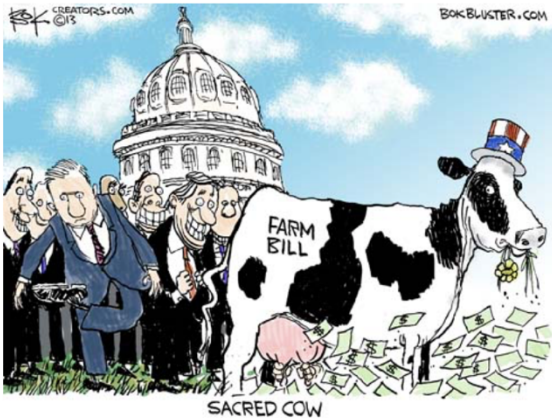


2.13 The Bureaucracy: Discretionary and Rule-Making Authority



ESSENTIALS

Discretionary and rule-making authority to implement policy are given to bureaucratic agencies such as:

- U.S. Department of Agriculture
- U.S. Department of Defense
- U.S. Department of Homeland Security
- U.S. Department of Education

1. What is the underlying idea of this cartoon? [Write your response as a thesis using a “because” statement]

2. Explore the latest “FARM BILL.” Create an IRON TRIANGLE. Provide details. What is meant by the phrase, “sacred cow”?

CASE STUDY

U.S. Department of _____

	<i>Congress</i>	<i>President</i>	<i>Courts</i>
Interactions with...			
Acts like...			
Checked by...			

Secretary:

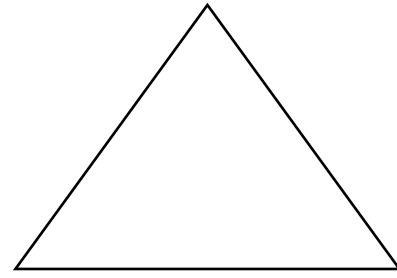
Explain appointment process

Budget:

of Employees:

Critical contemporary issues:

Public Opinion



Example of an IRON TRIANGLE

CONCEPT APPLICATION

[Years ago], the Supreme Court issued its opinion in the case of *Chevron, U.S.A., Inc. v. NRDC* (1984), which announced the principle that the courts will accept an agency's reasonable interpretation of the ambiguous terms of a statute that the agency administers. Dealing with the question whether the Environmental Protection Agency could permissibly adopt the "bubble concept"-that is, a plantwide definition of "stationary source"-under the Clean Air Act, Justice Stevens for a unanimous Court adopted an analytical approach that deals with the problem of judicial deference to agency interpretations of law in two steps:

First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.

Failing an affirmative response to the first inquiry, the Chevron analysis moves to step two:

If, however, the court determines that Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.

Chevron has proven a highly important decision-perhaps the most important in the field of administrative law since *Vermont Yankee Nuclear Power Corp. v. NRDC* (1978). In the first three and a half years after its announcement-up to the beginning of 1988-Chevron was cited by lower federal courts over 600 times...

...I tend to think, however, that in the long run Chevron will endure and be given its full scope-not so much because it represents a rule that is easier to follow and thus easier to predict (though that is true enough), but because it more accurately reflects the reality of government, and thus more adequately serves its needs.

Excerpted from "Judicial Deference to Administrative Interpretations of Law," Scalia, Antonin, *Duke Law Journal*,

After reading the scenario, respond to A, B, and C below:

- A. According to the scenario above, describe the precedent set in the Chevron case.
- B. In the context of the scenario, explain how the precedent described in part A would affect the legislative process.
- C. In the context of the scenario, explain how Court decisions impact the separation of powers.