was meant to extend to other congressional officers like the Speaker? Under normal canons of logic, this interpretation cannot stand.

The majority choosing to include resolutions (but only *certain* ones, which only exposes how little their decision is based on proper interpretive law) in the definition of a bill does not merely give the word a peculiar meaning; it removes its operative effect entirely. This reading cuts away at an interpreter's ability to give uniform meaning across every word and clause of a law, *Montclair* v. *Ramsdell*, 107 U. S. 147, 152 (1883), and violates the presumption that lawmakers do not tend to use words that "have no operation at all." *Marbury* v. *Madison*, 1 Cranch 137, 174 (1803). The majority's clinging onto this one clause as the foundation of their argument is quickly undermined when one looks to other instances in which "bills" are mentioned in the Constitution—their reading throws these clauses into new territory for what they mean. Here are some of those instances:

- "Every **bill** which shall have passed the House of Representatives and the Senate, shall, **before it becomes a law**, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it with his objections to that House in which it shall have originated. If after such reconsideration; two thirds of that House shall agree to pass the bill, it shall be sent, to the other House. If approved by two thirds of that House, **it shall become a law**." Art. I, § 6.
- "If any **bill** shall not be returned by the President within ten days after it shall have been presented to him, the same **shall be a law**, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it **shall not be a law**." *Ibid.*

Certainly the President cannot sign expulsion threads, or resolutions requiring 2/3rds vote majorities. The only resolutions the President is entitled to sign are joint resolutions that carry the effect of a law. See, *e. g.*, the War Powers Resolution, 50 U. S. C. § 1541, *et seq.* (vetoed by President Nixon in 1973 and then overridden by the Congress). But today, five Justices change that. They are lucky that expulsions only go through individual Houses of Congress, otherwise their ruling today would require the President to approve those, too.

Their redefining of the word, taken from a singular—and horribly written—clause is a cocktail of absurdity. Would anyone think "resolution" when hearing "bill in Congress"? Would anyone equate "expulsion" with "bill"? Of course not. The Constitution using a poorly-fitted phrase, "bill that is not an expulsion or a 2/3rds vote" (in a clause entirely separate from the Constitution's focus on the Speaker no less), does not help the majority one whit. The Court fails to make a compelling contextual case for their decision to depart from the ordinary meaning of the law; conversely, the *actual* context only undermines their findings. Reading the Constitution in its entirety confirms what should have been the obvious: Bills in the

Congress are drafts of laws.[3]

III

While I have written primarily to combat the majority's *de facto* insertion of "divine Creators of new language" into our Article III responsibilities, I also write to briefly respond to the opinion of JUSTICE SUTHERLAND below. In his view, the Court did not go *far enough*; he would have it so that *all* resolutions are included in the definition of a "bill" as used in the Constitution. *Post*, at 2–3. He doth proclaim to be an originalist with a penchant for minor judicial activism, but his opinion today lays bare his true beliefs: This Court ought to change the Constitution and laws wherever and whenever it believes it can

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[3] The majority also relies on and upholds *JedBartlett* v. *Ryan_Revan ex rel. House of Representatives*, 1 U. S. ___ (2016), in which this Court decided that the Constitution "barred the Speaker of the House from voting on expulsions." *Id.*, at ___ (slip op., at 4). The Court in that case relied then on the argument of THE CHIEF JUSTICE, who repeats it today. While I recognize the importance of adhering to *stare decisis*, see, *e. g.*, *MythicOne* v. *National Security Agency*, 3 U. S. ___, ___–___ (2017) (SCALIA, J., dissenting) (slip op., at 9–10), it is by no means " 'a universal, inexorable command,' especially in cases involving the interpretation of the . . . Constitution." *Planned Parenthood of Southeastern Pa.* v. *Casey*, 505 U. S. 833, 954 (Rehnquist, C.J., dissenting) (quoting *Burnet* v. *Coronado Oil & Gas Co.*, 285 U. S. 393, 405 (1932)). Because erroneous decisions involving the Constitution are near-impossible to remedy through legislative action, the Court has a duty to reconsider constitutional interpretations that "depar[t] from a proper understanding" of the Constitution. *Garcia* v. *San Antonio Metropolitan Transit Authority*, 437 U. S. 528, 557 (1985); see *United States* v. *Scott*, 437 U. S. 82, 101 (1978) (" '[I]n cases involving the . . . Constitution, . . . [t]he Court bows to the lessons of experience and the force of better reasoning, recognizing that the process of trial and error, so fruitful in the physical sciences, is appropriate also in the judicial function' " (quoting *Burnet*, *supra*, at 406–409 (Brandeis, J., dissenting))); *Smith* v. *Allwright*, 321 U. S. 649, 665 (1994). Our job in reviewing the Constitution does not end simply because we have once spoken on an issue, especially if an interpretation of ours is constitutionally unsound. See, *e. g.*, *West Virginia Bd. of Ed.* v. *Barnette*, 319 U. S. 624, 642 (1943); *Erie R. Co.* v. *Tompkins*, 304 U. S. 64, 64–78 (1938).

make a difference. That, of course, cannot be taken seriously. Nor can be the rest of his opinion that bills now mean anything proposed in a House of Congress—which he broadcasts from atop the Supreme Court's building clothed in the robes of Augustus Caesar.

IV

The majority does well in its finding that the respondent illegally closed proceedings in the House. That we agree on without debate. On its decision that simple resolutions are not bills, we agree as well. However, I should have known better than to instinctively expect sound, uniform jurisprudence from this Court. The majority does not reject the petitioners' view that resolutions are bills because of the reasons I have laid out *supra*, they do so—even if they do not admit it—sensing how skeletal their argument truly is that items of non-legislative weight are drafts of laws (also known as bills!).

The majority's decisions in Part I and II of their opinion reflect a philosophy that judges ought to undergo any degree of interpretive hand-wringing in order to arrive at a desired result. Such a philosophy ignores We the People's decision to vest in our Court not the power to make law, but to decide "cases . . . [and] controversies," Art. III, § 2. The American public vested in *Congress*—not this Court—"[a]ll legislative powers" mentioned in the Constitution. Art. I, § 1. Our job is to articulate the Constitution and laws of the United States as Congress and the People enacted them, not to play wordsmith in order to arrive at conclusions we feel are best. Our job is simply to "apply the text," *Pavelic & LeFlore* v. *Marvel Entertainment Group Div. of Cadence Industries Corp.*, 493 U. S. 120, 126 (1989). Furthermore, while it cries out the intention and will of the authors of the Constitution in buttressing its conclusion, the Court forgets that we are a government of laws not desires. I do not give a hoot what the intention of the lawmakers is; one poorly-written clause does not change a

word's definition as clearly used throughout the rest of the Constitution.

Perhaps one day the People will pass an amendment clarifying parts of the Constitution they feel are unclear, or maybe add a clause with definitions into the document. I welcome them to do so and would have no qualms with such actions. But instead the majority arrives at the conclusion for the People, and does so with exhaustive strides of interpretation. That interpretation will be cited by litigants across this country at the expense of honest jurisprudence, and will serve as a footnote in history producing the regrettable truth that this Court believes it knows better than the People. At this rate, we ought to call the Constitution of the United States the Constitution of the Supreme Court.

I dissent.

SUPREME COURT OF THE UNITED STATES

Nos. 3–7 and 3–10

BRITISH2004, PETITIONER

3–7 *v.*

OZZYMEN, SPEAKER OF THE HOUSE

ANTONIOMPICARELLI, PETITIONER

3–10 *v.*

OZZYMEN, SPEAKER OF THE HOUSE

ON WRITS OF CERTIORARI TO THE UNITED STATES FEDERAL GOVERNMENT

[August 14, 2017]

JUSTICE SUTHERLAND, concurring in part, concurring in the judgement in part, and dissenting in part.

In Parts I, II, and III of Court's opinion, *ante*, at 1–12, I find the majority to be correct in both their evaluation of the legal situation, and the methods for remedying it. The one reservation I have is with Part IV of the opinion, pertaining to the ability of the Speaker to vote on simple resolutions. THE CHIEF JUSTICE's understanding, while reasonable, sets to me a dangerous precedent. This Court was never asked if the Speaker had the ability to vote on simple resolutions—that was never pertinent to the case in the slightest. We were asked, in the merits brief for the petitioner, three simple questions:

1. Does the Speaker of the House of Representatives have the right to vote on their own expulsion?
2. Does a Representative have the right to vote on their own expulsion?
3. Does the Speaker of the House of Representatives

> have the right to close forum votes at-will, in cases where either: (1) a majority of representatives have not voted yet, or (2) the required threshold for passing or failing a proposal which requires 2/3rds approval has not been reached?

We were asked, in the merits brief for the respondent, another three simple questions:

1. Does the Speaker of the House of Representatives have the constitutional right to vote on any proposal, in cases where Representatives are not equally divided?
2. Does a Representative have the right to vote on their own expulsion?
3. When does the Speaker of the House of Representatives have the right to close forum votes?

In the interest of brevity, I will not go into the fullest detail of these questions. Suffice to say, they were all *as applied* challenges—the Respondent argued that the Court was not able to adjudicate issues of the House Rules. Nowhere was it intimated, by any side in this case, that the constitutionality of the rules themselves was in question. We were asked whether the Speaker's votes on them were valid.

What we *were* asked is to put forward an interpretation of the word *bill*. This word, in real life and in ROBLOX, has drastically different common interpretations. This Court must come to terms with the fact that we operate in a government staffed and representing teenagers, not university alumni public servants. Words are watered down to their most elementary meaning. One can easily look at the Congressional Trello and find many resolutions titled Acts. In real life, Acts are legislation—the same is not on ROBLOX. Our Court must level our interpretations with that of the laymen of *our* United States, not the real life United States. That said, the Court should not become a dictionary. When we reach impasses in terms of definition and conflicting clauses, we look to tradition

predating the Constitution for clarity. Much the same way we look to the Federalist Papers for clarity, we must look to the legislative history of the Speaker's ability to vote on resolutions. Prior to the passage of the Constitution—and, by extension, prior to the inclusion of the edited language—Speakers did not vote on resolutions. It is difficult to think that Fruitsz specifically crafted the language to bar the Speaker from voting on only certain proposals: It is a much shorter logical jump to say that bill, in this context, meant any legislative proposal.

Reasonable people will disagree on this issue. So be it. This Court, in the actual controversy, ruled correctly. On the issue of how to interpret a monkey's utterings, I dissent.