DEMOCRATIC CLUB OF WILLOW VALLEY NEWSLETTER

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Addressing the Issues

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Stop corporations from helping ICE

What you can do to stop big corporations from helping ICE

You are not powerless. You can stop their complicity in this humanitarian disaster.

ROBERT REICH Feb. 9, 2026

Friends,

Many of you tell me you feel powerless in the face of Trump's reign of terror. You view and read horrific news reports about what ICE and Border Patrol are doing, but you don't know how you can reduce or stop this horror.

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Stop corporations from helping ICE (cont'd)

Let me assure you: You're not powerless. In fact, you have enormous power.

Start with ICE and Border Patrol detention facilities, now holding some 70,000 people in 224 facilities across the country that reportedly are rife with abuses. Last year, deaths in ICE custody reached a 20-year high. The first days of 2026 brought more deaths. Medical neglect, isolation, and overcrowding are routine.

CoreCivic (formerly Corrections Corporation of America) is the largest owner and operator of ICE and Border Patrol detention centers. It has a record of abusing detainees. Among the detention centers CoreCivic lists on its website is the Stewart Detention Center in Lumpkin, Georgia. In December, The Intercept reported that there were at least 15 medical emergency calls to 911 from the Stewart facility every month since the start of the second Trump administration.

If you're as outraged about this as I am, here are five things you can do *now.*

1. You and I are paying CoreCivic through our tax dollars. You can demand that our senators and representatives in Congress not fund the Department of Homeland Security until these abuses stop.

At this moment, congressional Democrats are trying to condition their votes for the Department of Homeland Security's spending bill on placing guardrails around ICE and Border Patrol.

You might contact your senators and representatives and urge them not to vote for funding of the Department of Homeland Security. Or at the least, demand that in order to receive funding, their agents cannot wear masks, must wear identification, cannot use racial profiling, must have search warrants, cannot use lethal force, and must give arrestees due process, and that those detained must receive adequate medical care and accommodation.

You can reach your senators and representatives through the U.S. Capitol switchboard at (202) 224-3121.

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Stop corporations from helping ICE (cont'd)

2. You may *own* CoreCivic indirectly. You can withdraw your savings from institutional investors that are financing it.

CoreCivic is a public-held corporation, meaning that it's listed on the stock exchange. We may not own its shares directly, but many of us entrust our savings to institutional investors such as Black Rock and Vanguard, which own significant shares in CoreCivic.

Black Rock accounts for 16 percent of CoreCivic's total shares. Vanguard Group Inc. holds 12 percent. They are CoreCivic's largest shareholders. As such, they have the most influence (other than the federal government's Department of Homeland Security, if DHS were acting responsibly) over how CoreCivic runs its detention facilities.

Find out if your savings are held by one or both of these two giant institutional investors. (Check with your broker or look at the reports they send you.) If they are, you might instruct your broker to withdraw your savings from them and put them in another institution that doesn't hold shares of CoreCivic.

3. You may support the Democratic Party, specifically the Democratic Governors Association — which has been accepting donations from CoreCivic. You can contact the DGA and tell it to stop accepting such donations.

A *Politico* review of campaign finance records published Saturday shows that the Democratic Governors Association has taken in hundreds of thousands of dollars in donations from CoreCivic. These are not charitable contributions by CoreCivic, but attempts by CoreCivic to influence state legislation.

From 2017 through at least 2025, the DGA took in $1,246,050 over 46 donations from CoreCivic. The most recent publicly reported donation to the DGA came in May 2025, according to records, around the same time White House officials began pressuring ICE to ramp up arrests.

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Stop corporations from helping ICE (cont'd)

The *Republican* Governors Association has undoubtedly taken in as much if not more donations from CoreCivic, but I'm assuming that more of us are affiliated with, or at least more influential in, the Democratic Party than the Republican.

You can contact the Democratic Governors Association and tell them to stop taking donations from CoreCivic. You can reach them by writing to the Democratic Governors Association, 1300 Eye Street NW, Suite 1200 West, Washington, D.C. 20005. Or telephone them at (202) 772-5600.

4. You can also express your outrage *directly* to CoreCivic — and tell them you refuse to support them with your tax dollars or your investment savings. Write them directly at CoreCivic, 5501 Virginia Way, Suite 110, Brentwood, TN 37027. And phone them toll-free at 1-800-624-2931.

5. In addition to your power as a taxpayer, investor-saver, and voter, you're also powerful as a consumer. Although you don't purchase CoreCivic's detention services directly, you buy from corporations that every day enable CoreCivic, ICE, and Border Patrol to do their nefarious work.

For example, ICE's latest recruitment ads — built around music and language drawn straight from far-right neo-Nazi memes and aimed at extremists who are most fervent about guns, tactical gear, and vigilantism — are being distributed by and are profiting two companies you probably use all the time: YouTube and Google.

Meanwhile, AT&T, Home Depot, Amazon, and Microsoft are providing ICE and Border Patrol with cloud computing, surveillance software, and logistical support that's central to how they function. This corporate collaboration makes large-scale enforcement possible.

And Verizon — through a 10-year, $176 million contract with the Department of Homeland Security, including ICE — supplies the communications infrastructure that facilitates raids, detention centers, and deportations.

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Stop corporations from helping ICE (cont'd)

Without these corporate partners, ICE could not carry out violent raids, operate sprawling detention centers, or deport people at scale. These corporations are enabling violence on the streets and death behind barbed wire.

Yet these corporations also spend billions of dollars each year on their brand images and public relations in order to attract your consumer dollars. None wants to be seen as underwriting civilian killings like those of Renee Good and Alex Pretti. None wants its brand associated with record numbers of deaths in custody. None wants to be linked to detention sites with names like "Alligator Alcatraz" that are rife with abuse.

Your consumer dollars are critical to these corporations. So, at the least, you can demand that they stop profiting from their collaborations with ICE. (Click on the word "demand" in the previous sentence to send them a message.)

And tell Verizon to end its contracts with ICE and stop profiting from violence, detention, and abuse.

You can go a step further and boycott the giant corporations now helping ICE. See here.

In these and many other ways, you are powerful. As a consumer, saver-investor, taxpayer, and voter, you keep these corporations going.

Together, we're even *more* powerful. We need not tolerate their complicity in the inhumane acts now being done by ICE, Border Patrol, and Trump's Department of Homeland Security.

You are not powerless. You can take action now. Please do.

We are soliciting nominations for Dems Club President and Secretary.

For more information, contact Ross Fairweather at rossfair63@gmail.com

Why Shouldn’t the US Arrest King Trump?

The U.K. arrests Price Andrew. Why shouldn't the U.S. arrest King Trump, who appears to have done even worse?

If no one is above the law, then no one is above the law

Robert Reich **Feb. 19, 2026**

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Why Shouldn't the US Arrest Trump?

(cont'd)

Friends,

Police in the U.K. have arrested Andrew Mountbatten-Windsor, the former Prince Andrew and Duke of York, on suspicion of misconduct in public office — after the disclosure of emails between Mountbatten-Windsor and the late disgraced banker Jeffrey Epstein. As I write this, Mountbatten-Windsor remains in custody.

We don't know yet the specific charges. But we do know that the late Virginia Giuffre, an Epstein victim, accused Mountbatten-Windsor of raping her.

We also know that Mountbatten-Windsor was the U.K.'s trade envoy between 2001 and 2011, and appears to have forwarded to Epstein confidential government reports from visits to Vietnam, Singapore and China, including investment opportunities in gold and uranium in Afghanistan.

Prime Minister Keir Starmer says "no one is above the law." The family of Virginia Giuffre says "no one is above the law, not even royalty." Britain's chief prosecutor says "no one is above the law."

All of which raises awkward questions about the people implicated on this side of the pond, including the person in the Oval Office who loves to be treated like a king, and who appears in the Epstein files 1,433 times (that is, the files that have been released so far). Prince Andrew appears in them 1,821 times.

America likes to believe we gave up kings almost 250 years ago and adopted a system in which "no one is above the law."

But Trump's foreign policy has become a personal tool for him to channel money and status to himself and his closest associates. Since the 2024 election, the Trump family's personal wealth has increased by at least $4 billion.

As with the British royalty of the 16th century, it's all personal with Trump — all about expanding his power and enlarging his and his family's wealth. Proceeds from the sale of Venezuelan oil? "That money will be controlled by me," he says. The gift of a plane from Qatar? "Mine." Investments by Middle-East kingdoms in his family's crypto racket? "Perfectly fine."

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Why Shouldn't the US Arrest Trump?
(cont'd)

Like the British royalty of yore, King Trump has arbitrary power. He raises Switzerland's tariff from 30 to 39 percent because its former president Karin Keller-Sutter "just rubbed me the wrong way." He imposes a 50 percent tariff on Brazil because Brazil refused to halt its prosecution of Trump's political ally, the former Brazilian president Jair Bolsonaro, who was found guilty of plotting a coup. Vietnam fast-tracks approval of a $1.5 billion Trump family golf course at the same time it seeks to reduce its tariff rate.

Trump claims that Greenland is "psychologically needed," although the United States already has a military presence there and an open invitation to expand its bases. He muses about making Canada the "51st state." These are throwbacks to the 16th-century age of empire.

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Meanwhile, Trump has created a system of tribute and allegiance that would make Henry VIII jealous.

Apple's Tim Cook delivers a gold-based plaque and a donation to Trump's planned ballroom. Swiss billionaires bring a gold bar and a Rolex desk clock to the Oval Office. Jeff Bezos backs a vapid movie of Melania and hands her a check for $28 million.

Trump pardons Changpeng Zhao, the billionaire mogul who pled guilty to money-laundering violations in 2023, after which time Zhao's Binance digital-coin trading platform becomes the engine of the Trump family's crypto business, World Liberty Financial.

Elon Musk's humongous quarter-billion-dollar contribution to Trump's 2024 campaign earns Musk a dukedom — a "department of government efficiency"— and the keys to the kingdom in the form of sensitive U.S. Treasury Department software systems used to manage federal payments.

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Why Shouldn't the US Arrest Trump?
(cont'd)

But when the Duke of DOGE starts becoming more visible than King Trump, the king banishes him and revokes his dukedom. When the banished Musk begins openly criticizing Trump, the king threatens to cut off Musk's head in the form of cutting him and his SpaceX off from valuable government contracts. This puts an end to Musk's impertinence.

The new TikTok (on which Trump has more than 16 million followers) will continue operating in the United States — but now with the financial backing of Trump ally Larry Ellison's Oracle, Trump's allied Emirati investment firm MGX (which has already invested in the Trump family's cryptocurrency company), and Silver Lake, teamed up with the private equity firm founded by Trump's son-in-law Jared Kushner.

Trump allows Nvidia to sell chips to the United Arab Emirates and Saudi Arabia and extends military guarantees to Qatar — all of which have invested in the Trump family empire. (Emirati-backed investors plowed $2 billion into World Liberty Financial.)

Instead of national glory, Trump demands personal glory — to get the Nobel Peace Prize, to put his name on the Kennedy Center and Penn Station, and other major monuments and buildings.

If his commands are not met, he punishes. Because Norway didn't give him a Nobel (it wasn't Norway's to give anyway), he "no longer feels obliged to think only of peace." Because performers refuse to appear at the "Trump-Kennedy" Center, he shutters it.

Instead of bureaucracies, America now has a royal entourage. Instead of institutions, we now have royal prerogative. Instead of legitimacy based on the will of the people, there's divine right ("I had God on my side," "God was protecting me," "God is on our side").

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Why Shouldn't the US Arrest Trump?
(cont'd)

We will march against King Trump on the next "No Kings Day" on March 28 — hopefully making it the biggest protest in American history.

But the arrest of the former Prince Andrew raises an issue that goes way beyond protesting and marching. King Trump was evidently involved in Jeffrey Epstein's nefarious doings. We don't know exactly how because there's been no criminal investigation. But shouldn't there be?

Trump has also been enriching himself and his family through his public office, violating multiple laws about conflicts of interest.

If the U.K. can arrest the former Prince Andrew on evidence of such wrongdoing, why shouldn't America arrest King Trump? If no one is above the law in the U.K., not even royalty, presumably no one is above the law in the U.S., not even a president.

Pam Bondi obviously won't investigate Trump because she's part of King Trump's court. But what about a group of state attorneys general?

Almost 250 years after we broke with George III, the question must now be faced: Are we a monarchy or a nation of laws?

Join us on March 31st at 1 pm
at our General Meeting
featuring speakers from **Food Hub Lancaster.**

Please bring a donation of
a box of rice or
a jar of peanut butter!

Plans to Delegitimize Elections

THE NEW REPUBLIC Daily

The Four Ways Trump Plans to Delegitimize this Fall's Elections

His goal here isn't necessarily victory on the merits. It may be delay, uncertainty, and public doubt—especially in close races.

Harry Litman
February 18, 2026

ANDREW CABALLERO-REYNOLDS/AFP/GETTY IMAGES

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Plans to Delegitimize Elections (cont'd)

Even as diversionary battles flare across the political landscape—immigration raids, diplomatic blunders, legal losses in court, and the lingering Epstein fallout—Donald Trump is making his move where it matters most: elections.

The administration is pressing aggressively to obtain voter rolls and election materials from states across the country, particularly in roughly 15 battleground states, while Trump openly calls on Republicans to "federalize" the conduct of federal elections. This is not a theoretical replay of 2020. The effort is operational now through four means: formal Justice Department demands, active litigation, seized election materials, and scheduled federal briefings with state officials.

The Constitution gives the president no operational role in administering elections. Article 1, Section 4—the elections clause—assigns authority over the "Times, Places and Manner" of federal elections to the states, subject to congressional regulation. The executive branch is not part of that structure. As U.S. District Judge Colleen Kollar-Kotelly recently put it when rejecting one of Trump's attempts to reshape election procedures, the Constitution gives "no role at all to the President" in setting election rules.

Yet in recent months—and intensifying in recent weeks—the Justice Department has demanded full, unredacted voter rolls from states nationwide, including sensitive personal data, such as partial Social Security numbers and birth dates.

The department invokes the National Voter Registration Act, or NVRA, which requires states to make "reasonable efforts" to maintain accurate rolls. But the scope and scale of these requests are unprecedented. DOJ is not merely seeking confirmation that states are conducting routine list maintenance. It has demanded expansive voter-roll data, historical election materials, and back-end administrative records far beyond what is necessary to assess statutory compliance—including information that could be used to scrutinize or challenge individual registrations.

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Plans to Delegitimize Elections (cont'd)

Many states have refused. DOJ has responded with more than 20 lawsuits, but it has yet to secure a decisive victory. Earlier this month, a federal judge in Michigan dismissed the department's attempt to obtain that state's voter data, ruling that the statutes cited do not authorize such sweeping demands. Efforts in Oregon, California, and Georgia have also stalled or been rebuffed.

The pushback has crossed party lines. Oklahoma's Republican election chief wrote that his office could not legally provide confidential data under state privacy law. Kentucky's State Board of Elections asked why the DOJ needed driver's license numbers and other sensitive identifiers merely to evaluate list maintenance.

Yet the pressure has not abated. According to reports, the administration has given states 45 days to remove voters whom the DOJ deems ineligible. That compressed timetable sits uneasily alongside the NVRA's deliberate notice-and-wait framework, which reflects Congress's recognition that voter list maintenance is error-prone.

DOJ has indicated it intends to compare state voter rolls against the federal SAVE immigration database. That system has historically produced false positives, including naturalized citizens misidentified as noncitizens because federal records were outdated. Large-scale data matching inevitably generates errors—common names, outdated addresses, clerical discrepancies. The statute's safeguards exist precisely because eligibility determinations require care. A 45-day clock all but guarantees that mistakes will fall hardest on eligible voters.

Voter rolls are not abstract spreadsheets. They contain names, addresses, party affiliations in some states, and voting histories. In legitimate state hands, they are administrative tools. In the wrong hands, they become instruments for advancing allegations of fraud or irregularity.

The possession of comprehensive voter data enables mass eligibility challenges in targeted counties, cross-referencing registration rolls against other databases to flag supposed inconsistencies, singling out demographic concentrations for public allegations, and launching investigations that generate damaging headlines even if they produce no indictments.

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Plans to Delegitimize Elections (cont'd)

Federal agencies—including the FBI, DOJ, the Department of Homeland Security, the Postal Inspection Service, and the Election Assistance Commission—have invited chief election officials from all 50 states to a nationwide call to discuss "preparations" for the midterms. New Hampshire's Republican secretary of state publicly questioned the purpose of the meeting, noting that election administration has historically remained a state responsibility.

None of this guarantees a constitutional breakdown. The American election system is highly decentralized. Thousands of bipartisan workers administer elections across roughly 9,000 jurisdictions. Courts have thus far rejected the most sweeping legal theories advanced by the administration.

But the risk is narrower, and therefore more plausible. Armed with extensive voter data from battleground states, federal officials could mount targeted interventions in competitive districts: issuing "analyses" that cast doubt on results, filing litigation to delay certification, and encouraging congressional actors to treat uncertainty as justification for intervention.

Once the federal government has comprehensive voter data in hand, it is too late to restore the status quo. In a landslide election, it would not matter. But Trump is betting on a race close enough that confusion, coercion, and data-driven doubt could tip the balance. That is why now is the moment—not on the threshold of the election or after the votes are counted—for vigilance and strong resistance.

What can be done to stop this? There are legal countermoves that the states could be launching. The same constitutional design that makes centralized takeover difficult also supplies tools to blunt accumulated leverage.

Election lawyers across the political spectrum—including Marc Elias and others who have spent years litigating voting rights cases—have outlined practical steps states and Congress could take now to reduce the opportunity for manipulation. Many of those proposals do not expand power. They clarify it.

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Plans to Delegitimize Elections (cont'd)

Start with voter challenges. States are not required to maintain open-ended procedures that allow private actors—or federal officials armed with imperfect data—to trigger mass eligibility disputes. The NVRA contemplates deliberate, notice-driven list maintenance, not bulk database-driven purges. States can narrow challenge procedures to prevent strategic misuse of federal data comparisons.

Certification is even more critical. The vulnerability exposed in 2020 was not the casting of ballots themselves, but the postelection phase. Statutes can make explicit what should already be clear: Once statutory conditions are met, certification is ministerial. Laws can provide expedited judicial remedies to compel compliance and impose consequences for refusal. Delay loses its potency when ambiguity is removed.

Congress, for its part, has authority under the elections clause not to federalize the administration of elections but to impose guardrails on federal actors. It could codify blackout periods for election-related investigative steps. It could require that any search warrant or subpoena involving elections be approved by the Senate-confirmed U.S. attorney in the affected district, preventing jurisdictional maneuvering. It could restrict federal law enforcement presence near polling and counting sites. These are structural protections, not partisan weapons.

None of these measures are dramatic. All reinforce the constitutional allocation of authority. The system's resilience depends less on rhetoric than on whether those guardrails are put in place before Trump's playbook is tested in a close race.

Harry Litman

Harry Litman is a senior legal columnist at *The New Republic,* a senior fellow at the USC Center on Communication Leadership and Policy, and the creator of Talking Feds, a Substack and podcast on legal and political issues. A lawyer, professor, and legal commentator, he is the former U.S. attorney for the Western District of Pennsylvania and has served as a deputy assistant attorney general at the Department of Justice. He clerked for Supreme Court Justices Thurgood Marshall and Anthony Kennedy, and has taught at UCLA School of Law and UC San Diego. He is also a former legal affairs columnist at the *Los Angeles Times.*

Clarence Thomas Has Lost the Plot

THE NEW REPUBLIC Daily

Matt Ford February 24, 2026

Clarence Thomas Has Lost the Plot

The associate justice's dissent in the tariffs case deserves some extra attention, because it is hopelessly uncoupled from law, history, and the Constitution.

CHIP SOMODEVILLA/GETTY IMAGES

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Clarence Thomas Has Lost the Plot
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Justice Clarence Thomas's preferred theory of constitutional interpretation is often said to be originalist, but it may be more accurately described as personalist. To Thomas, almost every American judge who served over the past two centuries wasted their lives and careers. Rather than try to determine the Constitution's meaning to the best of their ability, they should have all waited for Thomas to tell them what it actually meant.

The senior-most justice's approach is hardly new. Thomas has spent decades calling for dozens, if not hundreds, of prior Supreme Court precedents to be overturned. He writes separately more often than any of his colleagues to expound upon his particular view of the Constitution, replete with numerous citations to his own work. As his own colleagues have said, Thomas does not believe in stare decisis, or in constraining himself by the court's prior decisions.

Even by that standard, his dissent last week in *Learning Resources v. Trump* is astounding. In a 17-page opinion, Thomas sketched out an utterly alien vision of the separation of powers, the scope of the legislative branch's powers, and the founding era, to argue that President Donald Trump had broad powers to levy tariffs against the American people—far beyond what any of his conservative colleagues could stomach.

"As a matter of original understanding, historical practice, and judicial precedent, the power to impose duties on imports is not within the core legislative power," Thomas claimed. "Congress can therefore delegate the exercise of this power to the President." Justice Neil Gorsuch, a frequent Thomas ally, broke with him to describe this approach, in a separate opinion, as "a sweeping theory" that "presents difficulties on its own," in what can only be described as serious understatement.

All of this is far afield from what the other justices were talking about. At issue in the case was whether Trump's tariffs issued through the International Emergency Economic Powers Act, or IEEPA, of 1977 were lawful. Last week, in a 6–3 majority, the court said no, they weren't. The prevailing opinion of the court used neither the "major questions" doctrine nor the nondelegation doctrine to rule against the administration. Instead, the tariffs were invalidated under what Kagan described as the "ordinary rules of statutory interpretation."

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The most notable part of the ruling, aside from the outcome, was the split between the court's six conservatives. As I noted last Friday, three conservatives—Chief Justice John Roberts and Justices Neil Gorsuch and Amy Coney Barrett—wanted to invalidate the IEEPA tariffs on major questions grounds. The other three—Justices Clarence Thomas, Samuel Alito, and Brett Kavanaugh—wanted to uphold it by finding a national security exception to the major questions doctrine. (Kavanaugh himself had proposed this in an unrelated case last summer.)

That left the three liberals as the deciding bloc, and they cast their lot with the Roberts-Gorsuch-Barrett troika, albeit on different grounds. That decision has the most bearing on future legal disputes involving IEEPA and Trump's powers to levy tariffs through other statutes. Thomas joined Kavanaugh's principal dissent, but also wrote one of his own. It is one of the most bizarre opinions written by a Supreme Court justice this century.

What Thomas and Gorsuch argued about is known as the "nondelegation doctrine." The most fundamental version of that doctrine is that one branch of the federal government cannot permanently delegate its powers to another branch. Congress could not pass a law, for example, that says, "All of the president's nominees are automatically confirmed without individual Senate votes," or "The commander in chief can pay soldiers at will without congressional appropriations."

At the same time, basic governance requires a certain amount of discretion and adaptability by the executive branch on Congress's behalf. In 1928, the Supreme Court set forth a test to determine what counts as a constitutional delegation versus an unconstitutional one. So long as Congress articulates an "intelligible principle" for the president or an agency to follow, the court explained, the delegation is constitutional. In the century that followed, Congress generally followed this test when crafting laws on workplace safety, environmental protection, consumer welfare, and so on.

In recent decades, legal conservatives have proposed a much stricter version of the nondelegation doctrine as part of their campaign to curb federal regulatory power. Many observers wondered if the post-Trump conservative supermajority might replace

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Clarence Thomas Has Lost the Plot
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the "intelligible principle" test with something more restrictive. (I was among them.) A fair number of petitions reached the court asking them to do just that, but almost all of them were turned away. A rare exception was *Gundy v. United States*, a 2019 case involving federal sex-offender regulations, in which Alito joined the four liberals to leave the status quo intact.

Americans always operate with incomplete information when dealing with the Supreme Court. Perhaps that outcome reflected deeper fissures among the conservatives. Perhaps Alito simply voted that way because of his general deference for law enforcement throughout his tenure. Whatever the reason, it soon became clear that the Roberts court had settled on the major questions doctrine as its preferred tool for trimming back the administrative state, and a new version of nondelegation was not on the horizon. Kavanaugh admitted as much in last year's aforementioned concurring opinion in *Consumers' Research*.

"Many of the broader structural concerns about expansive delegations have been substantially mitigated by this Court's recent case law in related areas—in particular (i) the Court's rejection of so-called *Chevron* deference and (ii) the Court's application of the major questions canon of statutory interpretation," he opined. (*Chevron* deference, which ended last year, required courts to defer to agencies' interpretation of their authorizing laws under most circumstances.)

Under the major questions doctrine, the question shifts from constitutional grounds to statutory ones. Imagine that the president were to use a hypothetical New Deal–era law to seize old pumpjacks in western Texas with compensation for their owners. Let's say the law was intended to allow oil-field workers to keep their jobs at underproducing wells during the Great Depression. Now a new Democratic president wants to use it to combat climate change by shutting them down altogether.

That move might survive judicial scrutiny under the normal rules of statutory interpretation. But the major questions doctrine allows conservative justices to probe deeper. Did Congress, the doctrine asks, "speak clearly" enough in the law in question to authorize the executive branch to make a decision of "vast economic and political significance"? If the answer is no, then the president's action can be invalidated without striking down the law itself.

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One can see the appeal of this doctrine from the conservative justices' perspective. On a superficial level, the major questions doctrine protects legislative power from executive branch abuses and thefts. But in practical terms, it retroactively applies a vague and mercurial standard—How "clearly" is clear enough? What counts as "vast"?—to a century of existing laws enacted by the people's elected representatives. That discretion amounts to a massive agglomeration of power by the judicial branch and, in particular, the conservative majority on the Supreme Court.

To that end, the Supreme Court has used this doctrine to invalidate a wide range of major policy decisions by Democratic presidents. For the Biden administration alone, the conservative justices used it to nix national vaccine-or-testing mandates from the Occupational Safety and Health Administration during the Covid-19 pandemic, a moribund Obama-era plan for regulating carbon emissions at power plants, the Biden administration's largest effort to forgive billions of dollars in student-loan debt, and more. The major questions doctrine, in its fully articulated form, has never been used against a Republican president. As a result, it often appears to be nothing more than a freewheeling veto on progressive policymaking that the conservative bloc can reach for whenever it suits them.

Thomas agreed with Kavanaugh's dissent, which argued there was a national security exception to the major questions doctrine and would have decided the case on those grounds. At the same time, he sought to shift things back to the constitutional level of analysis, which he argued was highly favorable to the executive branch. In doing so, he sought to carve out a major new exception to the nondelegation doctrine.

"The power to impose duties on imports can be delegated," he declared. "At the founding, that power was regarded as one of many powers over foreign commerce that could be delegated to the President. Power over foreign commerce was not within the core legislative power, and engaging in foreign commerce was regarded as a privilege rather than a right."

First, Thomas argued that the nondelegation doctrine did not apply to all of Congress's powers, and instead only limited Congress's "core legislative powers." What counts as a core legislative power, you might ask? To Thomas, the "legislative power" is "the

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power to make substantive rules setting the conditions for deprivations of life, liberty, or property," borrowing language from the Fifth Amendment's due process clause. He describes this as the "Blackstonian sense of generally applicable rules of private conduct, the violation of which results in the deprivation of core private rights," referring to a prominent English judge and scholar.

There is some discussion of the Magna Carta as well, and of one of Stuart-era English jurist Lord Coke's most famous rulings on the royal prerogative in 1611. Thomas ultimately suggests that the "core legislative powers" are those once held by the British Parliament, while the noncore powers were those once held, claimed, or asserted by the British monarchy.

"These include the powers to raise and support armies, to fix the standards of weights and measures, to grant copyrights, to dispose of federal property, and, as discussed below, to regulate foreign commerce," Thomas wrote. "None of these powers involves setting the rules for the deprivation of core private rights. Blackstone called them 'prerogative' powers, and sometimes 'executive.'"

There are a few problems with this approach. One is that it has no basis in the Constitution's text at all. This seems like a significant oversight on the Framers' part, given the vast importance of this core/noncore division that Thomas has expounded upon. But the list of congressional powers laid out by the Constitution makes no such distinction. (Indeed, they might all be reasonably described as "core powers.") Justice Neil Gorsuch, who frequently votes with Thomas, sounded almost taken aback when describing his colleague's theory in his own concurring opinion.

"If all that's true, what do we make of the Constitution's text?" Gorsuch wrote. "Section 1 of Article I vests '[a]ll legislative Powers herein granted' in Congress and no one else. Section 8 proceeds to list those powers in detail and without differentiation. Neither provision speaks of some divide between true legislative powers touching on 'life, liberty, or property' that are permanently vested in Congress alone and 'other kinds of power[s]' that may be given away and possibly lost forever to the President."

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Clarence Thomas Has Lost the Plot
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This is a polite way of saying, "You've made it all up." (None of the other justices addressed Thomas's dissent, perhaps because saying nothing would be the most polite option.) Gorsuch went on to explain how Thomas's vision of congressional powers is unsupported by the Framers' own words and writings, and early congressional debates. Nor can any support be found from the court's own precedents on congressional delegations, "which have never turned on Justice Thomas's view of life, liberty or property," Gorsuch noted.

The most bracing part of Gorsuch's concurrence is when he reaches Thomas's argument that Congress could delegate "the tariff power" because, as Gorsuch summarizes, it "was considered a 'prerogative right' of the British King.'" This is an absurd framework to apply to the United States, which does not have royal prerogatives or a monarchy. (At least, not yet.) But it was the historical errors that truly stood out.

"That seems doubtful," Gorsuch explained as politely as possible while citing historical scholarship. "Tariffs may have been among the King's prerogative powers during the reign of Edward I. But even before the year 1400, Parliament had achieved some 'victory over the King in the matter of imposing import duties.' And after the Glorious Revolution of 1688, as this Court has put it, Parliament 'secured supremacy in fiscal matters.'" In other words, Thomas has profoundly misread the arc of Crown-Parliament relations in English history.

Other flaws abound. For one, even if you somehow accept Thomas's argument, Trump's IEEPA tariffs should still meet the threshold he describes. Surely the president's ambitious plan to collect trillions of dollars in tariffs, which are paid by American businesses and individuals, counts as an infringement on the private right to "property"? Not so fast, Thomas said in a footnote.

"I refer to charges on imported goods as 'duties,' not 'tariffs' or 'taxes,'" Thomas explained, citing Noah Webster's dictionary from 1806. "When the government charged money for importing goods, that charge was historically called a custom or impost, each of which was a kind of 'duty.'" He argued, citing sources like Benjamin Franklin, that while the revolutionary generation opposed "internal taxes" levied by the British government, they accepted Parliament's power to "[lay] duties to regulate commerce."

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Clarence Thomas Has Lost the Plot
(cont'd)

Gorsuch's bafflement is palpable. He and other legal conservatives had spent years sketching out a vision of the nondelegation doctrine that could constrain federal regulatory agencies at the root. Now one of his closest allies has gone on to articulate a weirdly monarchical vision of the Constitution that treats the presidency as a kingship-in-waiting and Congress as a supplicatory medieval Parliament, one that appears to spring entirely from his own mind. (In addition to his various historical citations, Thomas cites his own previous opinions on 17 separate occasions, more than all of the other justices combined.)

One might be tempted to conclude that Thomas's dissent exposes the flaws in originalism as practiced by legal conservatives and the high court. Similar criticism has been leveled against a 2022 decision that Thomas wrote about the Second Amendment and an individual right to bear arms. But that would almost be unfair to originalism and those who champion it, especially since none of the court's other originalists found it persuasive. The only Constitution that seems to matter to Thomas is the one that exists in his imagination.

Matt Ford
Matt Ford is a staff writer at *The New Republic*.

Have you turned in your

Democratic Club membership

for 2026?

https://demswvc.com

If you have,
Thank you very much!

Nancy Mannion, Bob Hollister and Jess Branas at the Willow Valley Petition Signing

Coming Events

Understanding Our Democracy Series

Tuesday, March 10, 2026 10:00 - 11:30 am

"PA's Budgets: Current & Future"

We will look at PA budgeting. What would it take to 'Improve Our Shared Well-Being' for Pennsylvanians? Education, healthcare, housing, transit, childcare, etc.?

Tuesday, March 24, 2026 10:00 - 11:30 am

"Our Broken Election System"

Today our election system fails us. It doesn't give us elected officials that will represent us. Join us as we take a look at the problems of today's election system … and how we can change the system to a system where our elected officials will represent us!

Tuesday, April 7, 2026 10:00 - 11:30 am

"How Democrats Can Win"

Tuesday, April 21, 2026 1:00 – 2:30 pm

"Christian Nationalism: An Update"

Dr. Greg Carey, Associate Dean for the Lancaster Campus & Professor of New Testament, Moravian University, introduced many of us to Christian Nationalism two years ago. A lot has changed in those two years. Dr. Carey will be returning to update us on today's Christian Nationalism.

All events will be in the Education Room

Dems Club General Meetings

Tuesday, March 31, 2026 1:00 – 2:00 PM

Celebrating the 145 Food Hub volunteers/donors/supporters at Willow Valley who have helped make it so successful. Come hear Executive Director Paige McFarling and Erin Conahan, Director of Engagement, talk about these challenging times in the face of extreme tariffs, and learn about what you can do to help out. In fact, show your support by bringing a box of rice or a jar of peanut butter to donate to our meeting!

Tuesday, April 28, 2026 1:00 – 2:00 PM

Matt Johnson from Church World Services Lancaster will address the Dems Club.

Meeting Minutes

Attendance 31

Democratic Club of Willow Valley
General Meeting
February 24, 2026

Jerry Henige opened the meeting at 1 p.m. and introduced Guest Speaker Jess Branas, Democratic candidate for PA House District 97 running against Rep. Steve Mentzer.

Guest Speaker: Ms. Branas began with a brief description of her background as a high school teacher and of her experience in legislative offices in the Commonwealth, particularly in Upper Darby Township, where she saw first-hand that State Representatives are not working for their constituents. Ms. Branas's key issues of focus are:
education and effect of school vouchers on underfunded schools
rise of private equity in healthcare system
management of Social Security, Medicare and Medicaid
concern for LGBT and immigration rights

Following her talk, Ms. Branas opened the floor for Q&A. Topics included:
rise of utility rates and control of monopolies
data centers and their effect on PA environment and economy
ICE detention centers in PA
influence of billionaires on state elections
need for residents to get involved at local township meetings
importance of voter turnout among Democrats and Independents

Jerry thanked Ms. Branas for her time and willingness to stay for individual questions.

Business Meeting

Treasury : Balance $6,504.09

Membership: Currently 144. Ross Fairweather encouraged those who have not joined or renewed to do so by using the website (https://www.demswvc.com) or by completing a membership form and sending in a check. Dues remain the same: $25 for single, $45 for couple.

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Meeting Minutes

Advocacy: Plans will be more concrete closer to the Primary. Those plans include advocacy for Democratic candidates in campaigns for Governor, Lt. Governor, for U.S. House of Representatives running against Lloyd Smucker and Scott Perry, and PA House Representative against Steve Mentzer. Advocacy chair Barbara Bonanno will organize post card campaigns with options for group or in-private card writing.

Annual DWVC elections: Voting will be held at the March 31 General Meeting. Candidates up for election are Jen Porter (President) and Lucy Painter (Secretary). The floor is open for further nominations.

Upcoming Events

Thursday, February 26 -Petition signing at the Spring Run, Lakes, Manor and North 9:00-11:00 a.m.
Saturday, March 28 – No King's Rally, 11-12:30, Reservoir Park, 832 Orange Street Lancaster (note the change of site)

Understanding Our Democracy: Tuesday, 10:00 a.m. in Cultural Center Education Room

March 10: "PA's Budgets: Current and Future"

March 24: "Our Broken Election System"

April 7: "How Democrats Can Win"

April 21: "Christian Nationalism: An Update" with Dr. Greg Carey, Associate Dean for Lancaster Campus and Professor of New Testament, Moravian University

General Meetings: Tuesday 1p.m. in Cultural Center Education Room

March 31: Erin Conahan, Director of Advancement, Lancaster County Food Hub

April 28: Matt Johnson for Church World Services, Lancaster

May 26: Structure of Democratic Party organizations in PA

Lucy Painter, Secretary