No. 20-1114

In the Supreme Court of the United States

AMERICAN HOSPITAL ASSOCIATION, ET AL.,

Petitioners,

v.

XAVIER BECERRA, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

AMICUS CURIAE BRIEF FOR THE NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC. IN SUPPORT OF PETITIONERS

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September 10, 2021

QUESTIONS PRESENTED

Under federal law, the reimbursement rate paid by Medicare for specified covered outpatient drugs is set based on one of two alternative payment methodologies. If the Department of Health and Human Services (HHS) has collected certain required "hospital acquisition cost survey data," HHS sets the reimbursement rate equal to the "average acquisition cost for the drug," and "may vary" that rate "by hospital group." 42 U.S.C. 1395*l*(t)(14)(A)(iii)(I). If HHS has not collected the required "hospital acquisition cost data," it must set a reimbursement rate equal to the "average price for the drug," which is "calculated and adjusted by [HHS] as necessary for purposes of this paragraph"—*i.e.*, paragraph (14) of subsection (t) of Section 1395*l*. 42 U.S.C. 1395*l*(t)(14)(A)(iii)(II).

The questions presented are:

1. Whether petitioners' suit challenging HHS's "adjustments" is precluded by 42 U.S.C. 1395*l*(t)(12).

2. Whether *Chevron* deference permits HHS to set reimbursement rates based on acquisition cost and vary such rates by hospital group if HHS has not collected required hospital acquisition cost survey data.

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INTEREST OF AMICUS CURIAE[1]

The National Right to Work Legal Defense Foundation, Inc. has been the nation's leading litigation advocate for employee free choice since 1968. To advance this mission, Foundation staff attorneys have represented individual employees in many cases before this Court.[2]

The Foundation has a particular interest in this case because its staff attorneys currently represent hundreds of employees across the nation whose free choice to refrain from unionization and monopoly bargaining depends on the National Labor Relations Board's proper implementation of the National Labor Relations Act. Courts, including the D.C. Circuit, have applied deference under *Chevron, U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*[3] in several cases involving the rights of individual employees under the NLRA.[4] For that reason, whether this Court should

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[1] Under Supreme Court Rule 37.3(a), Amicus provided the parties timely notice of its intent to file this brief and the parties consented to its filing. Under Supreme Court Rule 37.6, no counsel for any party authored this brief in whole or in part, and no person or entity other than Amicus made a monetary contribution to its preparation or submission.

[2] *E.g.*, *Janus v. AFSCME*, *Council 31*, 138 S. Ct. 2448 (2018); *Harris v. Quinn*, 573 U.S. 616 (2014); *Knox v. SEIU, Loc. 1000*, 567 U.S. 298 (2012); *Commc'ns Workers of Am. v. Beck*, 487 U.S. 735 (1988).

[3] 467 U.S. 837 (1984).

[4] 29 U.S.C. §§ 151–169; *see*, *e.g.*, *Pirlott v. NLRB*, 522 F.3d 423, 433–34 (D.C. Cir. 2008) ("The general chargeability issue is a matter for the Board to decide in the first instance."); *UFCW, Loc. 1036 v. NLRB*, 307 F.3d 760, 766 (9th Cir. 2002) (en banc)

overrule or limit the *Chevron* doctrine is important to the Foundation's mission.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Court need not decide here whether administrative agencies are entitled to judicial deference under *Chevron*. As petitioners forcefully argue, 42 U.S.C. § 1395*l*(t)(14)'s plain meaning unambiguously bars HHS's statutory construction. Thus, this Court should reverse the D.C. Circuit's decision. *See* Pet.Br. 31–46. But if this Court determines *Chevron* deference grants HHS the massive power to alter a federal statute based on a thin reed of ambiguity—affecting billions of dollars in statutory benefits—then the Court should "confront whether *Chevron* continues to be good law." *Id.* at 46.

If the Court confronts that question, it should unceremoniously overrule *Chevron* for two reasons. *First*, *Chevron* violates the Constitution's separation of powers requirement by delegating core legislative and judicial power to the executive branch. It allows executive agencies to exercise core legislative power by rewriting laws without going through bicameralism and presentment, which, in turn, creates serious fair notice problems. *Chevron* also violates the separation of powers mandate by allowing executive agencies to exercise core judicial power that the Constitution delegates to the judiciary alone. When a court defers to an executive agency's statutory construction, it

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("Courts are required to defer to the NLRB on statutory interpretation under *Chevron*."); *IAM v. NLRB*, 133 F.3d 1012, 1015 (7th Cir. 1998).

hands the executive the judicial power to interpret the law. That creates serious due process problems by depriving a litigant of a fair hearing in court.

Second, overruling *Chevron* deference is important for petitioners and the many thousands of people and entities federal agencies regulate. Deference to executive interpretations of law, and *Chevron* deference in particular, is a ubiquitous problem in administrative law—reaching into almost every statute in the federal code. Federal agencies like the NLRB routinely use *Chevron* deference to change the meaning of federal statutes—eroding the rights and liberties of the regulated public. This circumvention of the rule of law must stop.

ARGUMENT

I. *Chevron* deference violates the Constitution's separation of powers requirement and should be overruled.

The Framers constructed the Constitution to provide safeguards for people's liberty by separating governmental powers.[5] This design emerged from "centuries of political thought and experiences"[6] that taught the Framers that delegating to each separate federal

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[5] *See The Federalist* No. 51 (James Madison) (Clinton Rossiter ed., 1961) ("In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people.").

[6] *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 116 (2015) (Thomas, J., concurring) (citation omitted).

branch certain limited, specified powers would protect the republic and its citizens better than any enumeration of rights ever could.[7] Alexander Hamilton recognized from the outset that the separation of powers was the primary weapon to protect individual liberty against a tyrannical federal government: "[T]he Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS."[8] Indeed, the abandonment of the separation of powers, the Framers knew, would lead directly to the "loss of due process and individual rights."[9] *Chevron* deference is an anathema to this design, undermines individual liberty, and thus this Court should abandon it.

1. When the people ratified the Constitution, they delegated "[*a*]*ll*" legislative power to Congress—not

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[7] *See NLRB v. Noel Canning*, 573 U.S. 513, 570–71 (2014) (Scalia, J., concurring) ("[T]he Constitution's core, government-structuring provisions are no less critical to preserving liberty than are the later adopted provisions of the Bill of Rights. Indeed, so convinced were the Framers that liberty of the person inheres in structure that at first they did not consider a Bill of Rights necessary.") (cleaned up).

[8] *The Federalist* No. 84, at 515 (Alexander Hamilton) (Clinton Rossiter ed.,1961).

[9] Rebecca L. Brown, *Separated Powers and Ordered Liberty*, 139 U. Pa. L. Rev. 1513, 1538 (1991); *see also The Federalist* No. 47, at 301 (James Madison) (Clinton Rossiter ed., 1961) ("No political truth is . . . stamped with the authority of more enlightened patrons of liberty" than dividing the powers of government because "[t]he accumulation of all powers, legislative, executive, and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.").

some. "*All*."[10] Ideally, Article I's plain meaning would prevent the legislative branch from sub-delegating its legislative power to another branch.[11] Even so, this Court has rarely policed that line.[12]

Chevron is the inevitable upshot of abandoning Article I's text. This Court created *Chevron* deference based on a legal fiction. That fiction assumes Congress implicitly delegates its power through ambiguous statutory language (or no statutory language) so that an administrative agency can make legislative rules.[13] The effect is that a law's meaning is never fixed but becomes a malleable standard that the executive branch can change on a dime.

The *Chevron* regime undercuts the Framers' design to prevent excessive lawmaking, which the Framers thought was one of "the diseases to which our governments are most liable."[14] Article I requires a law to "win the approval of two Houses of Congress—elected

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[10] *See* U.S. Const. art. I, § 1. (emphasis added); *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 472 (2001) ("Article I, § 1 . . . permits no delegation of those powers.") (citations omitted).

[11] *See Gundy v. United States*, 139 S. Ct. 2116, 2133 (2019) (Gorsuch, J., dissenting); *see also* Gary Lawson, *Delegation and Original Meaning*, 88 Va. L. Rev. 327, 336–37 (2002).

[12] *Dep't of Transp. v. Ass'n of Am. R.Rs.*, 575 U.S. 43, 84 (2015) (Thomas, J., concurring).

[13] *See Chevron*, 467 U.S. at 844; *see also Michigan v. EPA*, 135 S. Ct. 2699, 2713 (2015) (Thomas, J., concurring) ("Statutory ambiguity … becomes an implicit delegation of rule-making authority, and that authority is used not to find the best meaning of the text, but to formulate legally binding rules to fill in gaps based on policy judgments made by the agency rather than Congress.").

[14] *Gundy*, 139 S. Ct. at 2134 (footnote omitted).

at different times, by different constituencies, and for different terms in office—and either secure the President's approval or obtain enough support to override his veto."[15] This gauntlet, the Framers thought, was a "bulwark[] of liberty."[16]

When the judicial branch no longer enforces this framework, and makes lawmaking easy through congressional delegation, the regulated public is susceptible to having life, liberty, or property taken without fair notice. A fundamental tenet of the Due Process Clause requires that laws "which regulate persons or entities must give fair notice of conduct that is forbidden or required."[17] A punishment will thus violate due process when a "regulation under which it is obtained fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement."[18] Yet *Chevron* turns this fundamental principle on its head, because an executive agency can decide what an ambiguous law means after a person has acted and haul that person into court.

2. *Chevron* likewise violates Article III and creates serious due process problems. Judicial review is essential to the broader "liberal tradition, which is the

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[15] *Id.*

[16] *Id.* Indeed, it is a feature and not a bug of our constitutional structure that laws are hard to enact. *See* John F. Manning, *Lawmaking Made Easy*, 10 Green Bag 2d 191, 202 (2007); *see also Ass'n of Am. R.Rs.*, 575 U.S. at 60–61 (Alito, J., concurring).

[17] *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012) (citations omitted).

[18] *Id.* (cleaned up).

dominant tradition in American constitutional law, 'emphasiz[ing] limited government, checks and balances, and strong protection of individual rights.'"[19] The Framers thus entrusted judges with judicial power under Article III to "say what the law is."[20] This power, in turn, came with a judicial duty to "exercise its independent judgment in interpreting and expounding upon the laws."[21]

This duty requires judges to interpret the laws before them and "to decide cases in accordance with the law of the land, not in accordance with pressures placed upon them through either internal or external sources."[22] The judiciary, the Framers thought, would thus provide a "check" against the other branches—including administrative agencies—when they try to expand their delegated powers.[23]

Yet, when it comes to administrative law, the federal judiciary has essentially abandoned its duty to check the legislative and executive branches. Federal courts reflexively defer to agencies under *Chevron* and

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[19] Douglas H. Ginsburg & Steven Menashi, *Our Illiberal Administrative Law*, 10 N.Y.U.J.L. & Liberty 475, 477 (2016) (cleaned up).

[20] *Marbury v. Madison*, 5 U.S. 137, 177 (1803).

[21] *Perez*, 575 U.S. at 118–19 (Thomas, J., concurring); *see also* P. Hamburger, Law and Judicial Duty 316–326 (2008).

[22] *Perez*, 575 U.S. at 120–21 (Thomas, J., concurring).

[23] *See id*. at 124–25.

give one party an advantage over the other during litigation.[24] This abandonment of judicial duty has real world effects—including undermining the political legitimacy of our system of laws.[25]

More to the point, the deference judges give an agency during litigation, favoring one party over another, creates serious Fifth Amendment Due Process problems. Indeed, "[w]hat is at stake here is the due process of law in Article III courts."[26] The Constitution tasks judges to provide a fair and neutral process and not favor one party. However, under *Chevron*, courts have become participants "in systematic bias."[27]

A recent study bears out this conclusion. In an analysis of 1,558 agency interpretations reviewed from 2003 to 2013, courts applied *Chevron* deference 77% of the time and upheld the agency interpretation 71% of the time.[28] This study shows that "[d]eference to administrative interpretation is a systematic pre-

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[24] *See Pereira v. Sessions,* 138 S. Ct. 2105, 2120–21 (2018) (Kennedy, J., concurring); s*ee also* Philip Hamburger, *Chevron Bias*, 84 Geo. Wash. L. Rev. 1187, 1209–10 (2016).

[25] *See* Hamburger, *Chevron Bias*, 84 Geo. Wash. L. Rev. at 1236 ("[I]ndependent judgment of unbiased judges is the basis of the government's political legitimacy . . . especially [in] those [cases] concerning the power of government or the rights of the people, it is essential that the people have confidence that the judges are not biased toward government, but are exercising independent judgment.") (footnote omitted).

[26] *Id.* at 1231.

[27] *Id.*

[28] Kent Barnett & Christopher J. Walker, *Chevron in the Circuit Courts*, 116 Mich. L. Rev. 1 (2017).

commitment in favor of the interpretation or legal position of the most powerful of parties"—the federal government.[29]

Judges thus fail in their duty to be the natural arbiters of the law when they apply *Chevron*. They are no longer the impartial decision-maker due process requires—an essential element of individual liberty.[30]

3. The D.C. Circuit's decision here provides a case study in how *Chevron* deference undermines the separation of powers and the rule of law. In applying *Chevron*, the panel below reflexively sanctioned HHS's administrative rewrite of a federal statute based on an ambiguity that did not exist. *See* Pet.Br. 31–46. It did so without exhausting the traditional tools of statutory construction. *Id.* at 48. And, in the process, the panel allowed HHS to exercise a supposed delegation from Congress that collectively cost petitioners upwards of a billion dollars in reimbursements they were entitled to under federal law. *Id.* at 2.[31]

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[29] *See* Hamburger, *Chevron Bias*, 84 Geo. Wash. L. Rev. at 1231.

[30] Despite this breakdown when it comes to administrative agencies, this Court has repeatedly affirmed that a neutral decision-maker is essential to a fair process: "It is axiomatic that '[a] fair trial in a fair tribunal is a basic requirement of due process.'" *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009) (quoting *In re Murchison*, 349 U.S. 133, 136 (1955)). And when a judge fails to "apply the law to [a party] in the same way he applies it to any other party," he has failed in his duty. *Republican Party of Minn. v. White*, 536 U.S. 765, 776 (2002).

[31] If the Court does not want to overrule *Chevron*, then, as petitioners argue, it should reverse the D.C. Circuit's decision for erroneously applying *Chevron* to HHS's newly found power to change the way Medicare subsidies are calculated. Pet. Br. 46–50. When determining whether to apply *Chevron* deference to

agency interpretations of statutes, this Court does not apply deference when an agency is regulating beyond mere "interstitial matters" without clear congressional approval. In such cases, non-delegation is the presumption because Congress is "more likely to have focused upon, and answered, major questions." Stephen Breyer, *Judicial Review of Questions of Law and Policy*, 38 Admin. L. Rev. 363, 370 (1986); *see also*, William N. Eskridge Jr., *Interpreting Law: A Primer on How to Read Statutes and the Constitution* 288 (2016) ("[The] Supreme Court has carved out a potentially important exception to delegation, the major questions cannon. Even if Congress has delegated an agency general rulemaking or adjudicatory power, judges presume that Congress does not delegate its authority to settle or amend major social and economic policy decisions.")

The Court has applied this principle in several cases. *See MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218, 231 (1994) (withholding deference where it was "highly unlikely that Congress would leave the determination of whether an industry will be entirely, or even substantially, rate regulated to agency discretion."); *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160 (2000) (withholding deference when the Court was "confident that Congress could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion"); *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 324 (2014) ("When an agency claims to discover in a long extant statute an unheralded power to regulate a significant portion of the American economy, we typically greet its announcement with a measure of skepticism. [The Court] expect[s] Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance.") (cleaned up).

Although there has been no set standard for when this "major questions" principle applies, the cases have provided a basic understanding of the doctrine. Deference to an agency interpretation is inappropriate when Congress has not clearly spoken on an issue and a regulation implicates questions of "vast economic or political significance," or where an agency aggrandizes its

If this Court determines that the D.C. Circuit correctly applied *Chevron* to allow this result, the Court should use this case to overrule *Chevron*. The D.C. Circuit's holding undermines the principle that Congress makes the laws and that litigants are entitled to a neutral magistrate to adjudicate their rights in federal court.

II. *Chevron* deference has serious consequences for the regulated public that reach beyond this case.

The D.C. Circuit's decision is not an anomaly giving extensive and reflexive deference to administrative agencies. Indeed, *Chevron* is a virus spread throughout federal law to the detriment of countless members of the regulated public. The Court should overrule it for that reason, too.[32]

For example, *Chevron* deference has allowed administrative agencies like the National Labor Relations Board to make federal law—sometimes retroactively—for years based on political considerations. One of the primary rationales for *Chevron* deference is that agency "experts" are better equipped than

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power though new interpretations of long standing statutory provisions to bring about an enormous and transformative expansion of regulatory authority. If any case warrants the Court applying this doctrine, this case is it.

[32] *See City of Arlington v. FCC*, 569 U.S. 290, 313 (2013) ("The administrative state wields vast power and touches almost every aspect of daily life. The Framers could hardly have envisioned today's vast and varied federal bureaucracy and the authority administrative agencies now hold over our economic, social, and political activities.") (cleaned up).

courts to determine the evolving policy for the nation.[33] But the lawmaking in which administrative agencies like the NLRB engage is often not based on "expertise." Indeed, the definitions of labor law terms are often legal and not scientific questions. What the NLRB engages in is not "expertise" so much as political will. This puts the law's status in flux all without going through the constitutionally prescribed political process.

As two federal judges have highlighted, in many cases, "the [agency's] claim to expertise is entirely fraudulent."[34] The agency notorious for this is the "National Labor Relations Board, the partisan majority of which routinely displaces the previous majority's psychological assertions about what employer tactics do or do not coerce workers when they are deciding whether to vote for union representation."[35] Yet that claim to expertise is often "a euphemism for policy judgments."[36] Although some agency staff might have some, or a great deal of, technical expertise, the heads of agencies are typically political actors. Indeed, "the agency's ultimate decisions are made by the experts' political masters, who have sufficient discretion that they can make decisions based upon their own policy preferences, fearing neither that the expert

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[33] *See Chevron*, 467 U.S. at 865.

[34] Ginsburg & Menashi, *Our Illiberal Administrative Law*, 10 N.Y.U. J.L. & Liberty at 482 (footnote omitted).

[35] *Id.* at 482–83.

[36] *Id.* at 483.

staff will not support them nor that a court will undo their handiwork."[37]

Take *UC Health v. NLRB*,[38] in which the D.C. Circuit upheld a Regional Director's authority to direct and certify a union election although the NLRB itself did not have the statutorily required quorum. Citing *Chevron*'s second step, the majority found the term "quorum" was ambiguous because it did not speak to the exact and unlikely circumstances of the case—the statute was silent about the issue. But instead of engaging in a statutory analysis using the traditional tools of statutory construction, the majority deferred to one litigant's view of the law: "the structure of the statute supports the [NLRB's] interpretation just as well as it might support UC Health's construction."[39] Tie goes to the home team.

The dissent, however, recognized the NLRB's statutory interpretation was "flatly" unreasonable and incompatible with the statute.[40] In finding the NLRB's construction unreasonable, the dissent cautioned, "[w]e must bear in mind that even if we are following *Chevron*'s second step, we are construing a Congressional act—the second step is not open sesame for the Agency."[41] Yet, often, that is exactly how courts treat agency interpretations.

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[37] *Id.*

[38] *UC Health v. NLRB*, 803 F.3d 669 (D.C. Cir. 2015).

[39] *Id.* at 675.

[40] *See id.* at 687 (Silberman, J., dissenting).

[41] *Id.*

To be sure, granting agencies like the NLRB deference to say what the law is prevents "ossification of large portions of our statutory law."[42] However, although "expertise" and legislative flexibility may appear appealing, those rationales often yield results that under deliver. Besides imperiling constitutional structure, agency discretion lends itself to temptations that threaten individual liberty and legislative prerogative.

For example, regulatory capture poses a genuine threat to the rule of law and undermines justifications for heavy reliance on deference to agencies. Regulatory capture occurs when commercial, ideological, or political interests—be it by an industry, profession, geographic area, or political group—conscript a regulatory agency to implement a preferred policy outcome.[43] Agency capture permits special interests outsized influence in the regulatory process, or to borrow from James Madison, regulation becomes subject to the "mischiefs of faction."[44] Though regulatory capture does not explain every incident of agency action,

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[42] *United States v. Mead Corp.*, 533 U.S. 218, 247–48 (2001) (Scalia, J., dissenting).

[43] Ernesto Dal Bó, *Regulatory Capture: A Review*, 22 Oxford Rev. Econ. Pol'y 203 (2006); George J. Stigler, *The Theory of Economic Regulation*, 2 Bell J. Econ. & Mgmt. Sci. 3, 13–17 (1971); Richard A. Posner, *Theories of Economic Regulation*, 5 Bell J. Econ. & Mgmt. Sci. 335, *passim* (1974).

[44] *See The Federalist* No. 10 (James Madison) (Clinton Rossiter ed., 1961) (Madison explained faction as "a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or

the possibility of undue and undemocratic influence predicted by this economic theory warns against the deferential attitude *Chevron* condones.

Deferring to special interests or factions violates the first principles of judicial neutrality Article III adopts as part of the judicial power.[45] One early observer noted the simplest definition of constitutional government is "comprised in three words, *government by law*."[46] In contrast, the exercise of arbitrary, lawless power is the "erroneous will of one man, or a few men, in whom the executive power resides" that "is substituted instead of law."[47]

Government by law protects against arbitrary conduct benefiting the few able to leverage government in their favor. Hamilton stressed the importance of the judiciary in maintaining law. He explained "that inflexible and uniform adherence to the rights of the Constitution, and of individuals, [i]s indispensable in the courts of justice," i.e., "a reliance that nothing would be consulted but the constitution and the laws."[48] Deference to administrative agencies like the NLRB via *Chevron* violates these principles and prevents the courts from serving as "an intermediate body" charged with a duty to interpret the law as their

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of interest, adversed to the rights of other citizens, or to the permanent and aggregate interests of the community.").

[45] Phillip Hamburger, *Law and Judicial Duty*, 316–26 (2008).

[46] *State Necessity Considered as a Question of Law*, 6 (London: 1766).

[47] *Id*.

[48] *See The Federalist* No. 78 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

"proper and peculiar province."[49] The regulated public bears the cost of this to the benefit of the few.

At bottom, *Chevron* deference allows agencies throughout the federal government, like the NLRB, to change abruptly legal and policy positions on dozens of major issues affecting the regulated public's liberty. Agencies have done so not by using the statute Congress passed, but by using supposedly ambiguous statutory language to instill their political preferences—political preferences enacted without going through the democratic processes the Constitution prescribes. This regime undermines a fundamental underpinning of the rule of law, and the Constitution's separation of powers requires that only Congress, acting through Article I, change the law.

CONCLUSION

If this Court finds that the D.C. Circuit correctly applied *Chevron* deference to allow the HHS to ignore Congress's clear commands and rewrite the applicable federal statute, then the Court should reconsider *Chevron*. It should revert to the first principle that Congress makes the law, the executive enforces the law, and the judiciary interprets the law and overrule *Chevron*.

For these reasons, and those stated by petitioners, the Court should reverse the decision below.

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[49] *Id.*

Respectfully submitted,

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September 10, 2021