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Nondelegation by Any Other Name: Major Questions Doctrine and the Administrative State

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It has been nearly a century since the United States Supreme Court last struck down a delegation of congressional power to the President. Over that time, however, the federal administrative state has vastly grown in importance and authority. And this growth appears even starker when contrasted with the increasingly atrophied role of Congress. This status quo, when confronted with a Supreme Court inclined towards a formalistic view of separation of powers, has necessarily given way to renewed conflict over the scope of the President's power to act in Congress's absence. The Court's mode of choice for resolving that conflict has been the major questions doctrine.

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