SUPREME COURT OF THE UNITED STATES

No. 25–6

IN RE HASTERT CLAUSE

ON MOTION TO EXERCISE INHERENT JURISDICTION TO REVIEW AN ACT OF THE EXECUTIVE OR OF THE LEGISLATURE

[December 20, 2025]

JUSTICE FEELINGS delivered the opinion of the court.

On December 15th, 2025, the fourteenth House of Representatives adopted their rules of procedure. Within the resolution exists a clause which identifies something called the "Speaker's hastert discretion." This provision provides for multiple rules within this one clause. First, it vests, in the Speaker, the authority to control the temporal and procedural disposition of measures considered by the house. Second, it provides that no measure shall proceed to final passage unless a majority of the members of the Speaker's party have given their approval (with some exceptions to be made by the Speaker). Finally, it determines that the exercise of the second power is "definitive, controlling, and not susceptible to review, question, or appeal." Rule No. 1, Rules of Procedure of the 14th House of Representatives (as adopted on December 15th, 2025).

It is now that the Court comes, on the motion of JUSTICE FEELINGS, to ascertain whether the provisions of this rule survive constitutional scrutiny. The authority to instate these proceedings as a matter of inherent review is governed by the ruling of this Court by the holding of *In re Forfeiture of Congressional Seats*, 1 U. S. ___ (2025).

I

The exercise of inherent review is proper in this matter despite the subject of the review not being a law. Federal Courts, and this Court on appeal, have adjudicated matters involving congressional resolutions—which are not law—in the past. See for e.g. *Powell* v. *McCormack*, 395 U. S. 486 (1969). The power to exercise judicial review in general has been established by this Court on many occasions, most notably in *Marbury* v. *Madison*, 5 U. S. (1 Cranch) 137 (1803), and further identified by this Court on the virtual platform in *In re Forfeiture, supra.*

Inherent review is properly exercised when "the executive or legislative branch has committed some act, or instated some policy, which creates a situation which is untenable under the Constitution of the United States." *Id.* Whether you consider the adoption of this rule an Act by the House, or by one of its officers, or you consider it a policy in and of itself, it is clear that the matter is reviewable by this Court under the powers of inherent review.

II

The question before us now being of the Rules of the House of Representatives brings forth some concerns regarding whether the question is justiciable to begin with. Indeed, "a textually demonstrable constitutional commitment of the issue to a coordinate political department. . ." *Baker* v. *Carr*, 369 U. S. 186, 217 (1962). See also *Nixon* v. *United States*, 506 U. S. 224 (1993). The doctrine of the political question has framed the exercise of judicial power over the course of multiple decades, and nearing upon a century, in the United States. This doctrine, however, is not one which is sufficient for use in its purest form on our virtual platform. The Court must ensure that its rulings, doctrines, and other matters put into effect are "tailored to the platform." *In re Forfeiture, supra* (quoting *VinnieMc2165* v. *Mayflower*, 2 Mayfl. ____ (2025)).

Chief Justice Rehnquist's interpretation and enforcement of the doctrine was widely joined by the other members of the Court, in whole or in part, and represents a fairly undebated element of our jurisprudence. However, the doctrine is not actually 'tailored to the platform' as the modern and virtual jurisprudence of this Court demands. Ensuring that the law remains tailored to the platform requires recognition that the average citizen of our nation is no smarter than a potato. The role of the Court is to safeguard those citizens from the harm their government, or that they from within the government, may attempt to cause. In our pursuit to put into place such safeguards, we have previously identified a test to determine whether it is appropriate to act outside of the longstanding jurisprudence. We have determined that it is appropriate "when (1) the constitutional structure faces a clear and compelling threat, and (2) the Court's intervention is narrowly tailored to remove that threat and no more." *In re Forfeiture*, *supra* (SAICHARI, J., concurring).

As such, it is clear that the political departments must be subject to some form of checks and balances even as to their political powers. While they are permitted to exercise their discretion in most instances, their discretion may not ultimately ignore the limits which the Constitution sets forth. Notably, while "the Constitution empowers each house to determine its rules of proceedings." *United States* v. *Ballin*, 144 U. S. 1, 5 (1892), they are not free to, "by its rules[,] ignore constitutional restraints." *Id.* Under the reframed doctrine of the political question and the holding of *Ballin*, the question is clearly justiciable in this instance.

III

"The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal." *Id.* It is this inexhaustible nature of the

rulemaking power which provides the most issue for the Hastert Clause as it stands.

The Clause provides that "no measure shall be permitted to advance to final passage absent the concurrence of a majority of the members constituting the Speaker's party. . .", with some exceptions. Rule No. 1, R. of the 14th HoR. However, it is a textually mandated rule that "a majority of each [House] shall constitute a quorum to do business." Article I, Section 5, United States Constitution. It is clear that a majority of the members must be present in the chamber as a result of this rule, and that only a majority of those present need to vote to adopt any measure. "All that the Constitution requires is the presence of a majority, and when that majority are present, the power of the house arises." *Ballin, supra.*

One can imagine, then, a situation in which a quorum of the House may be properly convened to do business, and a measure may receive the votes to be adopted, but a majority of the members of the Speaker's party may not have voted for that measure. In this case, the rule seems to hold that the measure could not be adopted. That is, strictly speaking, untenable under the Constitutional structure. Each member of the House retains their rights to vote, and they are equal amongst each other.

The House is not permitted to prevent a quorum from transacting business by placing into effect some other arbitrary rule which is strictly for partisan purposes.

* * *

Having found that the final passage sub-clause is untenable under the Constitutional structure, it is struck and declared to be unenforceable. Furthermore, the subsequent "definitive and controlling" sub-clause applies only to the final passage sub-clause, and is similarly struck as a matter of practicality and good governance.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 25–9

IN RE HASTERT CLAUSE

ON MOTION TO EXERCISE INHERENT JURISDICTION TO REVIEW AN ACT OF THE EXECUTIVE OR OF THE LEGISLATURE

[December 20, 2025]

CHIEF JUSTICE INSLEE, dissenting.

Once again, this Court pounces to resolve a case that does not exist. This is all based on a legal invention—sometimes called inherent review jurisdiction—that the Court created just last month in *In re Forfeiture of Congressional Seats*, 1 U. S. ___ (2025). That decision was wrong, and is still wrong today. Nowhere in the Constitution does it grant this Court the authority to resolve cases crafted by its own sitting judges. And thus, the Constitution does not permit what the Court does today.

"Federal Courts are courts of limited jurisdiction." *Kokkonen* v. *Guardian Life Ins. Co. of America*, 511 U. S. 375, 377 (1994). In other words, federal courts have confined power. The Constitution limits the courts' power in Article III to certain "cases" or "controversies". §2, cl. 1. And to demonstrate a case or controversy, a plaintiff must demonstrate standing. Fundamentally, though, a party must bring a case to a court themselves (usually known as the plaintiff); something that is not present here. All of these rules show cast the "fundamental limits on federal judicial power." *Allen* v. *Wright*, 468 U. S. 737, 750 (1984). Such constitutional limits keep courts acting like courts. "Federal courts do not possess a roving commission to publicly opine on every legal question." TransUnion LLC v. Ramirez, 594 U. S. 413, 423. Nor are they allowed to "exercise general legal oversight of the Legislative and Executive Branches, or of private entities." *Id.*

The Court fails to respect these fundamental safeguards. Under no reading of Article III is there a live case or controversy, except if you count this one which the Court created itself (which again Article III does not allow). This is plainly evident by the fact that no party has approached this Court asking to resolve an issue. Instead, the Court cherry picked an abstract political problem and chose to resolve that abstraction on its own. And the Court does so because, by its own decree (and not by the Constitution), it created inherent review jurisdiction.

As I have noted, perhaps the most extraordinary thing "is this being done solely on the Court's own volition." *In re Forfeiture of Congressional Seats*, 1 U. S. ___, ___ (2025) (slip op., at 1) (INSLEE, C. J., dissenting). Repeat, no party has approached this Court presenting a case and asking us to resolve it. Instead, it is this Court who initiated this proceeding. And it is this Court which resolved the proceeding it chose to initiate itself. Or said differently, the Court has opined on a legal question no one else asked, and it has exercised general legal oversight over political determinations. That is not what courts do.

I appreciate and understand that there are genuine concerns on the legality of actions in the political branches. And I appreciate and understand the frustrations arising from the "severe lack of persons who are learned in the law and willing to provide representation to those people seeking to correct wrongs." *In re Forfeiture of Congressional Seats*, 1 U. S. ___, ___ (2025) (slip op., at 3). I personally have expressed my frustrations with the lack of attorneys in our judicial economy. But, respectfully, the Constitution does not care. There are alternative and constitutionally permissible solutions to the equation which solves the ignored legal issues with the low number of attorneys. One solution from the list is allowing federal judges to practice law and represent people (obviously requiring recusal and other restrictions). One solution not from the list is what the Court does today.

If you want, read Article III of the Constitution. Then read it again. Nowhere in those words can you find any allowance of the act this Court does today. Article III does not grant this Court with inherent review. I understand the concerns and frustrations with our legal system and the lack of attorneys. It undoubtedly presents problems with the resolution of genuine legal issues. But—sorry—that is no excuse for bypassing the Constitution. Yet, the Court marches on. Our title of "court" may dissipate as we become another political branch to join our Legislative and Executive colleagues.

With all respect, I dissent.