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

SEKHAR *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 12–357. Argued April 23, 2013—Decided June 26, 2013

Investments for the employee pension fund of the State of New York and its local governments are chosen by the fund's sole trustee, the State Comptroller. After the Comptroller's general counsel recommended against investing in a fund managed by FA Technology Ventures, the general counsel received anonymous e-mails demanding that he recommend the investment and threatening, if he did not, to disclose information about the general counsel's alleged affair to his wife, government officials, and the media. Some of the e-mails were traced to the home computer of petitioner Sekhar, a managing partner of FA Technology Ventures. Petitioner was convicted of attempted extortion, in violation of the Hobbs Act, 18 U. S. C. §1951(a), which defines "extortion" to mean "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right," §1951(b)(2). The jury specified that the property petitioner attempted to extort was the general counsel's recommendation to approve the investment. The Second Circuit affirmed.

Held: Attempting to compel a person to recommend that his employer approve an investment does not constitute "the obtaining of property from another" under the Hobbs Act. Pp. 3–9.

(a) Absent other indication, "Congress intends to incorporate the well-settled meaning of the common-law terms it uses." *Neder* v. *United States*, 527 U. S. 1, 23. As far as is known, no case predating the Hobbs Act—English, federal, or state—ever identified conduct such as that charged here as extortionate. Extortion required the obtaining of items of value, typically cash, from the victim. The Act's text confirms that obtaining property requires "not only the depriva-

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tion but also the acquisition of property." *Scheidler* v. *National Organization for Women, Inc.*, 537 U. S. 393, 404. The property extorted must therefore be transferable—that is, capable of passing from one person to another, a defining feature lacking in the alleged property here. The genesis of the Hobbs Act reinforces that conclusion. Congress borrowed nearly verbatim the definition of extortion from a 1909 New York statute but did not copy the coercion provision of that statute. And in 1946, the time of the borrowing, New York courts had consistently held that the sort of *interference* with rights that occurred here was coercion. Finally, this Court's own precedent demands reversal of petitioner's convictions. See *id.,* at 404–405. Pp. 3–8.

(b) The Government's defense of the theory of conviction is unpersuasive. No fluent speaker of English would say that "petitioner *obtained and exercised* the general counsel's right to make a recommendation," any more than he would say that a person "*obtained and exercised* another's right to free speech." He would say that "petitioner *forced* the general counsel to make a particular recommendation," just as he would say that a person "*forced* another to make a statement." Adopting the Government's theory here would not only make nonsense of words; it would collapse the longstanding distinction between extortion and coercion and ignore Congress's choice to penalize one but not the other. See *Scheidler*, *supra,* at 409. Pp. 8–9.

683 F. 3d 436, reversed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, GINSBURG, BREYER, and KAGAN, JJ., joined. ALITO, J., filed an opinion concurring in the judgment, in which KENNEDY and SOTOMAYOR, JJ., joined.

SUPREME COURT OF THE UNITED STATES

No. 12–357

GIRIDHAR C. SEKHAR, PETITIONER *v.*
UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 26, 2013]

JUSTICE SCALIA delivered the opinion of the Court.

We consider whether attempting to compel a person to recommend that his employer approve an investment constitutes "the obtaining of property from another" under 18 U. S. C. §1951(b)(2).

I

New York's Common Retirement Fund is an employee pension fund for the State of New York and its local governments. As sole trustee of the Fund, the State Comptroller chooses Fund investments. When the Comptroller decides to approve an investment he issues a "Commitment." A Commitment, however, does not actually bind the Fund. For that to happen, the Fund and the recipient of the investment must enter into a limited partnership agreement. 683 F. 3d 436, 438 (CA2 2012).

Petitioner Giridhar Sekhar was a managing partner of FA Technology Ventures. In October 2009, the Comptroller's office was considering whether to invest in a fund managed by that firm. The office's general counsel made a written recommendation to the Comptroller not to invest in the fund, after learning that the Office of the New York

Attorney General was investigating another fund managed by the firm. The Comptroller decided not to issue a Commitment and notified a partner of FA Technology Ventures. That partner had previously heard rumors that the general counsel was having an extramarital affair.

The general counsel then received a series of anonymous e-mails demanding that he recommend moving forward with the investment and threatening, if he did not, to disclose information about his alleged affair to his wife, government officials, and the media. App. 59–61. The general counsel contacted law enforcement, which traced some of the e-mails to petitioner's home computer and other e-mails to offices of FA Technology Ventures.

Petitioner was indicted for, and a jury convicted him of, attempted extortion, in violation of the Hobbs Act, 18 U. S. C. §1951(a). That Act subjects a person to criminal liability if he "in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do." §1951(a). The Act defines "extortion" to mean "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." §1951(b)(2).[1] On the verdict form, the jury was asked to specify the property that petitioner attempted to extort: (1) "the Commitment"; (2) "the Comptroller's approval of the Commitment"; or (3) "the General Counsel's

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[1] Petitioner was also convicted of several counts of interstate transmission of extortionate threats, in violation of 18 U. S. C. §875(d). Under §875(d), a person is criminally liable if he, "with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee." In this case, both parties concede that the definition of "extortion" under the Hobbs Act also applies to the §875(d) counts. We express no opinion on the validity of that concession.

recommendation to approve the Commitment." App. 141–142. The jury chose only the third option.

The Court of Appeals for the Second Circuit affirmed the conviction. The court held that the general counsel "had a property right in rendering sound legal advice to the Comptroller and, specifically, to recommend—free from threats—whether the Comptroller should issue a Commitment for [the funds]." 683 F. 3d, at 441. The court concluded that petitioner not only attempted to deprive the general counsel of his "property right," but that petitioner also "attempted to exercise that right by forcing the General Counsel to make a recommendation determined by [petitioner]." *Id.,* at 442.

We granted certiorari. 568 U. S. ___ (2013).

II

A

Whether viewed from the standpoint of the common law, the text and genesis of the statute at issue here, or the jurisprudence of this Court's prior cases, what was charged in this case was not extortion.

It is a settled principle of interpretation that, absent other indication, "Congress intends to incorporate the well-settled meaning of the common-law terms it uses." *Neder* v. *United States*, 527 U. S. 1, 23 (1999).

> "[W]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless otherwise instructed." *Morissette* v. *United States,* 342 U. S. 246, 263 (1952).

Or as Justice Frankfurter colorfully put it, "if a word is obviously transplanted from another legal source, whether

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