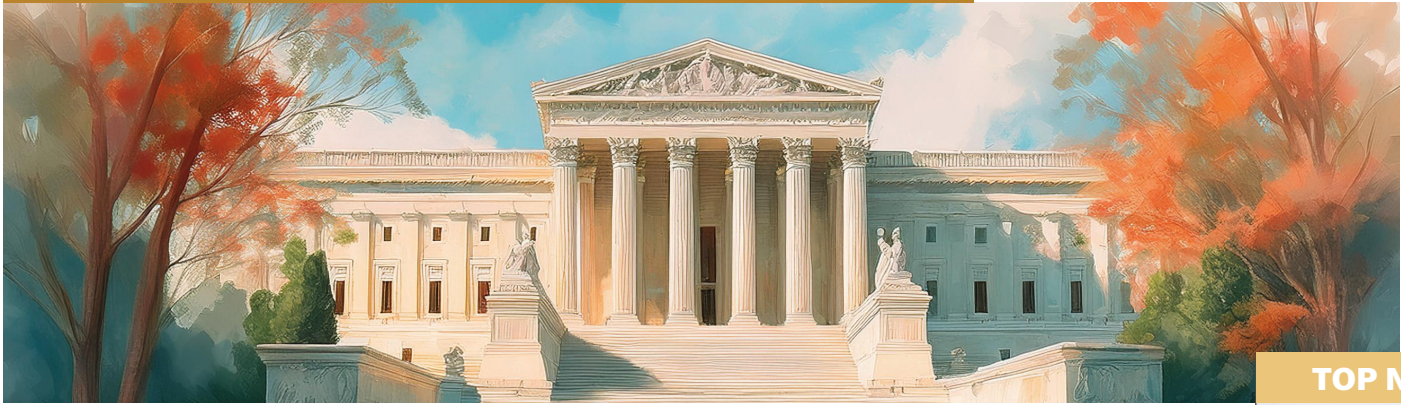


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TOP NEWS

How SCOTUS Gutted the Administrative State

By Daniel Schmid

In a crippling blow to the administrative state, the U.S. Supreme Court voted 6-3 in *Loper Bright Enterprises v. Raimondo* to rid federal statutory interpretation of the plague that was *Chevron* deference, a stain on the law and a gross expansion of federal overreach that resulted from the 1984 *Chevron* precedent. In the ruling handed down June 28, 2024, the High Court [held](#) that federal courts may not defer to an agency's interpretation of an ambiguous statute.

Chevron allowed the administrative state to ignore the Constitution's fundamental requirement of separation of powers. Under the Constitution, Congress was vested with legislative powers, the executive branch was tasked with enforcing the law, and the judicial branch was responsible for interpreting the law. Our Founders' time-tested invention of checks and balances was at work since the 18th century — until *Chevron*, that is.

Chevron blurred those lines, permitting executive agencies to become legislatures making laws, executives enforcing the laws the agencies crafted, and judges interpreting their own regulations. Put simply, *Chevron* permitted administrative agencies to become the judge, jury, and executioner — all in one unaccountable, unelected, and unconstitutional scheme.

If that does not run roughshod over the Constitution's design, I am not sure what would ever count. But now that *Chevron* has been rightfully buried, the Constitution can rise again out of its ashes.

Addressing the Elephant in the Room

The *Loper* case tasked the High Court with addressing the "elephant in the room" of constitutional law, as Justice Gorsuch called it while he was a judge on the Tenth Circuit. He stated that *Chevron* was a "behemoth" that permits "executive bureaucracies to

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7 Non-Negotiables for Free and Fair Elections in the US

By Jonathan Alexandre

America stands alone in human history in its trajectory to greatness, not through tyranny or despotism, but through a form of government that both respects — and reflects — its citizens.

At the heart of this "last great experiment for promoting human happiness," as George Washington called America, is the electoral process.

The United States was established as a constitutional republic with a democratic election process that allows its citizenry to choose its leaders.

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swallow huge amounts of core judicial and legislative power and concentrates federal power in a way that seems more than a little difficult to square with the Constitution of the framer's design."

In other words, *Chevron* made it easy for the executive agencies to change the entire meaning of federal law on a whim, while the American people were tasked — under threat of criminal or regulatory sanction — with complying with that ever-changing landscape.

Justice Thomas was correct when he said that *Chevron* permitted courts to stray farther and farther from the Constitution without so much as asking why, and that the Court should consider the Constitution before blithely giving the force of law to an executive agency's ever-changing interpretations of federal law.

From Puddles to Pandemics — With a Bump Stock in Between

The 40-year reign of the administrative state affected wide swaths of the private sector and personal freedoms by demanding compliance with regulations that, now through the lens of *Loper*, were unconstitutional.

One of the most recent examples of an administrative agency using *Chevron* deference to overrule Americans' constitutional liberties came in *Garland v. Cargill*, where the ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives) redefined the term "machine gun" to include a semiautomatic rifle equipped with a bump stock, trampling on the Second Amendment.

Congress rightly rejected this gross intrusion into Second Amendment liberties. Not being satisfied with Congress' decision, unelected bureaucrats at the ATF decided they would just reinterpret the provisions of existing law to accomplish what elected officials had just rejected. The ATF used the *Chevron* deference loophole to overstep Congress and reinterpret the meaning of a different term in the National Firearms Act to prohibit bump stocks anyway. Under *Chevron*, this unconstitutional act was deemed justified.

Not to be outdone by their friends at the ATF, officials at the Department of Agriculture declared an 8-inch puddle of water on a South Dakota farm to be a protected wetland and

prohibited the owner from farming on his land. (Mind you, the so-called protected wetland was only wet for a couple of weeks per year after the snow melted). And to add irony to insult, the Department of Agriculture used a federal statute known as the Swampbuster Act to determine that temporary snowmelt was a protected wetland. This last example demonstrates the inestimable impact of *Loper Bright* and its reversal of *Chevron*: It serves as the real "swampbuster" by draining the swamp of specious agency interpretations that have flooded our federal law for far too long.

Chevron was not merely a temporary puddle in the field of our laws but was an unconstitutional deluge of lawless agency action.

And as a surprise to no one, bureaucrats also leveraged *Chevron* to usurp even more control over the American people during the COVID-19 pandemic. During COVID, the Centers for Disease Control and Prevention (CDC) abused the Public Health Services Act to prohibit landlords from evicting tenants, to shut down the cruise ship industry, and to require Americans desiring to travel by plane, train, or bus to wear a mask. Despite lacking any authority to do any of this, the CDC argued that its grossly unconstitutional orders were entitled to deference under *Chevron*.

Effects Going Forward

The impact of *Chevron's* demise cannot be understated. Administrative agencies are no longer permitted to decide what a particular law means; to change the meaning of terms they do not like in a piece of legislation, and to fundamentally alter the scope of federal law on a whim.

The end of *Chevron* deference means that the Department of Education (DOE) and the Department of Justice (DOJ) can no longer reinterpret Title IX to include gender identity and sexual orientation, requiring states to allow biological males to participate in women's sports and use women's locker rooms, bathrooms, and private facilities. And, when it has been challenged by states and other parties, the administration has claimed that its interpretation of Title IX is entitled to deference under *Chevron* such that the court is powerless to recognize biological reality. The end of *Chevron* means a return to biological reality under Title IX.

The Constitution, not *Chevron*, Has the Final Word

The Constitution has the final word over the administrative state, and thankfully, the High Court now recognizes that. *Chevron's* intrusion into the separation of powers has now been relegated to the dustbin of constitutional history.

The death of *Chevron* means:

- The separation of powers returns to its rightful place in the Constitution's structure, and administrative agencies are no longer permitted to change the meaning of laws Congress has passed with the flick of a pen or the whim of a Cabinet secretary.
- The administrative state is no longer the fourth branch of government in the *Chevron* charade.
- The administrative state has been divested of its unconstitutional excesses and will be forever deprived of power to make its unconscionable choices.

As Ecclesiastes instructs us, "Better is the end of a thing than its beginning." The end of *Chevron* will not just conceptually bolster our freedoms; it will *actually* bolster them. It restores every American citizen's ability to stand before a duly appointed judge empowered to decide important questions of law, as originally envisioned by the Constitution, rather than being forced to defer to arbitrary interpretations declared by bureaucratic fiat. The end of *Chevron* deference requires a return to the traditional functions of the Constitution's separation of powers, and our republic gains a return to its rightful constitutional origins as a result.

Chevron eviscerated the Framers' design by unconstitutionally declaring administrative agencies as the ultimate arbiters of what the rules are, the interpreters of those rules, and the enforcers of those rules. The Founders would have been aghast at that prospect, and so, too, should the American people.

For *Chevron* and its 40-year reign of agency terror, its death is far better than its unconstitutional and unwelcome beginning. In fact, *Chevron's* death is the Constitution's gain.

Good riddance, *Chevron*. 



“ We must not compromise on election integrity — if we don’t have free and fair elections, we don’t have America.”

This ensures accountability for elected officials and a stake in government for “We the People.”

Voting is both a right and a privilege as a U.S. citizen, fought for by patriots who love this country and want to see its citizenry engaged in the democratic process. After widespread abuse and fraud during the 2020 election, the confidence of many Americans was shaken, and understandably so, due to widespread mail-in voting, ballot harvesting, questionable voting machines, and more.

While there certainly are still concerns about election integrity, this is never an excuse to throw up your hands in defeat and abstain from voting. With the 2024 election coming up on Tuesday, November 5, here are seven non-negotiables for free and fair elections.

1. Ban unsolicited mail-in ballots.

Unsolicited mail-in ballots sent en masse are a recipe for disaster and rampant fraud. Instead, absentee mail-in ballots should be requested, preventing duplicate ballots, unregistered voters voting, ballot harvesting, and many other abuses.

2. Prohibit ballot trafficking.

It should be made illegal for third parties to collect and submit ballots on behalf of others, and instead ensure that only the voter or a family member or guardian can submit the voter’s ballot. This would end exploitative practices like ballot harvesting at nursing homes or concerts.

3. Require voter ID.

Americans must provide a valid government ID to fly, rent or buy a home, lease or buy a car, open a bank account, get married, apply for Social Security, and much more. Wouldn’t presenting a valid government ID be the most basic of all election integrity safeguards? It is common sense to require voter identification to confirm a voter’s identity and eligibility to vote across the board.

4. Secure and limit drop boxes.

Ballot drop boxes should be limited, regulated, and placed in monitored locations to ensure election integrity as ballot drop boxes were especially abused and used for ballot harvesting during the 2020 election. Some ways to regulate ballot drop boxes are to place them in government buildings with public visibility and security cameras. And if we want to see preborn lives continue to be saved in a post-*Roe* America, Amendment 4 must be defeated in Florida this November.

5. Update and verify voter rolls.

Voter rolls should be regularly updated for accuracy to remove deceased individuals or those who have moved out of the jurisdiction. In each election cycle, there are reports of “dead” voters voting as some exploit this as an opportunity to illegally garner votes. Updating voter rolls (and verifying with ID) prevents this, and other inconsistencies, from occurring.

6. Stop non-citizen voting.

Only U.S. citizens have the right to vote in U.S. elections. Period. In some cities,

foreign nationals are legally allowed to vote in some elections, and other non-citizens are undoubtedly voting illegally in elections nationwide. Concrete steps must be taken to ensure non-citizens, including illegal immigrants, are barred from voting to prevent foreign interference in elections and to protect the rights and freedoms of U.S. citizens.

7. Keep private funding out of elections.

[Over half of states](#) now prohibit or limit private funds in public elections, which prevents election interference. This commonsense move ensures that private donors or organizations aren’t allowed to unlawfully control or influence public elections.

Make sure you are registered to vote this November. While there are certain cases that require an absentee ballot, it is best to vote early *in person*, and if not early in person, then on Election Day *in person*. The reason behind early voting in person is that you never know what could hinder you from voting on Election Day (your tire is flat, your child is sick, the voting machines go down, closed roads hinder you from making it on time, weather prevents you from traveling, etc.). Voting early and in person allows you to ensure that your vote counts.

This is the most consequential election of our lifetime. America’s future is on the line with a choice between pro-life or pro-death, secure national boundaries or open borders, law and order or lawlessness and chaos, prosperity or depression, family values or LGBTQ indoctrination, national sovereignty or globalism, freedom or tyranny. It’s important now more than ever for Christians to get out and vote conservative values to preserve freedom at the local, state, and federal levels, as well as push for election integrity.

For the past 248 years, the cornerstone of upholding our enduring republic has been safe and secure elections. The United States has always been the gold standard for democracy with other nations emulating our model. We must not compromise on election integrity — if we don’t have free and fair elections, we don’t have America. **IC**

Jonathan Alexandre is Vice President of Governmental Affairs and Senior Counsel for Liberty Counsel and Liberty Counsel Action.

Good News for Good News Clubs in Hawaii!

In Honolulu this past June, Liberty Counsel Associate Vice President of Legal Affairs Daniel Schmid and Vice President of Legal Affairs and Chief Litigation Counsel Harry Mihet represented Child Evangelism Fellowship (CEF) at the U.S. District Court for the District of Hawaii — securing another win for CEF's Good News Clubs.

Because of the win, religious organizations like CEF and its after-school Bible clubs for elementary students are now able to meet freely after being discriminated against in the education system in Hawaii.

The win is one more validation for millions of American children and parents of faith by guaranteeing that their religious liberty is not checked at the public-school door but has a rightful place in public education, thanks to the U.S. Constitution. The U.S. Supreme Court affirmed this over 50 years ago and ruled in *Tinker v. Des Moines* that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

The First Amendment prohibits the government from treating a religious organization like CEF's Good News Club as a constitutional orphan, and if a public school allows a nonreligious group to access district facilities, it must extend the same access to CEF.

Fun fact: Liberty Counsel has represented CEF's Good News Clubs in states nationwide for over two decades, never losing a case and ensuring its after-school Christian clubs have equal access. **LC**



Liberty Counsel attorneys defend Child Evangelism Fellowship in Hawaii.

Liberty Counsel Action at Work



(L to R) Sara Johnson, Erik Dellenback, Mat Staver, John Stemberger, and Ingrid Ford

Amendment 4 Pastors' Tour

Liberty Counsel Founder and Chairman Mat Staver and Liberty Counsel Action President John Stemberger, as well as Erik Dellenback, Governor Ron DeSantis' Liaison for Faith and Community, and Sara Johnson, Grassroots Director for Vote No on Amendment 4, led a Pastors' Briefing in six cities across Florida to equip, educate, encourage, and provide resources for hundreds of pastors and leaders to defeat Amendment 4 in November.

Amendment 4 in Florida, the so-called "Amendment to Limit Government Interference in Abortion," states that "no law shall prohibit, penalize, delay, or restrict abortion." If passed by 60% of the vote and enshrined into the Florida Constitution, unregulated taxpayer-funded abortion would be allowed up until the point of birth, making Florida an abortion "destination state."

Pastors are crucial in protecting preborn life nationwide. They have a unique opportunity to activate and mobilize their congregations to stand up for preborn babies at the ballot box. Here in Florida, we're off to a good start.