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

SINZ *v.* UNITED STATES

REVIEW TO THE UNITED STATES GOVERNMENT

No. 10–25. Argued December 7, 2020—Decided June 30, 2021

After some high-profile scandals, Congress passed the Court Reform Act which, in section 201, prohibited federal judges from engaging in "political activity," defined as supporting or opposing any partisan political candidate or legislation, holding partisan public office or holding office in a political organization. *See* Court Reform Act 2020, Pub L. 82-7, § 201. The petitioner, a federal district judge, challenges this law claiming that it infringes his First Amendment rights. The United States countered that the petitioner lacks standing, and the laws suit a compelling government interest.

Held: § 201(a)(i) and § 201(a)(iv) are unconstitutional as impermissible First Amendment intrusions. The law is otherwise constitutional.

(a) The petitioner has the required standing under Article III. Pp. 1-3.

(b) Preserving the impartiality of the judiciary and public perception of the judiciary is a compelling government interest. Pp. 3-4.

(c) § 201(a)(i) is not narrowly tailored but instead broadly defined and is therefore unconstitutional. P. 5.

(d) § 201(a)(ii) and § 201(a)(iii) are constitutional as they are appropriately tailored to the compelling interest of preserving impartiality. Pp. 5-6.

(e) § 201(a)(iv) is unconstitutional as it does not serve a compelling government interest. Pp. 6-7.

STEWART, J., delivered the opinion of the Court, in which SOUTER, C. J, BUTLER, and FRANKFURTER, JJ., joined. ALITO, J., filled a dissenting opinion.

SUPREME COURT OF THE UNITED STATES

No. 10–25

SINZ, PETITIONER *v.* UNITED STATES

ON WRIT OF REVIEW TO THE UNITED STATES GOVERNMENT

[June 30, 2021]

JUSTICE STEWART delivered the opinion of the Court.

Last year, Congress passed the Court Reform Act 2020. The statute relevantly prohibits judges and justices from engaging in "political activity," with a broad definition encompassing what counts as political activity. The petitioner, a district court judge, challenges this law on the basis that it infringes on his First Amendment rights.

I

First, we must dispense with the jurisdictional barrier. The United States claims that the petitioner lacks standing. It further claims that there is no likelihood of enforcement of the law as it relates to the petitioner.

Our Constitution states that judicial power extends only to 'cases and controversies.' This generally means that cases must meet three-prongs. Firstly, the petitioner must suffer from an 'injury-in-fact' — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical,' *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555, 560 (1992) (citations omitted). Secondly, there must be a connection between the injury and the conduct complained of. *Ibid*. Thirdly, "injury to himself that is likely to be redressed by a favorable decision." *Simon* v. *East Kentucky Welfare*

Rights Organization, 426 U. S. 26, 27 (1976). In sum, "the standing question is whether the plaintiff has 'alleged such a personal stake in the outcome of the controversy' as to warrant his invocation of federal-court jurisdiction and to justify exercise of the court's remedial powers on his behalf." *Warth* v. *Seldin*, 422 U. S. 490, 498–99 (1975). It is in great dispute whether the Anytime Review Clause allows this Court to review matters in the absence of an Article III case or controversy, however, as we are satisfied the petitioner meets the case or controversy standard, we see no need to resolve whether a less strict standard should apply.[1]

There is no dispute among the parties that the petitioner is not subject to any sanctions or penalty for violating the law, nor has petitioner deliberately attempted to violate it. Freedom of speech is an extremely important right and potential infringements of it justify a lessening of the prudential standard for Article III because many people will "rather than risk punishment for [their] conduct in challenging the statute, [they] will refrain from engaging further in the protected activity. Society as a whole then would be the loser." *Secretary of State of Maryland.* v. *Joseph H. Munson Co.*, 467 U. S. 947, 956 (1984). In matters concerning the First Amendment, we recognize that the standing arises "from ongoing injury resulting from the statute's chilling effect on his desire to exercise his First Amendment rights." *Wilson* v. *Stocker*, 819 F. 2d 943, 946 (CA10 1987). We turn to whether the petitioner faces the prospect of enforcement. *Laird* v. *Tatum*, 408 U. S. 1 (1972).

The statute encompasses federal judges and justices. The petitioner was a federal judge at the time of petitioning; therefore this law clearly encompassed him and affected his

---

[1]The dissent disagrees and resolves that a lower standard applies to Anytime Review cases, although the exact details of this lower standard are never specified, but still concludes that the petitioner lacks standing anyway. Nevertheless, the dissent continues to resolve the matter on its merits.

speech rights. The United States essentially contends that this law was made in a vacuum, something that Congress passed and then everyone forgets about. We do not believe so. This law was passed in part of a larger concern about judicial ethics. It comes in the same year as the impeachment and conviction of Justice Chase for what was seen as inappropriate lobbying for certain legislation. See H. J. Res. 11. It is also worthy of consideration that the punishment of impeachment makes the law more difficult to review post-enforcement. In this climate and with these circumstances, we believe that the petitioner does face a prospect of prosecution and that other similarly situated people continue to face a similar prospect.

II

Having dispensed of the standing issue, we now turn to the constitutionality of the law itself. Section 201 relevantly prohibits any federal judge or justice from engaging in political activity, political activity being "(i) any activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group; (ii) holding any office in a political organization; (iii) running for an office in an election; [or] (iv) personal advocation for or against or authorship of a legislative item or measure such as a bill or resolution outside of a judicial conference outlined in 28 U. S. Code § 331 or adviserships in a congressional judicial committee." Court Reform Act 2020, Pub. L. 82-7, § 201(a). The First Amendment provides that "Congress shall make no law ... abridging the freedom of speech." U. S. Const, Amdt. 1.

Given that section 201 plainly imposes content-based restrictions on speech as it limits the content of speech that certain individuals can give, "it can stand only if it satisfies strict scrutiny." *United States* v. *Playboy Entertainment Group, Inc.*, 529 U. S. 803, 804 (2000). This means that the law can be constitutional "only if the government proves

that they are narrowly tailored to serve compelling state interests." *Reed* v. *Town of Gilbert*, 576 U. S. 155, 163 (2015). Preserving the impartiality of the judiciary is a compelling state interest, but only in the meaning of "the lack of bias for or against either party to the proceeding." *Republican Party of Minnesota* v. *White*, 536 U. S. 765, 775 (2002). Public confidence in the judiciary is also a compelling interest. *Williams-Yulee* v. *Florida Bar*, 575 U. S. 433, 444, (2015)

Before we analyze the definition more carefully, it is worth noting that this Court has previously struck down similar laws. In *Qolio* v. *United States*, 2 U. S. 11 (2016), the Court unanimously held the Judicial Branch Political Act unconstitutional on the basis that it infringed the free speech of judges and justices without tailoring itself narrowly to the compelling government interest of ensuring impartiality. One justice even called the law "the most unconstitutional piece of shit to ever cross my path in my almost 2-year time on the court" and "worse than 1 ply toilet paper when you need to wipe your ass after you had diarrhea" and proclaimed that its passage justified his ascension to dictator status. *Id*, at 17 (Sufferpoop, J., concurring).

The dissent points to our previous ruling in *Benda* v. *United State*s, 6 U. S. 24 (2019) that laws affecting the judiciary must be "rationally justifiable under the circumstances." *Id,* at 36. This is not the recognized standard for this matter. Laws that normally affect the judiciary are subject to this standard, however, as this case concerns freedom of speech, a higher standard applies. *Playboy Entertainment Group, Inc., supra,* at 504. The dissent further accuses the Court of considering free speech an "absolute right" *Post,* at 5 (ALITO, J., dissenting). We do not, but we do note that laws that "target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests." *Reed, supra,* at 161 (citing cases). We acknowledge that public

confidence in the judiciary is a compelling interest, but that is not the end of our inquiry, only the beginning.

A

We start off with subsection 201(a)(i) which prohibits activity (including speech) directed towards the success or failure of any candidate or party. While this law is designed to suit the compelling government interest of maintaining neutrality, it overshoots the marks and in doing so is not narrowly tailored to serve this compelling government interest as "[o]ther, less intrusive means of accomplishing similar purposes . . . are available." *Wygant* v. *Jackson Board of Education*, 476 U. S. 267, 283-284 (1984).

Laws that prohibit the endorsement of partisan political candidates have been held as constitutional. See, e.g., *French* v. *Jones*, 876 F. 3d 1228 (CA9 2017). This is not such law. Section 201(a)(i) bears no intent requirements; a judge or justice can engage in speech that does not have to do with any candidate in particular and invariably fall afoul of this law under this definition. It is not narrowly tailored and therefore is unconstitutional.

B

Section 201(a)(ii-iii) prohibits being an officeholder in a political party or running for partisan office. This meets the strict scrutiny standard. "The importance of public confidence in the integrity of judges stems from the place of the judiciary in the government." *Williams-Yulee, supra*, at 445. The *Williams-Yulee* Court noted the judiciary has "has no influence over either the sword or the purse; ... neither force nor will but merely judgment." *Ibid* (citing The Federalist No. 78, p. 465 (C. Rossiter ed. 1961) (A. Hamilton) (capitalization altered)).

A member of the judiciary being an officeholder in a political party or running for partisan office would no doubt damage the view of the public of an independent and impartial judiciary. This restriction, unlike subsection 201(a)(i), is much narrower in scope and it is difficult to see how one

can get any narrower of a restriction to adequately tailor to the compelling government interest. Both subsections muster strict scrutiny and are therefore constitutional.

C

We now finally turn to subsection 201(a)(iv). This provision proscribes judges and justices from commenting on legislation before Congress. This does not serve a compelling interest and is therefore unconstitutional.[2]

It does not serve it in terms of promoting impartiality within the meaning accepted by the *White* Court. The legislation might come before the courts but that is not a *compelling* reason – a lack of preconceived views has never been thought of as being part of equal justice. "A judge's lack of predisposition regarding the relevant legal issues in a case has never been thought a necessary component of equal justice, and with good reason." *White, supra*, at 765. Expressing protected opinions on matters of legal importance is not bias that can justify proscription of those opinions.

It also does not show it in terms of promoting public confidence. One can scarcely think of how judges speaking of matters of legislation, particularly kinds that they have expertise on, undermines its public reputation. Refrain from speaking on matters of legislation is not something practiced. For example, in 2007, Justice Thomas and Justice Kennedy testified that it was the consensus of the Court that the Ninth Circuit should be split, no doubt an area of legislative concern and that would require legislation to enact. *See* Brnovich M, et. al., Split up the Ninth Circuit–but Not Because It's Liberal (2018, January 11), online at https://www.cato.org/commentary/split-ninth-circuit-not-because-its-liberal. The law fails to meet strict scrutiny for

---

[2]The dissent, in upholding this subsection, accuses us of usurping congressional authority and ignoring the legislature's compelling reasons but does not explain how this proscription furthers the government's compelling interest.

public confidence for much the same reason it can not meet it for the impartiality interest; preconceptions about the law are part of the system and "no act of Congress can prevent that." *Qolio*, *supra,* at 15. The alternative, as *White* reminds us, is a judiciary full of people with no experience of the law.

III

We hold that subsections 201(a)(i) and 201(a)(iv) broaden the definition of political activity so widely as to prohibit constitutionally protected speech and therefore violate the First Amendment of the United States Constitution.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 10–25

ASTEROSINZ, PETITIONER *v.* UNITED STATES

ONPETITION FOR A WRIT OF REVIEW TO THE UNITED STATES GOVERNMENT

[June 30, 2021]

JUSTICE ALITO dissenting.

Petitioner filed with the Court a petition for Anytime Review alleging that the regulations on the judiciary imposed by the Court Reform Act were violating the freedom of speech clause of the Constitution. Specifically challenging § 201 in its entirety.

§ 201 reads:

"(a) For the purposes of this section, "political activity" shall mean—

(i) any activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group;

(ii) holding any office in a political organization

(iii) running for an office in an election

(iv) personal advocation for or against or authorship of a legislative item or measure such as a bill or resolution outside of a judicial conference outlined in 28 U. S. Code § 331 or advisership in a congressional judicial committee"

(b) POLITICAL ACTIVITY.— Any justice or judge appointed under the authority of the United States who engages in political activity is guilty of a high misdemeanor.

(c) This section shall be codified under 28 US Code § 464

of 28 US Code Chapter 21."

I

The United States presents a main argument to the Court that there is no "case or controversy" as required under Article III of the Constitution of the United States however the Court has decided we will not address such and leave it for a later date. I fundamentally disagree with this decision.

Standing doctrine limits the "judicial power" to "cases and controversies of the sort traditionally amenable to, and resolved by, the judicial process." *Vermont Agency of Natural Resources* v. *United States ex rel. Stevens*, 529 U. S. 765, 774 (2000) (quoting *Steel Co.* v. *Citizens for a Better Environment*, 523 U. S. 83, 102 (1998)). To fully appreciate the essence of this limitation, some Justices have suggested "refer[ring] directly to the traditional, fundamental limitations upon the powers of common-law courts." *Honig* v. *Doe*, 484 U. S. 305, 340 (1988) (Scalia, J., dissenting); *Spokeo, Inc.* v. *Robins*, 578 U. S. ___, ___ (2016) (Thomas, J., concurring) (slip op., at 2). In some cases, application of that ap-proach may mean that certain parts of the usual three-part standing framework would "not apply as rigorously" as they would elsewhere, *Id.*, at ___ (slip op., at 5), or with a "greater degree of flexibility" see *Benda* v. *United States*, 5 U. S. 25, 27 (2018).

I would have addressed the standing issue head on ruling that those who petition the Court do have a relaxed form of standing to suffice. Some of my colleagues would argue this argument borders on judicial activism. But isn't the Anytime Review Clause in itself a form of judicial activism? Asking a Court to exercise powers including deciding the actions of whether or not a branch has acted in a manner detrimental and contrary to the Constitution as written.

The law of Article III standing, which is built on separation-of-powers principles, serves to prevent the judicial process from being used to usurp the powers of the political branches. *Clapper* v. *Amnesty International U.S.A.*, 568 U.

S. 398, 408 (2013). I am not advocating for a complete removal of the requirement for standing in Anytime Review, that'd be unreasonable and has been reaffirmed that such exists in many cases before the Court. See *Ultiman* v. *United States*, 6 U. S. 19 (2018); see also *Kirkman* v. *Nevada Highway Patrol*, 5 U. S. 62 (2018) (per curiam). But never have they addressed it as to what extent is the doctrine of standing relaxed under the ARC. Even with the relaxed form of standing the petitioner really has failed to present any harm suffered as a result rather than being afraid. This kind of "injury" is not a justiciable one. See *United Public Workers* v. *Mitchell*, 330 U. S. 75 (1947). *Mitchell* held that one must have violated the proposed Act for there to be appropriate standing, not just be afraid of committing such violation as the majority opinion states is acceptable.

II

Petitioner contends that subsection (i) of § 201 is a violation of their first amendment right. I disagree, the only issue I see is that it is unconstitutionally vague under the void for vagueness doctrine and the subsection as a whole infringes upon basic freedoms for consequently imposing criminal penalties for such vague behavior. The Court must, more times than not, consider the intent of the legislature to provide an accurate and concise reading of the stat-ute at large. *Qolio*, infra. "Congress' judgment is usually entitled to great respect…" see *Benda*, supra at 40. The legislature did make an attempt to define ambiguities as seen in § 201(a)(i-iv) but not an in-depth one.

In *Qolio* v. *United States*, 2 U. S. 11 (2017) we were provided with a similar situation of which the legislature was accused of intruding onto the rights of those in the judicial branch under the guise of protecting judicial integrity. Under the current sub-section, while authored with good intentions, would have horrific consequences if we were to allow it to stand. What is "any activity"? Is it to vote in a poll in the NUSA Discord Server? Is it to vote for someone at the

polling station? Is it to join a Discord Server of one actively campaigning for elected office? Does this stand to include or exclude one who runs as an independent as they have no real "partisan" intent? Does the job description define the activity or does the activity define the job description? We should not be facing an abnormal amount of strenuous questions on an issue where serious penalties are provided for violations of this, including impeachment.

B

Now moving onto the rest of § 201. The Opinion of the Court deems subsection (iv) to fail the strict scrutiny test.

"Under strict scrutiny, in order for a law or policy to be upheld, it must pass a three-pronged test: (1) it must be justified by a compelling government interest, (2) it must be narrowly based, and thus not overbroad, to achieve its goal, and (3) it must use the least restrictive means available to achieve its purpose." *Qolio*, *supra,* at 14. The majority argues that it does not fit this test, I disagree. It is a compelling interest to preserve and protect the integrity of the judicial branch.

A statute that intends on limiting constitutional exercises under a specific guise serves to be fruitless and futile if those problems are not fully identified, and if practical, rectified.

The majority find § 102(a)(i) and (iv) to be a violation of the strict scrutiny test under the many existing standards in our common law arsenal. See *Kolender* v. *Lawson*, 461 U. S. 352 (1983); *Skilling* v. *United States*, 561 U. S. 358 (2010).

However, I look to see whether or not this truly violates ones right to free speech. Today the Court has chosen to prevent the Congress from doing their job. "Laws affecting the Judiciary ... [must] be consistent with basic principles of justice" and be "rationally justifiable under the circumstances." *Benda* v. *United State*s, 6 U. S. 24, 38 (2019). To accept petitioner's claim that such regulations set forth by

Congress are something other than an attempt to maintain an impartial and effective judiciary is a violation of the First Amendment would be to consider the First Amendment an "absolute" right. Time and time again has the Court upheld that provisions and protections under the Constitution are not absolute and do contain restrictions and prohibitions appropriately in a manner that is not malicious but in fact preservative.

III

I do conclude that the parts that the Court has decided to strike down are not in actual fact a violation of the first amendment, I only find that (i) has any real concerns regarding vagueness but no concerns about free speech just like how the Hatch Act operates in real life. See *Broadrick* v. *Oklahoma*, 413 U. S. 601 (1973); *Smith* v. *Goguen*, 415 U. S. 566 (1974).

A

"[T]he legitimacy of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisanship." *Mistretta* v. *United States*, 488 U. S. 361, 407 (1989). How can we maintain that reputation without the help of the legislature and imposing sanctions for violating that? Should we maintain that by ourselves? If so wouldn't that violate the principle of *nemo iudex in causa sua*? What a ridiculous thing to suggest. To strike down these subsections on the grounds that it is a violation of freedom of speech is foolish.

'It follows that "public perception of judicial integrity is 'a state interest of the highest order.'" *Williams-Yulee* v. *Florida Bar*, 575 U. S. 433, 445-446 (2015) (citation omitted). For that reason, courts maintain a strong stake in the "untainted administration of justice." *Mesarosh* v. *United States*, 352 U. S. 1, 14 (1956) (per curiam).

B

But when it comes to a statute of indeterminate scope, courts have a general obligation to avoid "unless the terms

of [the statute] rende[r] it unavoidable" "giv[ing] [it] a construction ... which should involve a violation, however unintentional, of the [C]onstitution." *Parsons* v. *Bedford*, 28 U. S. (3 Pet.) 433, 434 (1830). Therefore, when a statute respecting judicial procedure is ambiguous but one interpretation has the potential to apply unjustly or irrationally, courts must adopt an interpretation which avoids those problems. *In Re MamaGobies,* 9 U. S. 220 (2020). Where is the interpretation regarding its adoption? Or is it just easier to strike down anything Congress does under the guise of constitutional right violations?

C

I must disagree with the Court striking down the statutes on First Amendment grounds, and its failure to address the doctrine of standing but I do however believe it is necessary for the Court to strike down § 201(a)(i) for vagueness, not strict scrutiny or compelled speech violations.

I therefore respectfully dissent.