SUPREME COURT OF THE UNITED STATES

No. 96–643

STEEL COMPANY, AKA CHICAGO STEEL AND PICKLING COMPANY, PETITIONER *v.* CITIZENS FOR A BETTER ENVIRONMENT

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

[March 4, 1998]

JUSTICE SCALIA delivered the opinion of the Court.

This is a private enforcement action under the citizen-suit provision of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 100 Stat. 1755, 42 U. S. C. §11046(a)(1). The case presents the merits question, answered in the affirmative by the United States Court of Appeals for the Seventh Circuit, whether EPCRA authorizes suits for purely past violations. It also presents the jurisdictional question whether respondent, plaintiff below, has standing to bring this action.

I

Respondent, an association of individuals interested in environmental protection, sued petitioner, a small manufacturing company in Chicago, for past violations of EPCRA. EPCRA establishes a framework of state, regional and local agencies designed to inform the public about the presence of hazardous and toxic chemicals, and to provide for emergency response in the event of health-threatening release. Central to its operation are reporting require-

ments compelling users of specified toxic and hazardous chemicals to file annual "emergency and hazardous chemical inventory forms" and "toxic chemical release forms," which contain, *inter alia*, the name and location of the facility, the name and quantity of the chemical on hand, and, in the case of toxic chemicals, the waste-disposal method employed and the annual quantity released into each environmental medium. 42 U. S. C. §§11022 and 11023. The hazardous-chemical inventory forms for any given calendar year are due the following March 1st, and the toxic-chemical release forms the following July 1st. §§11022(a)(2) and 11023(a).

Enforcement of EPCRA can take place on many fronts. The Environmental Protection Agency (EPA) has the most powerful enforcement arsenal: it may seek criminal, civil, or administrative penalties. §11045. State and local governments can also seek civil penalties, as well as injunctive relief. §§11046(a)(2) and (c). For purposes of this case, however, the crucial enforcement mechanism is the citizen-suit provision, §11046(a)(1), which likewise authorizes civil penalties and injunctive relief, see §11046(c). This provides that "any person may commence a civil action on his own behalf against . . . [a]n owner or operator of a facility for failure," among other things, to "[c]omplete and submit an inventory form under section 11022(a) of this title . . . [and] section 11023(a) of this title." §11046(a)(1). As a prerequisite to bringing such a suit, the plaintiff must, 60 days prior to filing his complaint, give notice to the Administrator of the EPA, the State in which the alleged violation occurs, and the alleged violator. §11046(d). The citizen suit may not go forward if the Administrator "has commenced and is diligently pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty." §11046(e).

In 1995 respondent sent a notice to petitioner, the Administrator, and the relevant Illinois authorities, alleg-

ing– accurately, as it turns out– that petitioner had failed since 1988, the first year of EPCRA's filing deadlines, to complete and to submit the requisite hazardous-chemical inventory and toxic-chemical release forms under §§11022 and 11023. Upon receiving the notice, petitioner filed all of the overdue forms with the relevant agencies. The EPA chose not to bring an action against petitioner, and when the 60-day waiting period expired, respondent filed suit in Federal District Court. Petitioner promptly filed a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) and (6), contending that, because its filings were up to date when the complaint was filed, the court had no jurisdiction to entertain a suit for a present violation; and that, because EPCRA does not allow suit for a purely historical violation, respondent's allegation of untimeliness in filing was not a claim upon which relief could be granted.

The District Court agreed with petitioner on both points. App. to Pet. for Cert. A24–A26. The Court of Appeals reversed, concluding that citizens may seek penalties against EPCRA violators who file after the statutory deadline and after receiving notice. 90 F. 3d 1237 (CA7 1996). We granted certiorari, 519 U. S. ___ (1997).

II

We granted certiorari in this case to resolve a conflict between the interpretation of EPCRA adopted by the Seventh Circuit and the interpretation previously adopted by the Sixth Circuit in *Atlantic States Legal Foundation, Inc.* v. *United Musical Instruments, U. S. A., Inc.*, 61 F. 3d 473 (1995)– a case relied on by the District Court, and acknowledged by the Seventh Circuit to be "factually indistinguishable," 90 F. 3d, at 1241–1242. Petitioner, however, both in its petition for certiorari and in its briefs on the merits, has raised the issue of respondent's standing to maintain the suit, and hence this Court's jurisdiction to entertain it. Though there is some dispute on this point,

see Part III, *infra*, this would normally be considered a threshold question that must be resolved in respondent's favor before proceeding to the merits. JUSTICE STEVENS' opinion concurring in the judgment, however, claims that the question whether §11046(a) permits this cause of action is *also* "jurisdictional," and so has equivalent claim to being resolved first. Whether that is so has significant implications for this case and for many others, and so the point warrants extended discussion.

It is firmly established in our cases that the absence of a valid (as opposed to arguable) cause of action does not implicate subject-matter jurisdiction, *i.e.*, the courts' statutory or constitutional *power* to adjudicate the case. See generally 5A C. Wright & A. Miller, Federal Practice and Procedure §1350, p. 196, n. 8 and cases cited (2d ed. 1990). As we stated in *Bell* v. *Hood*, 327 U. S. 678, 682 (1946), "[j]urisdiction . . . is not defeated . . . by the possibility that the averments might fail to state a cause of action on which petitioners could actually recover." Rather, the District Court has jurisdiction if "the right of petitioners to recover under their complaint will be sustained if the Constitution and laws of the United States are given one construction and will be defeated if they are given another," *id.*, at 685, unless the claim "clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or where such a claim is wholly insubstantial and frivolous." *Id.*, at 682–683; see also *Bray* v. *Alexandria Women's Health Clinic*, 506 U. S. 263, 285 (1993); *The Fair* v. *Kohler Die & Specialty Co.*, 228 U. S. 22, 25 (1913). Dismissal for lack of subject-matter jurisdiction because of the inadequacy of the federal claim is proper only when the claim is "so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal controversy." *Oneida Indian Nation of N. Y.* v. *County of Oneida*, 414 U. S. 661, 666 (1974); see also *Romero* v. *International Terminal Operating Co.*, 358 U. S. 354, 359

(1959). Here, respondent wins under one construction of EPCRA and loses under another, and JUSTICE STEVENS does not argue that respondent's claim is frivolous or immaterial– in fact, acknowledges that the language of the citizen-suit provision is ambiguous. *Post*, at 21.

JUSTICE STEVENS relies on our treatment of a similar issue as jurisdictional in *Gwaltney of Smithfield, Ltd.* v. *Chesapeake Bay Foundation, Inc.*, 484 U. S. 49 (1987). *Post*, at 3. The statute at issue in that case, however, after creating the cause of action, went on to say that "[t]he district courts shall have jurisdiction, *without regard to the amount in controversy or the citizenship of the parties*," to provide various forms of relief. 33 U. S. C. §1365(a) (emphasis added). The italicized phrase strongly suggested (perhaps misleadingly) that the provision was addressing genuine subject-matter jurisdiction. The corresponding provision in the present case, however, reads as follows:

> "The district court shall have jurisdiction in actions brought under subsection (a) of this section against an owner or operator of a facility to enforce the requirement concerned and to impose any civil penalty provided for violation of that requirement." §11046(c).

It is unreasonable to read this as making all the elements of the cause of action under subsection (a) jurisdictional, rather than as merely specifying the remedial *powers* of the court, *viz.*, to enforce the violated requirement and to impose civil penalties. "Jurisdiction," it has been observed, "is a word of many, too many, meanings," *United States* v. *Vanness*, 85 F. 3d 661, 663, n. 2 (CADC 1996), and it is commonplace for the term to be used as it evidently was here. See, *e.g.*, 7 U. S. C. §13a–1(d) ("In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose . . . a civil penalty in the amount of not more than the higher of

$100,000 or triple the monetary gain to the person for each violation"); 15 U. S. C. §2622(d) ("In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages"); 42 U. S. C. §7622(d) ("In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages").

It is also the case that the *Gwaltney* opinion does not display the slightest awareness that anything *turned upon* whether the existence of a cause of action for past violations was technically jurisdictional– as indeed nothing of substance did. The District Court had statutory jurisdiction over the suit in any event, since continuing violations were also alleged. See 484 U. S., at 64. It is true, as JUSTICE STEVENS points out, that the issue of Article III standing which is addressed at the end of the opinion should technically have been addressed at the outset if the statutory question was not jurisdictional. But that also did not really matter, since Article III standing was in any event found. The short of the matter is that the jurisdictional character of the elements of the cause of action in *Gwaltney* made no substantive difference (nor even any procedural difference that the Court seemed aware of), had been assumed by the parties, and was assumed without discussion by the Court. We have often said that drive-by jurisdictional rulings of this sort (if *Gwaltney* can even be called a ruling on the point rather than a dictum) have no precedential effect. See *Lewis* v. *Casey*, 518 U. S. 343, 352, n. 2 (1996); *Federal Election Comm'n* v. *NRA Political Victory Fund*, 513 U. S. 88, 97 (1994); *United States* v. *L. A. Tucker Truck Lines, Inc.*, 344 U. S 33, 38 (1952). But even if it is authoritative on the point as to the distinctive statute there at issue, it is fanciful to think that *Gwaltney* revised our established jurisprudence that

the failure of a cause of action does not automatically produce a failure of jurisdiction, or adopted the expansive principle that a statute saying "the district court shall have jurisdiction to remedy violations [in specified ways]" renders the existence of a violation necessary for subject-matter jurisdiction.

JUSTICE STEVENS' concurrence devotes a large portion of its discussion to cases in which a statutory standing question was decided before a question of constitutional standing. See *post*, at 4–7. They also are irrelevant here, because it is not a statutory *standing* question that JUSTICE STEVENS would have us decide first. He wishes to resolve, not whether EPCRA authorizes this plaintiff to sue (it assuredly does), but whether the scope of the EPCRA right of action includes past violations. Such a question, we have held, goes to the merits and not to statutory standing. See *Northwest Airlines, Inc.* v. *County of Kent*, 510 U. S. 355, 365 (1994) ("The question whether a federal statute creates a claim for relief is not jurisdictional"); *Romero* v. *International Terminal Operating Co.*, 358 U. S., at 359; *Montana-Dakota Util. Co.* v. *Northwestern Public Service Co.*, 341 U. S. 246, 249 (1951).

Though it is replete with extensive case discussions, case citations, rationalizations, and syllogoids (see *post*, at 9, n. 12, and n. 2, *infra*), JUSTICE STEVENS' opinion conspicuously lacks one central feature: a single case in which this Court has done what he proposes, to-wit, call the existence of a cause of action "jurisdictional," and decide that question before resolving a dispute concerning the existence of an Article III case or controversy. Of course, even if there were not solid precedent contradicting JUSTICE STEVENS' position, the consequences are alone enough to condemn it. It would turn every statutory question in an EPCRA citizen suit into a question of jurisdiction. Under JUSTICE STEVENS' analysis, §11046(c)'s grant of "jurisdiction in actions brought *under* [§11046(a)]" withholds juris-

diction over claims involving purely past violations if past violations are not in fact *covered* by §11046(a). By parity of reasoning, if there is a dispute as to whether the omission of a particular item constituted a failure to "complete" the form; or as to whether a particular manner of delivery complied in time with the requirement to "submit" the form; and if the court agreed with the defendant on the point; the action would not be "brought under [§11046(a)]," and would be dismissed for lack of jurisdiction rather than decided on the merits. Moreover, those statutory arguments, since they are "jurisdictional," would have to be considered by this Court even though not raised earlier in the litigation– indeed, this Court would have to raise them *sua sponte*. See *Mt. Healthy City Bd. of Ed.* v. *Doyle*, 429 U. S. 274, 278–279 (1977); *Great Southern Fire Proof Hotel Co.* v. *Jones*, 177 U. S. 449, 453 (1900). Congress of course did not create such a strange scheme. In referring to actions "brought under" §11046(a), §11046(c) means suits *contending* that §11046(a) contains a certain requirement. If JUSTICE STEVENS is correct that all cause-of-action questions may be regarded as jurisdictional questions, and thus capable of being decided where there is no genuine case or controversy, it is hard to see what is left of that limitation in Article III.

III

In addition to its attempt to convert the merits issue in this case into a jurisdictional one, JUSTICE STEVENS' concurrence proceeds (*post*, at 7–13) to argue the bolder point that jurisdiction need not be addressed first anyway. Even if the statutory question is not "fram[ed] . . . in terms of 'jurisdiction,'" but is simply "characterize[d] . . . as whether respondent's complaint states a 'cause of action,'" "it is also clear that we have the power to decide the statutory question first." *Post*, at 7. This is essentially the position embraced by several Courts of Appeals, which

find it proper to proceed immediately to the merits question, despite jurisdictional objections, at least where (1) the merits question is more readily resolved, and (2) the prevailing party on the merits would be the same as the prevailing party were jurisdiction denied. See, *e.g.*, *SEC* v. *American Capital Investments, Inc.*, 98 F. 3d 1133, 1139–1142 (CA9 1996), cert. denied, *Shelton* v. *Barnes*, 520 U. S. ___ (1997); *Smith* v. *Avino*, 91 F. 3d 105, 108 (CA11 1996); *Clow* v. *Dept. of Housing and Urban Development*, 948 F. 2d 614, 616, n. 2 (CA9 1991); *Cross-Sound Ferry Services, Inc.* v. *ICC*, 934 F. 2d 327, 333 (CADC 1991); *United States* v. *Parcel of Land*, 928 F. 2d 1, 4 (CA1 1991); *Browning-Ferris Industries* v. *Muszynski*, 899 F. 2d 151, 154–159 (CA2 1990). The Ninth Circuit has denominated this practice– which it characterizes as "assuming" jurisdiction for the purpose of deciding the merits– the "doctrine of hypothetical jurisdiction." See, *e.g.*, *United States* v. *Troescher*, 99 F. 3d 933, 934, n. 1 (1996).[1]

We decline to endorse such an approach because it carries the courts beyond the bounds of authorized judicial action and thus offends fundamental principles of separation of powers. This conclusion should come as no surprise, since it is reflected in a long and venerable line of our cases. "Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." *Ex parte McCardle*, 7 Wall. 506, 514 (1869). "On every writ of error or appeal, the first and

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[1]Our disposition makes it appropriate to address the approach taken by this substantial body of court of appeals precedent. The fact that JUSTICE STEVENS' concurrence takes essentially the same approach makes his contention that this discussion is an "excursion," and "unnecessary to an explanation" of our decision, *post*, at 10, particularly puzzling.

fundamental question is that of jurisdiction, first, of this court, and then of the court from which the record comes. This question the court is bound to ask and answer for itself, even when not otherwise suggested, and without respect to the relation of the parties to it." *Great Southern Fire Proof Hotel Co.* v. *Jones,* 177 U. S., *supra,* at 453. The requirement that jurisdiction be established as a threshold matter "spring[s] from the nature and limits of the judicial power of the United States" and is "inflexible and without exception." *Mansfield, C. & L. M. R. Co.* v. *Swan,* 111 U. S. 379, 382 (1884).

This Court's insistence that proper jurisdiction appear begins at least as early as 1804, when we set aside a judgment for the defendant at the instance of the losing plaintiff *who had himself* failed to allege the basis for federal jurisdiction. *Capron* v. *Van Noorden*, 2 Cranch 126 (1804). Just last Term, we restated this principle in the clearest fashion, unanimously setting aside the Ninth Circuit's merits decision in a case that had lost the elements of a justiciable controversy:

> "'[E]very federal appellate court has a special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review,' even though the parties are prepared to concede it. *Mitchell* v. *Maurer*, 293 U. S. 237, 244 (1934). See *Juidice* v. *Vail*, 430 U. S. 327, 331–332 (1977) (standing). 'And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. [When the lower federal court] lack[s] jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.' *United States* v. *Corrick*, 298 U. S. 435, 440 (1936) (footnotes omitted)." *Arizonans for Official English* v. *Arizona*, 520 U. S. ___, (slip op., at 28) (1997), quoting from

Bender v. *Williamsport Area School Dist.*, 475 U. S. 534, 541 (1986) (brackets in original).

JUSTICE STEVENS' arguments contradicting all this jurisprudence– and asserting that a court *may* decide the cause of action before resolving Article III jurisdiction– are readily refuted. First, his concurrence seeks to convert *Bell* v. *Hood*, 327 U. S. 678 (1946), into a case in which the cause-of-action question was decided before an Article III standing question. *Post*, at 7–8, n. 8. *"Bell,"* JUSTICE STEVENS asserts, "held that we have jurisdiction to decide [whether the plaintiff has stated a cause of action] *even when it is unclear whether the plaintiff's injuries can be redressed*." *Post*, at 7. The italicized phrase (the italics are his own) invites the reader to believe that Article III redressability was at issue. Not only is this not true, but the whole *point* of *Bell* was that it is not true. In *Bell*, which was decided before *Bivens* v. *Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971), the District Court had dismissed the case on *jurisdictional* grounds because it believed that (what we would now call) a *Bivens* action would not lie. This Court held that the nonexistence of a cause of action was no proper basis for a jurisdictional dismissal. Thus, the uncertainty about "whether the plaintiff's injuries can be redressed" to which JUSTICE STEVENS refers is simply the uncertainty about whether a cause of action existed– which is precisely what *Bell* holds *not* to be an Article III "redressability" question. It would have been a different matter if the relief *requested* by the plaintiffs in *Bell* (money damages) would not have remedied their injury in fact; but it of course would. JUSTICE STEVENS used to understand the fundamental distinction between arguing no cause of action and arguing no Article III redressability, having written for the Court that the former argument is "not squarely directed at jurisdiction itself, but rather at the existence of a remedy for the alleged violation of . . . federal rights," which issue is "not of

the jurisdictional sort which the Court raises on its own motion.'" *Lake Country Estates, Inc.* v. *Tahoe Regional Planning Agency*, 440 U. S. 391, 398 (1979) (STEVENS, J.), (quoting *Mt. Healthy Bd. of Ed.* v. *Doyle*, 429 U. S. 274, 279 (1977)).

JUSTICE STEVENS also relies on *National Railroad Passenger Corp.* v. *National Assn. of Railroad Passengers*, 414 U. S. 453 (1974). *Post*, at 8–9. But in that case, we did not determine whether a cause of action existed before determining that the plaintiff had Article III standing; there was no question of injury in fact or effectiveness of the requested remedy. Rather, *National Railroad Passenger Corp.* determined whether a statutory cause of action existed before determining whether (if so) the plaintiff came within the "zone of interests" for which the cause of action was available. 414 U. S., at 465, n. 13. The latter question is an issue of *statutory* standing. It has nothing to do with whether there is case or controversy under Article III.[2]

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[2] JUSTICE STEVENS thinks it illogical that a merits question can be given priority over a statutory standing question (*National Railroad Passenger Corp.*) and a statutory standing question can be given priority over an Article III question (the cases discussed *post*, at 4–6), but a merits question cannot be given priority over an Article III question. See *post*, at 9, n. 12. It seems to us no more illogical than many other "broken circles" that appear in life and the law: that Executive agreements may displace state law, for example, see *United States* v. *Belmont*, 301 U. S. 324, 330–331 (1937), and that unilateral presidential action (renunciation) may displace Executive agreements, does not produce the "logical" conclusion that unilateral presidential action may displace state law. The reasons for allowing merits questions to be decided before statutory standing questions do not support allowing merits questions to be decided before Article III questions. As *National Railroad Passenger Corp.* points out, the merits inquiry and the statutory standing inquiry often "overlap," 414 U. S., at 456. The question whether *this* plaintiff has a cause of action under the statute, and the question whether *any* plaintiff has a cause of action under the statute are closely connected– indeed, depending upon the asserted basis for

Much more extensive defenses of the practice of deciding the cause of action before resolving Article III jurisdiction have been offered by the courts of appeals. They rely principally upon two cases of ours, *Norton* v. *Mathews*, 427 U. S. 524 (1976) and *Secretary of Navy* v. *Avrech*, 418 U. S. 676 (1974) *(per curiam)*. Both are readily explained, we think, by their extraordinary procedural postures. In *Norton*, the case came to us on direct appeal from a three-judge District Court, and the jurisdictional question was whether the action was properly brought in that forum rather than in an ordinary district court. We declined to decide that jurisdictional question, because the merits question was decided *in a companion case*, *Mathews* v. *Lucas*, 427 U. S. 495 (1976), with the consequence that the jurisdictional question could have no effect on the outcome: If the three-judge court had been properly convened, we would have affirmed, and if not we would have vacated and remanded for a fresh decree from which an appeal could be taken to the Court of Appeals, the outcome of which was foreordained by *Lucas*. *Norton* v. *Mathews*, *supra*, at 531. Thus, *Norton* did not use the pretermission of the jurisdictional question as a device for reaching a question of law that otherwise would have gone unaddressed. Moreover, the Court seems to have regarded the

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lack of statutory standing, they are sometimes identical, so that it would be exceedingly artificial to draw a distinction between the two. The same cannot be said of the Article III requirement of remediable injury in fact, which (except with regard to entirely frivolous claims) has nothing to do with the text of the statute relied upon. Moreover, deciding whether any cause of action exists under a particular statute, rather than whether the particular plaintiff can sue, does not take the court into vast, uncharted realms of judicial opinion-giving; whereas the proposition that the court can reach a merits question when there is no Article III jurisdiction opens the door to all sorts of "generalized grievances," *Schlesinger* v. *Reservists Comm. to Stop the War*, 418 U. S. 208, 217 (1974), that the Constitution leaves for resolution through the political process.

merits judgment that it entered on the basis of *Lucas* as equivalent to a jurisdictional dismissal for failure to present a substantial federal question. The Court said: "This disposition *[Lucas]* renders the merits in the present case a decided issue and thus one no longer substantial in the jurisdictional sense." 427 U. S., at 530–531. We think it clear that this peculiar case, involving a merits issue dispositively resolved in a companion case, was not meant to overrule, *sub silentio*, two centuries of jurisprudence affirming the necessity of determining jurisdiction before proceeding to the merits. See *Clow*, 948 F. 2d, at 627 (O'Scannlain, J., dissenting).

Avrech also involved an instance in which an intervening Supreme Court decision definitively answered the merits question. The jurisdictional question in the case had been raised by the Court *sua sponte* after oral argument, and supplemental briefing had been ordered. *Secretary of the Navy* v. *Avrech*, 418 U. S., at 677. Before the Court came to a decision, however, the merits issue in the case had been conclusively resolved in *Parker* v. *Levy*, 417 U. S. 733 (1974), a case argued the same day as *Avrech*. The Court was unwilling to decide the jurisdictional question without oral argument, *Avrech*, *supra*, at 677, but acknowledged (with some understatement) that "even the most diligent and zealous advocate could find his ardor somewhat dampened in arguing a jurisdictional issue where the decision on the merits is . . . foreordained," *id.*, at 678. Accordingly, the Court disposed of the case on the basis of the intervening decision in *Parker*, in a minimalist two-page *per curiam* opinion. The first thing to be observed about *Avrech* is that the supposed jurisdictional issue was technically not that. The issue was whether a court-martial judgment could be attacked collaterally by a suit for back pay. Although *Avrech*, like the earlier case of *United States* v. *Augenblick*, 393 U. S. 348 (1969), characterized this question as jurisdictional, we later held

squarely that it was not. See *Schlesinger* v. *Councilman*, 420 U. S. 738, 753 (1975). In any event, the peculiar circumstances of *Avrech* hardly permit it to be cited for the precedent-shattering general proposition that an "easy" merits question may be decided *on the assumption* of jurisdiction. To the contrary, the fact that the Court ordered briefing on the jurisdictional question *sua sponte* demonstrates its adherence to traditional and constitutionally dictated requirements. See *Cross-Sound Ferry Servs., Inc.* v. *ICC*, 934 F. 2d, at 344–345, and n. 10 (THOMAS, J., concurring in part and concurring in denial of petition for review).

Other cases sometimes cited by the lower courts to support "hypothetical jurisdiction" are similarly distinguishable. *United States* v. *Augenblick*, as we have discussed, did not involve a jurisdictional issue. In *Philbrook* v. *Glodgett*, 421 U. S. 707, 721 (1975), the jurisdictional question was whether, in a suit under 28 U. S. C. §1343(3) against the Commissioner of the Vermont Department of Social Welfare for deprivation of federal rights under color of state law by denying payments under a federally funded welfare program, the plaintiff could join a similar claim against the Secretary of Health, Education, and Welfare. The merits issue of statutory construction involved in the claim against the Secretary was precisely the same as that involved in the claim against the Commissioner, and the Secretary (while challenging jurisdiction) assured the Court that he would comply with any judgment entered against the Commissioner. The Court's disposition of the case was to dismiss the Secretary's appeal under what was then Court Rule 40(g), for failure to brief the jurisdictional question adequately. Normally, the Court acknowledged, its obligation to inquire into the jurisdiction of the District Court might prevent this disposition. But here, the Court concluded, "the substantive issue decided by the District Court would have been decided by that court even if it had

concluded that the Secretary was not properly a party," and "the only practical difference that resulted . . . was that its injunction was directed against him as well as against [the Commissioner]," which the Secretary "has [not] properly contended to be wrongful before this Court." *Id.*, at 721–722. And finally, in *Chandler* v. *Judicial Council of Tenth Circuit*, 398 U. S. 74 (1970), we reserved the question whether we had jurisdiction to issue a writ of prohibition or mandamus because the petitioner had not exhausted all available avenues before seeking relief under the All Writs Act, 28 U. S. C. §1651, and because there was no record to review. *Id.*, at 86–88. The exhaustion question *itself* was at least arguably jurisdictional, and was clearly treated as such. *Id.*, at 86.[3]

While some of the above cases must be acknowledged to have diluted the absolute purity of the rule that Article III

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[3] JUSTICE STEVENS adds three cases to the list of those that might support "hypothetical jurisdiction." *Post*, at 12, n. 15. They are all inapposite. In *Moor* v. *County of Alameda*, 411 U. S. 693 (1973), we declined to decide whether a federal court's pendent jurisdiction extended to state law claims against a new party, because we agreed with the district court's discretionary declination of pendent jurisdiction. *Id.*, at 715–716. Thus, the case decided, not a merits question before a jurisdictional question, but a discretionary jurisdictional question before a nondiscretionary jurisdictional question. Similarly in *Ellis* v. *Dyson*, 421 U. S. 426, 436 (1975), the "authoritative ground of decision" upon which the District Court relied in lieu of determining whether there was a case or controversy was *Younger* abstention, which we have treated as jurisdictional. And finally, the issue pretermitted in *Neese* v. *Southern R. Co.*, 350 U. S. 77 (1955), was not Article III jurisdiction at all, but the substantive question whether the Seventh Amendment permits a court to grant a motion for new trial on the basis of an excessive jury verdict. We declined to consider that question because we agreed with the District Court's decision to deny the motion on the facts in the record. The more numerous the look-alike-but-inapposite cases JUSTICE STEVENS cites, the more strikingly clear it becomes: his concurrence cannot identify a single opinion of ours deciding the merits before a disputed question of Article III jurisdiction.

jurisdiction is always an antecedent question, none of them even approaches approval of a doctrine of "hypothetical jurisdiction" that enables a court to resolve contested questions of law when its jurisdiction is in doubt. Hypothetical jurisdiction produces nothing more than a hypothetical judgment– which comes to the same thing as an advisory opinion, disapproved by this Court from the beginning. *Muskrat* v. *United States*, 219 U. S. 346, 362 (1911); *Hayburn's Case*, 2 Dall. 409 (1792). Much more than legal niceties are at stake here. The statutory and (especially) constitutional elements of jurisdiction are an essential ingredient of separation and equilibration of powers, restraining the courts from acting at certain times, and even restraining them from acting permanently regarding certain subjects. See *United States* v. *Richardson*, 418 U. S. 166, 179 (1974); *Schlesinger* v. *Reservists Comm. to Stop the War*, 418 U. S. 208, 227 (1974). For a court to pronounce upon the meaning or the constitutionality of a state or federal law when it has no jurisdiction to do so is, by very definition, for a court to act ultra vires.

IV

Having reached the end of what seems like a long front walk, we finally arrive at the threshold jurisdictional question: whether respondent, the plaintiff below, has standing to sue. Article III, §2 of the Constitution extends the "judicial Power" of the United States only to "Cases" and "Controversies." We have always taken this to mean cases and controversies of the sort traditionally amenable to and resolved by the judicial process. *Muskrat* v. *United States*, *supra*, at 356–357. Such a meaning is fairly implied by the text, since otherwise the purported restriction upon the judicial power would scarcely be a restriction at all. Every criminal investigation conducted by the Executive is a "case," and every policy issue resolved by congressional legislation involves a "controversy." These are not,

however, the sort of cases and controversies that Article III, §2, refers to, since "the Constitution's central mechanism of separation of powers depends largely upon common understanding of what activities are appropriate to legislatures, to executives, and to courts." *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555, 559–560 (1992). Standing to sue is part of the common understanding of what it takes to make a justiciable case. *Whitmore* v. *Arkansas*, 495 U. S. 149, 155 (1990).[4]

The "irreducible constitutional minimum of standing" contains three requirements. *Lujan* v. *Defenders of Wildlife*, *supra*, at 560. First and foremost, there must be alleged (and ultimately proven) an "injury in fact"– a harm suffered by the plaintiff that is "concrete" and "actual or imminent, not 'conjectural' or 'hypothetical.'" *Whitmore* v. *Arkansas*, *supra*, at 149, 155 (1990) (quoting *Los Angeles* v. *Lyons*, 461 U. S. 95, 101–102 (1983)). Second, there must be causation– a fairly traceable connection between the plaintiff's injury and the complained-of conduct of the defendant. *Simon* v. *Eastern Ky. Welfare Rights Organization*, 426 U. S. 26, 41–42 (1976). And third, there must be redressability– a likelihood that the requested relief will redress the alleged injury. *Id.*, at 45–46; see also *Warth* v. *Seldin*, 422 U. S. 490, 505 (1975). This triad of injury in fact, causation, and redressability[5] comprises the core of

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[4]Our opinion is not motivated, as JUSTICE STEVENS suggests, by the more specific separation-of-powers concern that this citizen's suit "somehow interferes with the Executive's power to 'take Care that the Laws be faithfully executed,' Art. II, §3," *post*, at 18. The courts must stay within their constitutionally prescribed sphere of action, whether or not exceeding that sphere will harm one of the other two branches. This case calls for nothing more than a straightforward application of our standing jurisprudence, which, though it may sometimes have an impact on presidential powers, derives from Article III and not Article II.

[5]Contrary to JUSTICE STEVENS' belief that redressability "is a judicial

Article III's case-or-controversy requirement, and the party invoking federal jurisdiction bears the burden of establishing its existence. *See FW/PBS, Inc.* v. *Dallas*, 493 U. S. 215, 231 (1990).

We turn now to the particulars of respondent's complaint to see how it measures up to Article III's requirements. This case is on appeal from a Rule 12(b) motion to dismiss on the pleadings, so we must presume that the general allegations in the complaint encompass the specific facts necessary to support those allegations. *Lujan* v. *National Wildlife Federation*, 497 U. S. 871, 889 (1990). The complaint contains claims "on behalf of both [respon-

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creation of the past 25 years," *post*, at 14, the concept has been ingrained in our jurisprudence from the beginning. Although we have packaged the requirements of constitutional "case" or "controversy" somewhat differently in the past 25 years– an era rich in three-part tests– the point has always been the same: whether a plaintiff "personally would benefit in a tangible way from the court's intervention." *Warth*, *supra*, 422 U. S., at 508. For example, in *Marye* v. *Parsons*, 114 U. S. 325, 328–329 (1885), we held that a bill in equity should have been dismissed because it was a clear case of *"damnum absque injuria."* Although the complainant alleged a breach of contract by the State, the complainant "asks no relief as to that, for there is no remedy by suit to compel the State to pay its debts. . . . The bill as framed, therefore, calls for a declaration of an abstract character." Because courts do not "sit[] to determine questions of law *in thesi*," we remanded with directions to dismiss the bill. *Id.*, at 328–330.

Also contrary to JUSTICE STEVENS' unprecedented suggestion, *post*, at 14, redressability– like the other prongs of the standing inquiry– does not depend on the defendant's status as a governmental entity. There is no conceivable reason why it should. If it is true, as JUSTICE STEVENS claims, that all of the cases in which the Court has denied standing because of a lack of redressability happened to involve government action or inaction, that would be unsurprising. Suits that promise no concrete benefit to the plaintiff, and that are brought to have us "determine questions of law *in thesi*," *Marye*, *supra*, at 330, are most often inspired by the psychological smart of perceived official injustice, or by the government-policy preferences of political activists. But the principle of redressability has broader application than that.

dent] itself and its members."[6] App. 4. It describes respondent as an organization that seeks, uses, and acquires data reported under EPCRA. It says that respondent "reports to its members and the public about storage and releases of toxic chemicals into the environment, advocates changes in environmental regulations and statutes, prepares reports for its members and the public, seeks the reduction of toxic chemicals and further seeks to promote the effective enforcement of environmental laws." App. 5. The complaint asserts that respondent's "right to know about [toxic chemical] releases and its interests in protecting and improving the environment and the health of its members have been, are being, and will be adversely affected by [petitioner's] actions in failing to provide timely and required information under EPCRA." *Ibid*. The complaint also alleges that respondent's members, who live in or frequent the area near petitioner's facility, use the EPRCA-reported information "to learn about toxic chemical releases, the use of hazardous substances in their communities, to plan emergency preparedness in the event of accidents, and to attempt to reduce the toxic chemicals in areas in which they live, work and visit." *Ibid*. The members' "safety, health, recreational, economic, aesthetic and environmental interests" in the information, it is claimed, "have been, are being, and will be adversely affected by [petitioner's] actions in failing to file timely and required reports under EPCRA." *Ibid*.

As appears from the above, respondent asserts petitioner's failure to provide EPCRA information in a timely

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[6] EPCRA states that "any person may commence a civil action *on his own behalf*. . ." 42 U. S. C. §11046(1) (emphasis added). "Person" includes an association, see §11049(7), so it is arguable that the statute permits respondent to vindicate only its own interests as an organization, and not the interests of its individual members. Since it makes no difference to our disposition of the case, we assume without deciding that the interests of individual members may be the basis of suit.

fashion, and the lingering effects of that failure, as the injury in fact to itself and its members. We have not had occasion to decide whether being deprived of information that is supposed to be disclosed under EPCRA– or at least being deprived of it when one has a particular plan for its use– is a concrete injury in fact that satisfies Article III. Cf. *Lujan* v. *Defenders of Wildlife*, 504 U. S., at 578. And we need not reach that question in the present case because, assuming injury in fact, the complaint fails the third test of standing, redressability.

The complaint asks for (1) a declaratory judgment that petitioner violated EPCRA; (2) authorization to inspect periodically petitioner's facility and records (with costs borne by petitioner); (3) an order requiring petitioner to provide respondent copies of all compliance reports submitted to the EPA; (4) an order requiring petitioner to pay civil penalties of $25,000 per day for each violation of §§11022 and 11023; (5) an award of all respondent's "costs, in connection with the investigation and prosecution of this matter, including reasonable attorney and expert witness fees, as authorized by Section 326(f) of [EPCRA]"; and (6) any such further relief as the court deems appropriate. App. 11. None of the specific items of relief sought, and none that we can envision as "appropriate" under the general request, would serve to reimburse respondent for losses caused by the late reporting, or to eliminate any effects of that late reporting upon respondent.[7]

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[7] JUSTICE STEVENS claims that redressability was found lacking in our prior cases because the relief required action by a party not before the Court. *Post*, at 15–16. Even if that were so, it would not prove that redressability is lacking *only* when relief depends on the actions of a third party. But in any event, JUSTICE STEVENS has overlooked decisions that destroy his premise. See *Lyons*, 461 U. S., at 105; *O'Shea* v. *Littleton*, 414 U. S. 488, 495–496 (1974). He also seems to suggest that redressability always exists when the defendant has directly injured the plain-

The first item, the request for a declaratory judgment that petitioner violated EPCRA, can be disposed of summarily. There being no controversy over whether petitioner failed to file reports, or over whether such a failure constitutes a violation, the declaratory judgment is not only worthless to respondent, it is seemingly worthless to all the world. See *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 479 (1990).

Item (4), the civil penalties authorized by the statute, see §11045(c), might be viewed as a sort of compensation or redress to respondent if they were payable to respondent. But they are not. These penalties– the only damages authorized by EPCRA– are payable to the United States Treasury. In requesting them, therefore, respondent seeks not remediation of its own injury– reimbursement for the costs it incurred as a result of the late filing– but vindication of the rule of law– the "undifferentiated public interest" in faithful execution of EPCRA. *Lujan* v. *Defenders of Wildlife, supra,* at 577; see also *Fairchild* v. *Hughes*, 258 U. S. 126, 129–130 (1922). This does not suffice. JUSTICE STEVENS thinks it is enough that respondent will be gratified by seeing petitioner punished for its infractions and that the punishment will deter the risk of future harm. *Post,* at 17–18. If that were so, our holdings in *Linda R. S.* v. *Richard D.*, 410 U. S. 614 (1973), and *Simon* v. *Eastern Ky. Welfare Rights Organization*, 426 U. S. 26 (1976), are inexplicable. Obviously, such a principle would make the redressability requirement vanish. By the mere bringing of his suit, *every* plaintiff demonstrates

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tiff. If that were so, the redressability requirement would be entirely superfluous, since the causation requirement asks whether the injury is "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." *Simon* v. *Eastern Ky. Welfare Rights Organization*, 426 U. S. 26, 41–42 (1976).

his belief that a favorable judgment will make him happier. But although a suitor may derive great comfort and joy from the fact that the United States Treasury is not cheated, that a wrongdoer gets his just deserts, or that the nation's laws are faithfully enforced, that psychic satisfaction is not an acceptable Article III remedy because it does not redress a cognizable Article III injury. See, *e.g.*, *Allen* v. *Wright*, 468 U. S. 737, 754–755 (1984); *Valley Forge Christian College* v. *Americans United for Separation of Church and State, Inc.*, 454 U. S. 464, 482–483 (1982). Relief that does not remedy the injury suffered cannot bootstrap a plaintiff into federal court; that is the very essence of the redressability requirement.

Item (5), the "investigation and prosecution" costs "as authorized by Section 326(f)," would assuredly benefit respondent as opposed to the citizenry at large. Obviously, however, a plaintiff cannot achieve standing to litigate a substantive issue by bringing suit for the cost of bringing suit. The litigation must give the plaintiff some other benefit besides reimbursement of costs that are a byproduct of the litigation itself. An "interest in attorney's fees is . . . insufficient to create an Article III case or controversy where none exists on the merits of the underlying claim." *Lewis* v. *Continental Bank Corp.*, 494 U. S., at 480 (citing *Diamond* v. *Charles*, 476 U. S. 54, 70–71 (1986)). Respondent asserts that the "investigation costs" it seeks were incurred prior to the litigation, in digging up the emissions and storage information that petitioner should have filed, and that respondent needed for its own purposes. See Brief for Respondent 37–38. The recovery of such expenses unrelated to litigation would assuredly support Article III standing, but the problem is that §326(f), which is the entitlement to monetary relief that the complaint

invokes, covers only the "costs of litigation."[8] §11046(f). Respondent finds itself, in other words, impaled upon the horns of a dilemma: for the expenses to be reimbursable under the statute, they must be costs of litigation; but reimbursement of the costs of litigation cannot alone support standing.[9]

The remaining relief respondent seeks (item (2), giving respondent authority to inspect petitioner's facility and records, and item (3), compelling petitioner to provide respondent copies of EPA compliance reports) is injunctive in nature. It cannot conceivably remedy any past wrong but is aimed at deterring petitioner from violating EPCRA in the future. See Brief for Respondent 36. The latter objective can of course be "remedial" for Article III purposes, when threatened injury is one of the gravamens of the complaint. If respondent had alleged a continuing violation or the imminence of a future violation, the injunctive relief requested would remedy that alleged harm. But there is no such allegation here– and on the facts of the case, there seems no basis for it. Nothing supports the requested injunctive relief except respondent's generalized interest in deterrence, which is insufficient for purposes of Article III. See *Los Angeles* v. *Lyons*, 461 U. S., at 111.

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[8] Section 326(f) reads: "The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party or the substantially prevailing party whenever the court determines such an award is appropriate." 42 U. S. C. §11046(f).

[9] JUSTICE STEVENS contends, *post*, at 13, n. 16, that this argument involves us in a construction of the statute, and thus belies our insistence that jurisdictional issues be resolved first. It involves us in a construction of the statute only to the extent of rejecting as frivolous the contention that costs incurred for respondent's own purposes, *not* in preparation for litigation (and hence sufficient to support Article III standing) are nonetheless "costs of litigation" under the statute. As we have described earlier, our cases make clear that frivolous claims are themselves a jurisdictional defect. See *supra*, at 4.

The United States, as *amicus curiae*, argues that the injunctive relief does constitute remediation because "there is a presumption of [future] injury when the defendant has voluntarily ceased its illegal activity in response to litigation," even if that occurs before a complaint is filed. Brief for the United States as *Amicus Curiae* 27–28, and n. 11. This makes a sword out of a shield. The "presumption" the Government refers to has been applied to refute the assertion of mootness by a defendant who, when sued in a complaint that alleges present or threatened injury, ceases the complained-of activity. See, *e.g.*, *United States* v. *W. T. Grant Co.*, 345 U. S. 629, 632 (1953). It is an immense and unacceptable stretch to call the presumption into service as a substitute for the allegation of present or threatened injury upon which initial standing must be based. See *Los Angeles* v. *Lyons*, *supra*, at 109. To accept the Government's view would be to overrule our clear precedent requiring that the allegations of future injury be particular and concrete. *O'Shea* v. *Littleton*, 414 U. S. 488, 496–497 (1974). "Past exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects." *Id.*, at 495–496; see also *Renne* v. *Geary*, 501 U. S. 312, 320 (1991) ("[T]he mootness exception for disputes capable of repetition yet evading review . . . will not revive a dispute which became moot before the action commenced"). Because respondent alleges only past infractions of EPRCA, and not a continuing violation or the likelihood of a future violation, injunctive relief will not redress its injury.

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Having found that none of the relief sought by respondent would likely remedy its alleged injury in fact, we must conclude that respondent lacks standing to maintain this suit, and that we and the lower courts lack jurisdiction to entertain it. However desirable prompt resolution of the

merits EPCRA question may be, it is not as important as observing the constitutional limits set upon courts in our system of separated powers. EPCRA will have to await another day.

The judgment is vacated and the case remanded with instructions to direct that the complaint be dismissed.

It is so ordered.