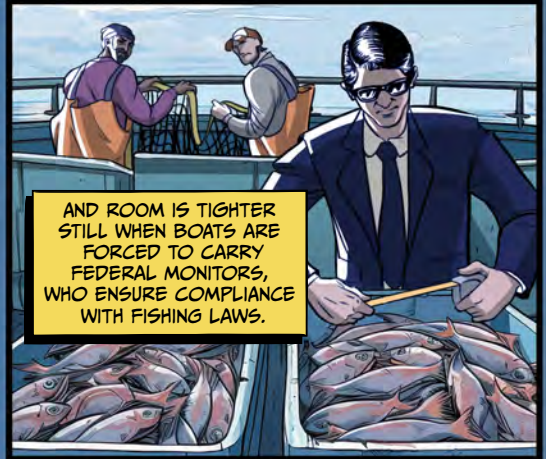
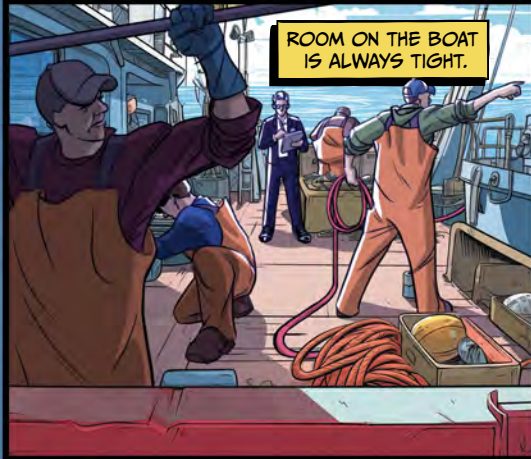




COMMERCIAL  
FISHING IS  
HARD WORK.



THESE FISHERS ARGUED THAT THE  
GOVERNMENT CAN'T FORCE THEM  
TO PAY THEIR MONITORS' SALARIES.

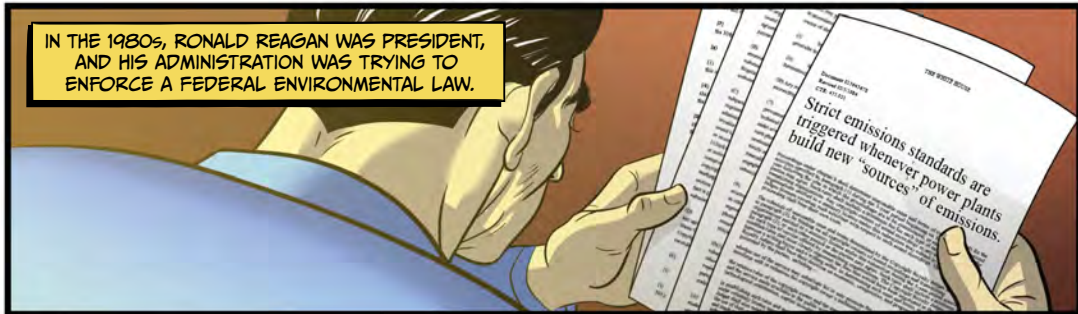
A FEDERAL APPEALS  
COURT DISAGREED.







THE STORY OF CHEVRON DEFERENCE IS THE STORY OF THE SEPARATION OF POWERS.



IN THE 1980s, RONALD REAGAN WAS PRESIDENT, AND HIS ADMINISTRATION WAS TRYING TO ENFORCE A FEDERAL ENVIRONMENTAL LAW.

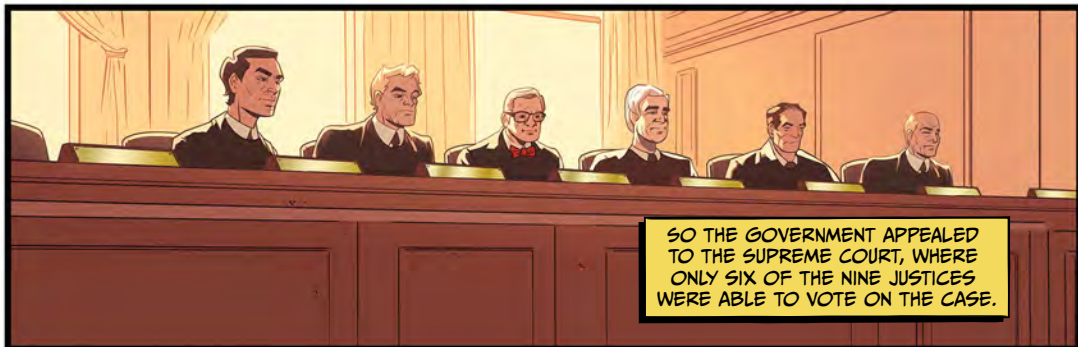
Strict emissions standards are triggered whenever power plants build new "sources" of emissions.

THE REAGAN ADMINISTRATION ARGUED THAT COURTS SHOULD IMAGINE EACH POWER PLANT INSIDE A GIANT IMAGINARY "BUBBLE."

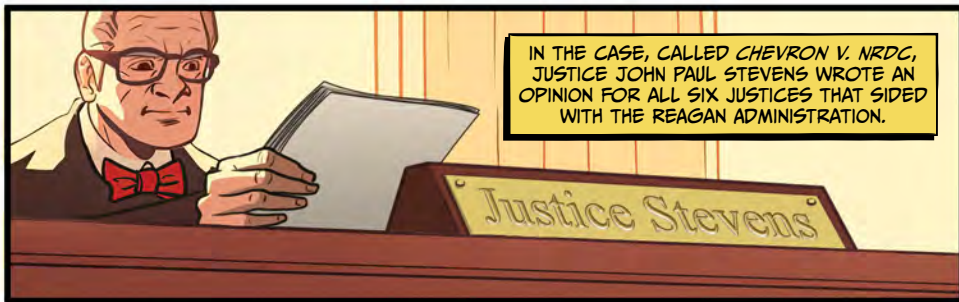
IF A NEW SMOKESTACK DIDN'T INCREASE THE TOTAL EMISSIONS COMING OUT OF THE BUBBLE, THE NEW SMOKESTACK DIDN'T TRIGGER THE LAW.



BUT THE APPEALS COURT HAD REJECTED THE BUBBLE THEORY, RULING THAT EVERY NEW SMOKESTACK IS A NEW "SOURCE," NO MATTER WHAT.



SO THE GOVERNMENT APPEALED TO THE SUPREME COURT, WHERE ONLY SIX OF THE NINE JUSTICES WERE ABLE TO VOTE ON THE CASE.



IN THE CASE, CALLED *CHEVRON V. NRDC*, JUSTICE JOHN PAUL STEVENS WROTE AN OPINION FOR ALL SIX JUSTICES THAT SIDED WITH THE REAGAN ADMINISTRATION.

**CHEVRON CHANGED THE COURSE OF LEGAL HISTORY, NOT BECAUSE THE REAGAN ADMINISTRATION WON, BUT BECAUSE OF HOW IT WON.**

**JUSTICE STEVENS CREATED A NEW RULE FOR DECIDING LEGAL DISPUTES WITH THE EXECUTIVE BRANCH.**

THE **CHEVRON TWO-STEP!**

AT STEP ONE, WE JUDGES TAKE THE LEAD. IF THE STATUTE AT ISSUE IS CLEAR, THE CASE IS CLOSED AND THE DANCE IS OVER.

BUT IF THE STATUTE IS AMBIGUOUS, OUR DANCE PARTNERS TAKE THE LEAD.

AT STEP TWO, WE JUDGES TAKE A BACK SEAT TO THE EXECUTIVE.

AS LONG AS THE EXECUTIVE'S INTERPRETATION OF THE LAW IS REASONABLE, WE MUST ACCEPT THAT VIEW.

EVEN IF WE WOULD HAVE RULED OTHERWISE.



THE MEANING OF "SOURCE" IS AMBIGUOUS, SO THIS DANCE IS GOING TO STEP NUMBER TWO!

OUR "BUBBLE" THEORY IS REASONABLE ENOUGH, SO THE EXECUTIVE BRANCH WINS THE DAY!





AT FIRST, CONSERVATIVE JURISTS WERE BIG FANS OF CHEVRON.

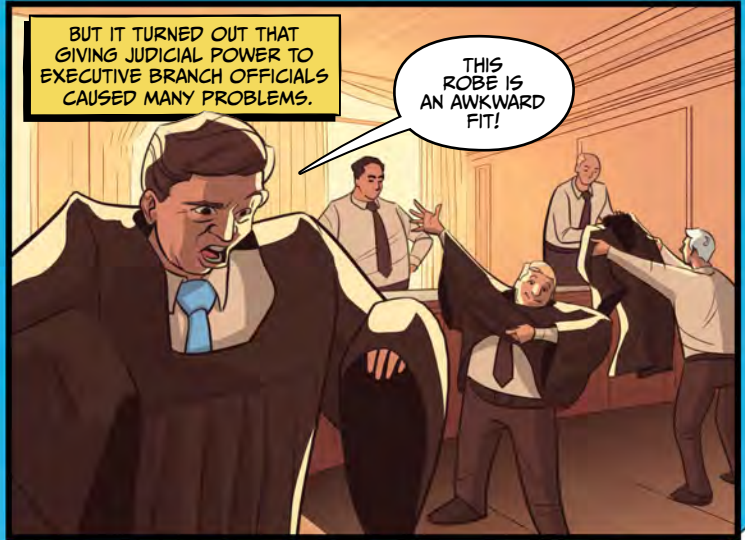
CHEVRON TAKES POWER FROM UNELECTED JUDGES AND GIVES IT TO POLITICALLY ACCOUNTABLE AGENCIES.

WHAT'S NOT TO LOVE?!



BUT IT TURNED OUT THAT GIVING JUDICIAL POWER TO EXECUTIVE BRANCH OFFICIALS CAUSED MANY PROBLEMS.

THIS ROBE IS AN AWKWARD FIT!



GOVERNMENT OFFICIALS HAVE A STRONG INCENTIVE TO INTERPRET THE LAW IN THEIR OWN INTEREST.

IN A REMARKABLE COINCIDENCE, WE'VE DECIDED FOR THE 400<sup>TH</sup> CONSECUTIVE TIME THAT THE MEANING OF THIS STATUTE ALIGNS PRECISELY WITH OUR POLICY VIEWS.



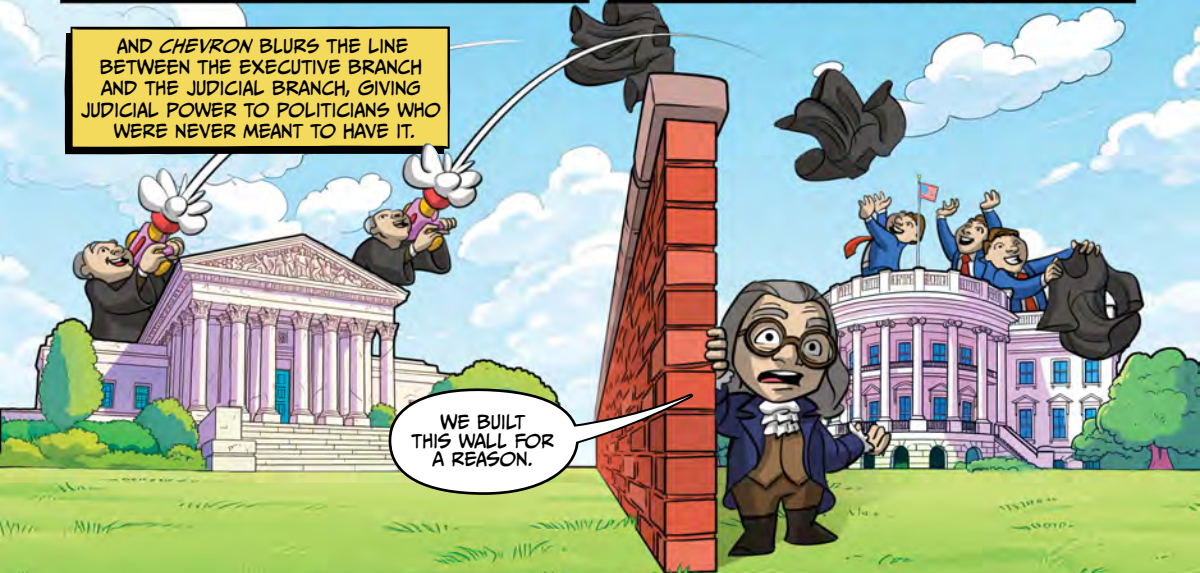
CHEVRON DEFERENCE BIASES THE COURT SYSTEM IN FAVOR OF THE GOVERNMENT AND AGAINST THE PEOPLE.

I THOUGHT JUSTICE WAS SUPPOSED TO BE BLIND.



AND CHEVRON BLURS THE LINE BETWEEN THE EXECUTIVE BRANCH AND THE JUDICIAL BRANCH, GIVING JUDICIAL POWER TO POLITICIANS WHO WERE NEVER MEANT TO HAVE IT.

WE BUILT THIS WALL FOR A REASON.



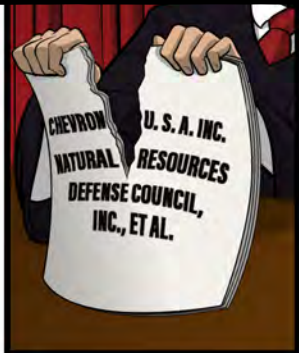


CHEVRON DEFERENCE IS WHY THE FISHERS OF LOPER BRIGHT ENTERPRISES LOST BEFORE AN APPELLATE COURT.

THE STATUTE DOESN'T SAY ANYTHING ABOUT WHO PAYS THE SALARY FOR FISHING MONITORS, SO THE LAW IS AMBIGUOUS AND THE GOVERNMENT WINS.

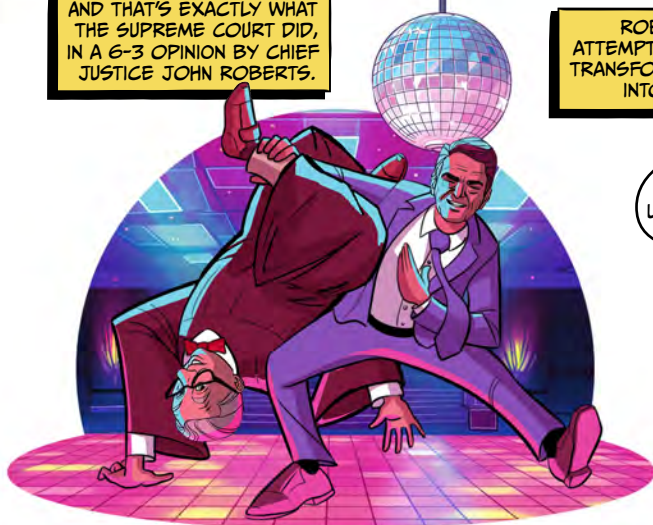
THAT'S THE CHEVRON TWO-STEP!

WHEN THE FISHERS APPEALED TO THE SUPREME COURT, THEY COULD HAVE PLAYED IT SAFE AND MADE A NARROW ARGUMENT. BUT INSTEAD THEY BOLDLY ASKED THE COURT TO OVERRULE CHEVRON ONCE AND FOR ALL.



AND THAT'S EXACTLY WHAT THE SUPREME COURT DID, IN A 6-3 OPINION BY CHIEF JUSTICE JOHN ROBERTS.

ROBERTS EXPLAINED THAT THE ATTEMPTS TO FIX CHEVRON HAD INSTEAD TRANSFORMED "THE ORIGINAL TWO-STEP INTO A DIZZYING BREAKDANCE."



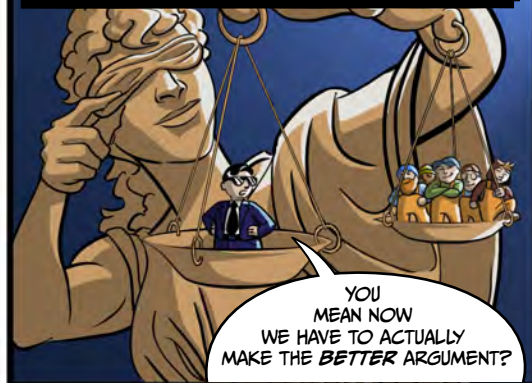
IT'S TIME TO UNTANGLE THESE TWO.



THE COURT HELD THAT CHEVRON IS INCOMPATIBLE WITH THE ADMINISTRATIVE PROCEDURE ACT, A FEDERAL STATUTE THAT REQUIRES COURTS TO "DECIDE ALL RELEVANT QUESTIONS OF LAW" IN AGENCY CASES. THAT MEANS COURTS MUST WEIGH ARGUMENTS WITHOUT BIAS OR DEFERENCE.

THE CASE WILL NOW GO BACK TO THE LOWER COURTS, WHERE THE FISHERS WILL FINALLY GET A FAIR CHANCE TO WIN THEIR CASE ON AN EQUAL PLAYING FIELD.

WORKS JUST AS WELL AS NEWSPAPER!



YOU MEAN NOW WE HAVE TO ACTUALLY MAKE THE BETTER ARGUMENT?

