



Written by [Peter Rykowski](#) on February 21, 2026

Supreme Court Strikes Down Trump Tariffs — But Not Congressional Delegation of Power

In a highly awaited ruling, the U.S. Supreme Court on Friday struck down sweeping tariffs that President Donald Trump had imposed using the 1977 International Emergency Economic Powers Act (IEEPA). Although the Court correctly overturned an instance of executive overreach, it left intact, and even defended, Congress' underlying, decades-long — and unconstitutional — delegation of power to the executive branch.

The process that led to the Court's ruling began on February 1, 2025, early in Trump's second term, when he [signed](#) three executive orders imposing tariffs on Canada, China, and Mexico using the IEEPA as his legal basis. Trump then followed up on April 2 with an [executive order](#) declaring "a national emergency arising from conditions reflected in large and persistent annual U.S. goods trade deficits," and invoking the IEEPA to impose sweeping tariffs "on all imports from all trading partners," with minor exceptions. Multiple plaintiffs sued the president in response to these orders, ultimately leading to the Supreme Court case.



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SCOTUS Ruling

On Friday morning, the Court released its decision in [Learning Resources, Inc. v. Trump](#), striking down the tariffs in a fragmented 6-3 ruling.

The Court examined "whether the [IEEPA] authorizes the President to impose tariffs." In its decision, written by Chief Justice John Roberts and concurred with by Justices Sonia Sotomayor, Elena Kagan, Neil Gorsuch, Amy Coney Barrett, and Ketanji Brown Jackson, the Court ruled that it does not:

Based on two words separated by 16 others in Section 1702(a)(1)(B) of IEEPA — "regulate" and "importation" — the President asserts the independent power to impose tariffs on imports from any country, of any product, at any rate, for any amount of time. Those words cannot bear such weight.

Article I, Section 8, of the Constitution sets forth the powers of the Legislative Branch. The



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first Clause of that provision specifies that “The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises.” It is no accident that this power appears first. The power to tax was, Alexander Hamilton explained, “the most important of the authorities proposed to be conferred upon the Union.” ...

Recognizing the taxing power’s unique importance, and having just fought a revolution motivated in large part by “taxation without representation,” the Framers gave Congress “alone . . . access to the pockets of the people.” ... They did not vest any part of the taxing power in the Executive Branch....

The Government thus concedes, as it must, that the President enjoys no inherent authority to impose tariffs during peacetime.... The Government instead relies exclusively on IEEPA....

It stands to reason that had Congress intended to convey the distinct and extraordinary power to impose tariffs, it would have done so expressly — as it consistently has in other tariff statutes.

Justice Brett Kavanaugh, joined by Justices Clarence Thomas and Samuel Alito, wrote the main dissenting opinion, arguing:

The only issue before the Court today is one of law. In light of the statutory text, longstanding historical practice, and relevant Supreme Court precedents, I would conclude that IEEPA authorizes the President to “regulate . . . importation” by imposing tariffs on foreign imports during declared national emergencies. I therefore respectfully dissent.

Kavanaugh also noted that “the Court says nothing today about whether, and if so how, the Government should go about returning the billions of dollars that it has collected from importers.”

Can Congress Delegate?

Importantly, the Supreme Court did not challenge Congress’ delegation of power to the executive branch, nor did it challenge the constitutionality of the IEEPA or the multiple “other tariff statutes.” In fact, Kavanaugh noted, “Neither the plaintiffs nor the Court has suggested that the numerous laws granting tariff power to the President violate the Constitution’s separation of powers.”

Despite the majority opinion’s references to the U.S. Constitution’s delegation of taxing powers to Congress, the individual justices claimed that Congress *can* delegate its authority to the president if it expressly does so.

For example, in a section of the opinion joined only by Gorsuch and Barrett, Roberts claimed that under the “[major questions doctrine](#),” Congress can delegate its tariff powers:

The President asserts the extraordinary power to unilaterally impose tariffs of unlimited amount, duration, and scope. In light of the breadth, history, and constitutional context of that asserted authority, he must identify clear congressional authorization to exercise it.

IEEPA’s grant of authority to “regulate . . . importation” falls short. IEEPA contains no reference to tariffs or duties. The Government points to no statute in which Congress used the word “regulate” to authorize taxation. And until now no President has read IEEPA to confer such power.



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And in a concurring opinion, Kagan, joined by Sotomayor and Jackson, agreed that Congress can delegate its tariff powers, albeit not under the “major questions doctrine”:

As the principal opinion details, Title 19 of the U. S. Code includes multiple provisions granting the President authority to levy tariffs.... Construing IEEPA to give that unparalleled authority would effectively erase all the carefully confined tariff provisions in Title 19.... That gutting of Title 19’s tariff scheme is not what Congress, when delegating power to “regulate” imports, could have meant to accomplish....

IEEPA gives the President significant authority over transactions involving foreign property, including the importation of goods. But in that generous delegation, one power is conspicuously missing. Nothing in IEEPA’s text, nor anything in its context, enables the President to unilaterally impose tariffs.

Ironically, Thomas, one of the dissenters, took the most constitutional position on nondelegation — arguing, unlike his fellow justices, that Congress cannot delegate certain powers — but even he claimed that Congress can delegate its tariff authority:

Many of Congress’s powers fall within the core legislative power subject to the nondelegation doctrine.... They cannot be delegated even if Congress delegates them unambiguously....

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. Congress can therefore delegate the exercise of this power to the President.

Neither of the two constitutional foundations for the nondelegation doctrine forbids Congress from delegating to the President the power to impose duties on imports.

Although the Supreme Court correctly struck down Trump’s IEEPA-based tariffs, it left intact both the IEEPA and Congress’ mass delegation of power to the executive branch.

The Constitutional Position

Congress’ delegation of power, including that pertaining to tariffs, is wholly unconstitutional, as are the IEEPA and the various other statutes allowing the president to unilaterally impose tariffs.

The New American has repeatedly noted that, constitutionally, tariffs ought to be imposed by Congress, not the president. For example, in our article [“Trump’s Tariffs: The Right Thing, The Wrong Way”](#) by Steve Bonta, published in the May 26, 2025 issue of *The New American*, we wrote:

That tariffs writ large are constitutional is beyond dispute — but, as Article I, Section 8 makes clear, they are, like other forms of taxation, the exclusive prerogative of Congress. In the very first clause of that section, Congress is delegated the power to “lay and collect Taxes, Duties, Imposts and Excises” — which, of course, includes tariffs. Not only that, two clauses later, Congress is also empowered to “regulate Commerce with foreign Nations.”

And tariffs are not merely another broad menu of revenue-raising options available; for the Framers of the Constitution, tariffs were the form of taxation most congruent with limited



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government. This is because tariffs are an indirect form of taxation that is ultimately elective in character....

Presidential tariffs such as those that Trump has been imposing willy-nilly are completely unconstitutional. The executive branch's power over revenue is limited to the president's signing bills of appropriation and taxation into law or vetoing them if he sees fit. And that includes levies in the form of tariffs. Up to the infamous Smoot-Hawley Tariff Act of 1930, this was how tariffs were always enacted.

How and why did Congress delegate its tariff authority to the president? Our article "[Trump's Tariffs: Constitutional, or Executive Overreach?](#)" by Joe Wolverton, published in the March 24, 2025 issue of *The New American*, explains:

The Smoot-Hawley Tariff became the official scapegoat for the Great Depression because the powers-that-be wanted (and still want) to conceal the real culprit for the catastrophe. The primary reason for the debacle, left out of most modern histories, was the unrestrained monetary expansion of the new Federal Reserve System during the Roaring Twenties, which led to a monstrous asset bubble that burst famously in October 1929.... Accordingly, the Smoot-Hawley Tariff became the official culprit, and provisions were made to transfer power over tariffs from the legislative to the executive branch.

As the article notes, these delegations of power included the Reciprocal Trade Agreements Act of 1934, the Trade Expansion Act of 1962, and the Trade Act of 1974. All of these laws — as well as the IEEPA — violate the U.S. Constitution's separation of powers, are unconstitutional, and should be struck down entirely by the Supreme Court.

What's Next?

Trump reacted angrily to the ruling, [calling](#) it "deeply disappointing" and [writing](#) that the justices who ruled against him "should be ashamed of themselves." Meanwhile, constitutionalists celebrated the ruling. U.S. Representative Thomas Massie (R-Ky.) [wrote](#) on X that "SCOTUS made the right decision on tariffs." Meanwhile, U.S. Senator Rand Paul (R-Ky.) [noted](#), "This ruling will also prevent a future President such as AOC from using emergency powers to enact socialism."

At a press conference on Friday, Trump [said](#) his administration would pursue other "methods, practices, statutes, and authorities" to impose tariffs. That same day, he signed a [proclamation](#) imposing a 10-percent tariff on "all articles imported into the United States," with certain exceptions, under Section 122 of the Trade Act of 1974. He also signed two executive orders, [one](#) formally rescinding his tariffs imposed under the IEEPA, and [another](#) ensuring that the *de minimis* exemption — which allowed imports of less than \$800 to enter the country tariff-free — will remain suspended.

In his dissent, Kavanaugh predicted that the Trump administration would reimpose its tariffs using different statutes:

Although I firmly disagree with the Court's holding today, the decision might not substantially constrain a President's ability to order tariffs going forward. That is because numerous other federal statutes authorize the President to impose tariffs and might justify most (if not all) of the tariffs at issue in this case — albeit perhaps with a few additional



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procedural steps that IEEPA, as an emergency statute, does not require. ... In essence, the Court today concludes that the President checked the wrong statutory box by relying on IEEPA rather than another statute to impose these tariffs.

Unfortunately, all three branches of the federal government have largely abandoned constitutional adherence — to the point where most of our nation’s laws and judicial precedents are effectively divorced from the Constitution, and new unconstitutional laws and precedents are being added on top of older unconstitutional laws and precedents. Although the Supreme Court rightly struck down Trump’s use of the IEEPA to impose tariffs, it should have gone further and struck down Congress’ underlying mass delegation of power to the executive branch.

Restoring constitutional adherence starts with us — educating our fellow citizens about [America’s founding principles](#) and putting pressure on our elected officials to [enforce the Constitution as written](#). By vigilantly taking action, we can reawaken our country to the principles that made it great.



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