



LEGAL AFFAIRS SEMINAR



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Loper Bright Reversed *Chevron*: It Did Not End the Administrative State

General Observations:

- Post-*Loper Bright* Rulings Reflect Regulatory Context
- No Avalanche of Agency Defeats, Even With Judicial Emphasis on Textualism/Definitions/Plain Meaning
- Policy Changes, Especially Dramatic Ones, Could Be More Difficult to Impose
- Will *Skidmore* Deference Become the New *Chevron* (and a movement to reverse it)?

Examples from the D.C. Circuit Court of Appeals

American Gas Assoc. v. Dept. of Energy, (No. 22-1030, 11/4/2025)

- 2-1 ruling; majority refers to Skidmore standards to uphold DOE; dissent explores plain meaning of statutory terms at issue; cert. petition

Jazz Pharmaceuticals v. Kennedy, (No. 24-5262, 6/27/2025)

- Upheld agency (FDA) following de novo review of key statutory language

CBOE Global Markets, Inc. v. SEC, (No. 24-1350, 10/14/2025)

- Even absent deference to statutory interpretations, court still deferred to agency's expert, data-driven judgments in technical area



Could the “Major Questions Doctrine” Take on More Importance?

Learning Resources, Inc. et al. v. Trump, (No. 24-1287; 2/26/2026)

- Complex decision with multiple concurring opinions
- Chief Justice Roberts: “There is no major questions exception to the major questions doctrine.”
- Justice Gorsuch: “The major questions doctrine is not “anti-administrative state. It is pro-Congress.” Gorsuch concurrence is mandatory reading for all civics classes.

Quote that May Live On – Legislative Process as “the Bulwark of Liberty”

For those who think it important for the Nation to impose more tariffs, I understand that today's decision will be disappointing. All I can offer them is that most major decisions affecting the rights and responsibilities of the American people (including the duty to pay taxes and tariffs) are funneled through the legislative process for a reason. Yes, legislating can be hard and take time. And, yes, it can be tempting to bypass Congress when some pressing problem arises. But the deliberative nature of the legislative process was the whole point of its design. Through that process, the Nation can tap the combined wisdom of the people's elected representatives, not just that of one faction or man. There, deliberation tempers impulse, and compromise hammers disagreements into workable solutions. And because laws must earn such broad support to survive the legislative process, they tend to endure, allowing ordinary people to plan their lives in ways they cannot when the rules shift from day to day. In all, the legislative process helps ensure each of us has a stake in the laws that govern us and in the Nation's future. For some today, the weight of those virtues is apparent. For others, it may not seem so obvious. But if history is any guide, the tables will turn and the day will come when those disappointed by today's result will appreciate the legislative process for the bulwark of liberty it is.