

Supreme Court ruling against Trump tariffs exposes ruling class crisis

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22 February 2026

Friday's Supreme Court ruling invalidating \$160 billion in tariffs collected under President Donald Trump over the last year generated sighs of relief among sections of the ruling class. It also provoked an unhinged verbal tantrum at a hastily convened press conference during which Trump labeled the three conservative justices who joined the three liberals against him "fools and lapdogs ... of the radical left."

The decision in *Learning Resources, Inc. v. Trump* and its fallout expose deepening divisions within the ruling class that ultimately stem from the decline of US capitalism.

After labeling the three liberals a "disgrace to our nation," Trump accused the entire majority of being "swayed by foreign interest and a political movement that is far smaller than people would ever think."

Trump called the forces challenging his unbridled assertion of power to set and modify tariffs, "major sleazebags" who are "foreign country-centric," and the two justices he nominated who voted with the majority, Neil Gorsuch and Amy Coney Barrett, "an embarrassment to their families."

Trump ranted, imitating a Mafia don, that "foreign countries that have been ripping us off for years are ecstatic ... dancing in the streets, but they won't be dancing for long, that I can assure you."

The *Wall Street Journal* editorialized, "Trump owes the Supreme Court an apology—to the individual Justices he smeared on Friday and the institution itself. Mr. Trump doubtless won't offer one, but his rant in response to his tariff defeat at the Court was arguably the worst moment of his Presidency."

The legal issues presented are relatively straightforward. Article I, Section 8 of the US Constitution expressly allocates all taxation power, including the imposition of duties on imported goods and services, to Congress. Following President Richard Nixon's resort to extraordinary measures in response to the collapse of the post-World War II Bretton Woods financial framework, Congress enacted the International Emergency Economic Powers Act (IEEPA), which allows the president to identify an "unusual and extraordinary threat" and declare a "national emergency," triggering executive power to "investigate, block, regulate, direct and compel, nullify, void, prevent or prohibit" transactions involving foreign-held property. The list of executive powers notably does not include tariffs, and for almost 50 years no president invoked IEEPA powers to impose them.

Shortly after resuming office, however, Trump declared a national emergency based on drug trafficking to justify a 25

percent duty on most Canadian and Mexican imports, and another national emergency citing trade deficits to justify an array of tariffs, modifications, reductions and exemptions that sent equity markets careening. The rate on Chinese goods was ratcheted up in rapid succession—from 10 percent to 20, then to an additional 34, then 84, and finally 125 percent—bringing the total effective tariff rate on most Chinese goods to 145 percent.

Trump's IEEPA tariffs account for almost three-fourths of US tariffs imposed last year. Without them, the average effective US tariff rate would fall from 17.4 percent to 6.8 percent.

Separate suits were filed by businesses hammered by tariffs, joined by 12 states. Several lower courts ruled the IEEPA tariffs illegal prior to the Supreme Court taking the case, where nine justices splintered into three camps of three, producing seven separate opinions totaling 170 pages.

The decisive opinion, written by Chief Justice John Roberts, contains language that amounts to a remarkable indictment of the White House's dictatorial aims. Roberts wrote that the Framers, "having just fought a revolution motivated in large part by 'taxation without representation,'" gave Congress "alone ... access to the pockets of the people," and deliberately excluded the executive branch from any part of the taxing power. This was, Roberts noted, the "birthright power" of Congress—a characterization that underscores how fundamental the majority considered the constitutional question.

Gorsuch went even further in his own concurring opinion, warning that "our system of separated powers and checks-and-balances threatens to give way to the continual and permanent accretion of power in the hands of one man. That is no recipe for a republic."

Roberts was blunt in his description of the scope of power Trump claimed, writing, "All it takes to unlock that extraordinary power is a Presidential declaration of emergency, which the Government asserts is unreviewable." The only check, Roberts observed, would be a veto-proof supermajority in Congress—rendering the legislature virtually powerless. This would "replace the longstanding executive-legislative collaboration over trade policy with unchecked Presidential policymaking."

Trump craves the tariff power to bully and extort foreign nations, to promote or harm certain economic sectors, and to steer wealth to favored industries and companies, including those that directly benefit his family. Roberts's opinion, read in full, describes a president who has arrogated to himself the unilateral power to tax

the entire population, even the world, answerable to no one, on the basis of an “emergency” declaration that he asserts cannot be reviewed.

Justice Brett Kavanaugh drafted a 63-page dissent joined by the arch-reactionary Trump toadies Clarence Thomas and Samuel Alito that, Roberts noted, “echoed point-for-point” Trump’s arguments. Kavanaugh bemoaned the fact that the US “may be required to refund billions of dollars to importers who paid the IEEPA tariffs,” like a bank robber asking to be let off the hook because the stolen money has already been spent.

Kavanaugh then switched from his role as a supposed neutral judge to Trump’s consigliere, advising him, “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 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.” Those alternatives were not raised in the briefing, which addressed only IEEPA tariffs, and Kavanaugh’s addressing them in his dissent, which itself has no legal force, deviates from accepted judicial standards.

Media outlets reported that Trump exploded in profane anger when informed of the ruling while in the midst of a breakfast meeting with various governors. A few hours later he appeared before cameras in the White House press room, his face beet-red with rage under layers of orange makeup.

“Those tariffs remain,” Trump said repeatedly. “We’re still getting them and we will after the decision,” adding, “As Justice Kavanaugh—whose stock has gone so up, you have to see, I’m so proud of him—wrote in his dissent ... ‘the decision might not substantially constrain a president’s ability to order tariffs going forward.’”

“He’s right,” Trump continued, “In fact, I can charge much more than I was charging. So I’m going to just start.” Following a Kavanaugh suggestion, Trump announced new tariffs under a never used emergency statute that authorizes 150-day tariffs to remedy balance of payment deficits.

The invocations of the American Revolution by the majority justices are not merely rhetorical ornaments. As the 250th anniversary of the Declaration of Independence approaches this July, the Revolution and the democratic principles it evoked are intruding into political life—and not only into the sphere of legal opinions. The language of 1776 retains an explosive contemporary relevance.

That a chief justice of the Supreme Court felt compelled to invoke the memory of the Revolution against a sitting president’s assertion of unchecked taxing power is itself a measure of how deep the present constitutional crisis has become. The ideals of the American Revolution, rooted in the Enlightenment and in the struggle against monarchical tyranny, stand in irreconcilable opposition to the regime Trump is attempting to construct.

The Supreme Court has not, however, undergone a democratic awakening. The Court is, and remains, a pillar of the capitalist state. Its function is to uphold the property relations and class interests upon which the existing social order depends. Nothing in Friday’s ruling alters that fundamental character. The same Roberts Court that struck down Trump’s tariffs has gutted voting

rights, overturned *Roe v. Wade*, and granted presidents sweeping criminal immunity. To recognize the political significance of the divisions within the Court on specific issues is not to harbor any illusions in the nature of the institution itself.

Thomas, Alito and Kavanaugh—the uncompromising Nazis on the Court—argued that IEEPA gives the president essentially unlimited power to impose tariffs. Thomas, in his separate dissent, suggested a bare and temporary congressional majority can delegate virtually any power to the president.

The conflict between the two factions is not absolute. Roberts, Gorsuch and Coney Barrett have provided critical support for large portions of Trump’s fascist agenda. They have backed the brutal assault on immigrants—the mass arrests, the deportation flights, the use of military facilities as detention camps—that constitutes one of the most vicious attacks on democratic rights in modern American history. On the tariff question, however, which impinges directly on the economic interests of powerful sections of the ruling class, a part of Trump’s judicial majority has been compelled to blurt out—though in carefully worded legal language—that the president is seeking to overthrow the Constitution.

The ruling exposes a profound crisis within the American ruling class. One faction, represented by the *Wall Street Journal* and the internationally oriented sections of finance capital, recognizes that Trump’s tariff war is a catastrophe—raising consumer prices, disrupting supply chains, and provoking retaliatory measures that threaten the global position of American capitalism. The other views the tariff power as an instrument of personal rule and plunder, a means of rewarding allies and punishing enemies entirely outside the framework of democratic accountability.

The ruling class is deeply divided, its democratic institutions are breaking down, and the working class has no voice in official politics. The defense of democratic rights and the struggle against the emerging dictatorship can be carried forward only through the independent social and political mobilization of the working class on the basis of a socialist and internationalist program. It is the working class that is the true heir of the revolutionary principles and spirit of 1776, and it is the working class that must fight to defend them.



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