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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

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TRUMP ET AL. *v*. MAZARS USA, LLP, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19–715. Argued May 12, 2020—Decided July 9, 2020*

In April 2019, three committees of the U. S. House of Representatives issued four subpoenas seeking information about the finances of President Donald J. Trump, his children, and affiliated businesses. The House Committee on Financial Services issued a subpoena to Deutsche Bank seeking any document related to account activity, due diligence, foreign transactions, business statements, debt schedules, statements of net worth, tax returns, and suspicious activity identified by Deutsche Bank. It issued a second subpoena to Capital One for similar information. The Permanent Select Committee on Intelligence issued a subpoena to Deutsche Bank that mirrored the subpoena issued by the Financial Services Committee. And the House Committee on Oversight and Reform issued a subpoena to the President's personal accounting firm, Mazars USA, LLP, demanding information related to the President and several affiliated businesses. Although each of the committees sought overlapping sets of financial documents, each supplied different justifications for the requests, explaining that the information would help guide legislative reform in areas ranging from money laundering and terrorism to foreign involvement in U. S. elections. Petitioners—the President in his personal capacity, along with his children and affiliated businesses—contested the subpoena issued by the Oversight Committee in the District Court for the District of Columbia (*Mazars*, No. 19–715) and the subpoenas issued by the Financial Services and Intelligence Committees in the Southern District of New York (*Deutsche Bank*, No. 19–760). In both cases, petitioners contended that the subpoenas lacked a legitimate legislative purpose

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* Together with 19–760, *Trump et al.* v. *Deutsche Bank AG et al.*, on certiorari to the United States Court of Appeals for the Second Circuit.

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and violated the separation of powers. The President did not, however, argue that any of the requested records were protected by executive privilege.

In *Mazars*, the District Court granted judgment for the House and the D. C. Circuit affirmed, finding that the subpoena issued by the Oversight Committee served a valid legislative purpose because the requested information was relevant to reforming financial disclosure requirements for Presidents and presidential candidates. In *Deutsche Bank*, the District Court denied a preliminary injunction and the Second Circuit affirmed in substantial part, holding that the Intelligence Committee properly issued its subpoena to Deutsche Bank as part of an investigation into alleged foreign influence in the U. S. political process, which could inform legislation to strengthen national security and combat foreign meddling. The court also concluded that the subpoenas issued by the Financial Services Committee to Deutsche Bank and Capital One were adequately related to potential legislation on money laundering, terrorist financing, and the global movement of illicit funds through the real estate market.

Held: The courts below did not take adequate account of the significant separation of powers concerns implicated by congressional subpoenas for the President's information. Pp. 7–20.

(a) Historically, disputes over congressional demands for presidential documents have been resolved by the political branches through negotiation and compromise without involving this Court. The Court recognizes that this dispute is the first of its kind to reach the Court; that such disputes can raise important issues concerning relations between the branches; that similar disputes recur on a regular basis, including in the context of deeply partisan controversy; and that Congress and the Executive have nonetheless managed for over two centuries to resolve these disputes among themselves without Supreme Court guidance. Such longstanding practice "'is a consideration of great weight'" in cases concerning "the allocation of power between [the] two elected branches of Government," and it imposes on the Court a duty of care to ensure that it does not needlessly disturb "the compromises and working arrangements" reached by those branches. *NLRB* v. *Noel Canning*, 573 U. S. 513, 524–526 (quoting *The Pocket Veto Case*, 279 U. S. 655, 689). Pp. 7–11.

(b) Each House of Congress has the power "to secure needed information" in order to legislate. *McGrain* v. *Daugherty*, 273 U. S. 135, 161. This power is "indispensable" because, without information, Congress would be unable to legislate wisely or effectively. *Watkins* v. *United States*, 354 U. S. 178, 215. Because this power is "justified solely as an adjunct to the legislative process," it is subject to several limitations. *Id.*, at 197. Most importantly, a congressional subpoena

is valid only if it is "related to, and in furtherance of, a legitimate task of the Congress." *Id.*, at 187. The subpoena must serve a "valid legislative purpose." *Quinn* v. *United States*, 349 U. S. 155, 161. Furthermore, Congress may not issue a subpoena for the purpose of "law enforcement," because that power is assigned to the Executive and the Judiciary. *Ibid.* Finally, recipients of congressional subpoenas retain their constitutional rights and various privileges throughout the course of an investigation. Pp. 11–12.

(c) The President contends, as does the Solicitor General on behalf of the United States, that congressional subpoenas for the President's information should be evaluated under the standards set forth in *United States* v. *Nixon*, 418 U. S. 683, and *Senate Select Committee on Presidential Campaign Activities* v. *Nixon*, 498 F. 2d 725, which would require the House to show that the requested information satisfies a "demonstrated, specific need," 418 U. S., at 713, and is "demonstrably critical" to a legislative purpose, 498 F. 2d, at 731. *Nixon* and *Senate Select Committee,* however, involved subpoenas for communications between the President and his close advisers, over which the President asserted executive privilege. Because executive privilege safeguards the public interest in candid, confidential deliberations within the Executive Branch, information subject to the privilege deserves "the greatest protection consistent with the fair administration of justice." 418 U. S., at 715. That protection should not be transplanted root and branch to cases involving nonprivileged, private information, which by definition does not implicate sensitive Executive Branch deliberations. The standards proposed by the President and the Solicitor General—if applied outside the context of privileged information—would risk seriously impeding Congress in carrying out its responsibilities, giving short shrift to its important interests in conducting inquiries to obtain information needed to legislate effectively. Pp. 12–14.

(d) The approach proposed by the House, which relies on precedents that did not involve the President's papers, fails to take adequate account of the significant separation of powers issues raised by congressional subpoenas for the President's information. The House's approach would leave essentially no limits on the congressional power to subpoena the President's personal records. A limitless subpoena power could transform the established practice of the political branches and allow Congress to aggrandize itself at the President's expense. These separation of powers concerns are unmistakably implicated by the subpoenas here, which represent not a run-of-the-mill legislative effort but rather a clash between rival branches of government over records of intense political interest for all involved. The interbranch conflict does not vanish simply because the subpoenas seek personal papers or because the President sued in his personal capacity.

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Nor are separation of powers concerns less palpable because the subpoenas were issued to third parties. Pp. 14–18.

(e) Neither side identifies an approach that adequately accounts for these weighty separation of powers concerns. A balanced approach is necessary, one that takes a "considerable impression" from "the practice of the government," *McCulloch* v. *Maryland*, 4 Wheat. 316, 401, and "resist[s]" the "pressure inherent within each of the separate Branches to exceed the outer limits of its power," *INS* v. *Chadha*, 462 U. S. 919, 951. In assessing whether a subpoena directed at the President's personal information is "related to, and in furtherance of, a legitimate task of the Congress," *Watkins*, 354 U. S., at 187, courts must take adequate account of the separation of powers principles at stake, including both the significant legislative interests of Congress and the unique position of the President.

Several special considerations inform this analysis. First, courts should carefully assess whether the asserted legislative purpose warrants the significant step of involving the President and his papers. "'[O]ccasion[s] for constitutional confrontation between the two branches' should be avoided whenever possible." *Cheney* v. *United States Dist. Court for D. C.*, 542 U. S. 367, 389–390 (quoting *Nixon*, 418 U. S., at 692). Congress may not rely on the President's information if other sources could reasonably provide Congress the information it needs in light of its particular legislative objective. Second, to narrow the scope of possible conflict between the branches, courts should insist on a subpoena no broader than reasonably necessary to support Congress's legislative objective. The specificity of the subpoena's request "serves as an important safeguard against unnecessary intrusion into the operation of the Office of the President." *Cheney*, 542 U. S., at 387. Third, courts should be attentive to the nature of the evidence offered by Congress to establish that a subpoena advances a valid legislative purpose. The more detailed and substantial, the better. That is particularly true when Congress contemplates legislation that raises sensitive constitutional issues, such as legislation concerning the Presidency. Fourth, courts should assess the burdens imposed on the President by a subpoena, particularly because they stem from a rival political branch that has an ongoing relationship with the President and incentives to use subpoenas for institutional advantage. Other considerations may be pertinent as well; one case every two centuries does not afford enough experience for an exhaustive list. Pp. 18–20.

No. 19–715, 940 F. 3d 710; No. 19–760, 943 F. 3d 627, vacated and remanded.

ROBERTS, C. J., delivered the opinion of the Court, in which GINSBURG, BREYER, SOTOMAYOR, KAGAN, GORSUCH, and KAVANAUGH, JJ., joined.

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THOMAS, J., and ALITO, J., filed dissenting opinions.

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