No. 25-332

IN THE

Supreme Court of the United States

DONALD J. TRUMP,
PRESIDENT OF THE UNITED STATES, ET AL.,
Petitioners,

v.

REBECCA KELLY SLAUGHTER, ET AL.,
Respondents.

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

BRIEF OF *AMICI CURIAE* PROFESSORS NICHOLAS R. BEDNAR AND TODD PHILLIPS IN SUPPORT OF RESPONDENTS

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INTERESTS OF THE *AMICI CURIAE*[1]

Amici curiae are law professors Nicholas R. Bednar and Todd Phillips. Professor Bednar is a political scientist whose research focuses on administrative law and executive branch politics. Professor Phillips is a former and current advisor to federal agencies and Congress, and his research focuses on law governing federal regulators. Professor Bednar is the author of, among other things, *Presidential Control and Administrative Capacity*, 77 Stan. L. Rev. 823 (2025), and together Professors Bednar and Phillips are the co-authors of a study of quorum rules for multimember commissions, *Commission Quorums*, 78 Stan. L. Rev. (forthcoming 2026).[2]

Amici curiae aim to assist the Court by presenting additional evidence from their study of administrative law and the legislative history of independent commissions, which is relevant to the issues presented here.

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[1] No counsel for any party authored this brief in whole or in part, no party or party's counsel made a monetary contribution intended to fund the preparation or submission of this brief, and no person or entity—other than *amici curiae* and their counsel—made a monetary contribution to the preparation or submission of this brief.

[2] Available at https://papers.ssrn.com/abstract=5347384.

SUMMARY OF ARGUMENT

The traditional understanding that a president may not remove the heads of independent commissions without good cause has long shaped the structure and features of such commissions.[3] When it enacted partisan-balance requirements, tenure, staggered terms, and quorums for multimember commissions, Congress balanced the benefits of collective and bipartisan decision-making against the risk that vacancies would render the commission unable to operate as intended. It did not permit independent commissions to be run by temporary acting officials; Congress has required presidentially appointed and Senate-confirmed commissioners to lead independent commissions. Congress would not have made these choices if the Constitution did not permit it to enact for-cause removal protections.

Because independent commissions have long been part of our constitutional fabric, the consequences of overruling *Humphrey's Executor* and eliminating statutory for-cause removal protections would be profound. If that were to occur, the President could remove all commissioners of the opposing political party, render statutory tenure provisions irrelevant, and disable commissions with quorum requirements, thereby frustrating Congress's and the People's intent to endow agencies with collective decision-making, expertise, political balance, and continuity.

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[3] *Amici curiae* define "independent commissions" to mean multimember commissions, boards, councils, authorities, or other multimember entities established by Congress. The term "independent commissions" thus does not include agencies with a single director or agency head.

ARGUMENT

I. The distinction between executive departments and independent commissions is well established in our history.

This Court has long distinguished between the exercise of an "executive function," on one hand, and "executive power in the constitutional sense," on the other. *Humphrey's Executor v. United States*, 295 U.S. 602, 628 (1935). Before and after *Humphrey's Executor*, Congress could create independent commissions to carry out limited executive functions subject only to for-cause removal, so long as those functions did not interfere with the President's *constitutional* executive power under Article II. *Amici curiae* here provide further statutory and legislative history showing Congress and past presidents have long relied on an interpretation of the Constitution that permits for-cause removal protections.

A. Congress has long relied on for-cause removal to structure independent commissions.

One of the most recognizable characteristics of independent commissions—a category that *Humphrey's Executor* by no means created but surely cemented for generations—is that the President may not remove their commissioners without good cause. *See* Kirti Datla & Richard L. Revesz, *Deconstructing Independent Agencies (and Executive Agencies)*, 98 Cornell L. Rev. 769, 772 (2013) ("Independent agencies are almost always defined as agencies with a for-cause removal provision ...."). As detailed in the list of independent commissions below (*see infra* pp. 19-21), at

least 27 commissions have express statutory removal protections, and others likely have implicit removal protections.[4]

But for-cause removal is not the only feature of independent commissions that flows from this Court's existing interpretation of the Constitution. Congress also provided that commissioners shall serve staggered terms for a fixed number of years. *See, e.g.*, 15 U.S.C. § 41. When tenure and removal protections are combined, they reflect an expectation that commissioners will serve for their full terms and across administrations, fostering expertise and continuity. *See* Datla & Revesz, 98 Cornell L. Rev. at 789-92.

At least fourteen agencies combine removal protections and partisan balance requirements. *See* Datla & Revesz, 98 Cornell L. Rev. at 797 & n.152. The Federal Trade Commission itself was reorganized in 1961 based on the expectation that presidents would not remove opposing-party commissioners. Reorganization Plan No. 4 of 1961 provided that the Commission could delegate its functions to an individual, but "the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such [individual] action before the Commission for review." *FTC v. Flotill Prods., Inc.*, 389 U.S. 179, 188 (1967) (quoting Reorganization Plan No. 4 of 1961,

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[4] For example, this Court decided *Free Enterprise Fund v. Public Company Accounting Oversight Board* based on an "understanding" that the President may not remove Securities and Exchange Commission commissioners without good cause. 561 U.S. 477, 487 (2010). Additional examples of commissions that likely have implicit removal protections appear in the list of independent commissions with removal protections below. *See infra* pp. 19-21.

§ 1(b)). As President John F. Kennedy explained, this requirement maintained "the fundamental bipartisan concept explicit in the basic statute creating the Commission." 15 U.S.C. § 41 note (reproducing transmittal message). This reorganization provision thus explicitly assumed that a bipartisan full commission would be available to review delegated actions, *i.e.*, it precluded the Commission from delegating authority to a single partisan actor.

Congressional records show that, by the 1970s, the understanding that a president could *not* remove the heads of an independent commission without good cause was so well established that Congress saw no need to include statutory language prohibiting their removal other than for cause. In 1977, Congress amended the statute governing the U.S. International Trade Commission to provide that the chair and vice-chair shall serve for two-year terms and may not be members of the same political party. Act of Aug. 17, 1977, Pub. L. No. 95-106, § 2, 91 Stat. 867, 867-68. The House initially proposed to add statutory language specifying that "any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office." H.R. Rep. No. 95-217, at 7, 17 (1977). But after a meeting of respective House and Senate bill managers, the conference committee published a joint statement explaining that this proposed removal language was unnecessary:

> *House bill.*—The House bill provides that the President may remove a Commissioner from office for inefficiency, neglect of duty, or malfeasance.

> *Senate amendment*.—The Senate amendment deletes the House provision.
>
> *Conference agreement*.—The conference agreement omits this provision of the House bill as unnecessary because the Commission is an independent agency with quasi-legislative and quasi-judicial responsibilities and removal of the Commissioners is subject to the standards set down by the Supreme Court (e.g., *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), *Wiener v. United States*, 357 U.S. 349 (1958)).

H.R. Rep. No. 95-518, at 6 (1977) (Conf. Rep.).

Thus, as the joint conference statement explains, when Congress created an independent commission of the type described in *Humphrey's Executor* or *Wiener*, it intended to prevent the President from removing the agency heads except for cause. After decades of practice, this proposition was so clear and well-established that it was unnecessary to state it.

B. Quorum requirements also demonstrate that Congress relied on for-cause removal protections in creating independent commissions.

Statutes, regulations, and the common law impose quorum requirements on independent commissions. At-will removal authority undercuts quorum requirements, enabling the President to undo or restructure independent commissions.

Quorum rules determine what portion of the institution's membership must be present in order to make decisions. The Latin word *quorum* means "of whom,"

and traces its usage to the commissions granted to justices of the peace by the King of England.[5] Quorum requirements reflect the ancient principle that a body should not be ruled by its minority.[6] Democratic theorists often view decisions arrived at through majority decision-making as more "correct" and more representative of the governed.[7]

Multimember institutions—including legislatures, this Court, and commissions—require quorums.[8] At common law, a simple majority of members constitutes a quorum, and a majority of members present at the meeting could vote to exercise the institution's authority.[9] Quorums help prevent a minority of members from making decisions that a majority would reject, minimizing decisional "errors" that may occur when members are absent.

At the same time, quorum requirements may prevent institutions from exercising their powers during periods of vacancies. For instance, if Congress speci-

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[5] 1 William Blackstone, *Commentaries* *351-52.

[6] *See* John Gilbert Heinberg, *History of the Majority Principle*, 20 Am. Pol. Sci. Rev. 52, 55 (1926) ("The members of the Peloponnesian League had an agreement to decide according to the majority principle.").

[7] *See* Mathias Risse, *Arguing for Majority Rule*, 12 J. Pol. Phil. 41, 44-45 (2004).

[8] *See, e.g.*, U.S. Const. art. I, § 5, cl. 1 (specifying that "a Majority of each [House] shall constitute a Quorum to do Business" in Congress); Sup. Ct. R. 4 ("Six Members of the [U.S. Supreme] Court constitute a quorum.").

[9] *See Flotill Prods.*, 389 U.S. at 183-84; *United States v. Ballin*, 144 U.S. 1, 6 (1892).

fied that a quorum consists of a fixed number of members, a commission has no quorum and cannot transact certain business if vacancies reduce the number of commissioners below the quorum threshold.[10] Even in the absence of fixed statutory quorums, commissions may require a quorum by internal rule or application of common law.

Removal protections work in concert with quorum requirements to effectuate Congress's intent that independent commissions represent multiple viewpoints and maintain partisan balance. In his second term, President Trump has removed Democratic commissioners, while Republican commissioners remain in place.[11] What had been a bipartisan FTC is now

[10] Congress specified a fixed-number quorum for some agencies such as the Commission on Civil Rights (42 U.S.C. § 1975(f)), the Election Assistance Commission (52 U.S.C. § 20928), the Equal Employment Opportunity Commission (42 U.S.C. § 2000e-4(c)), the Federal Communications Commission (47 U.S.C. § 154(h)), the Federal Energy Regulatory Commission (42 U.S.C. § 7171(e)), the Nuclear Regulatory Commission (42 U.S.C. § 5841(a)(1)), and the Social Security Advisory Board (42 U.S.C. § 903(g)(2)), among others.

[11] *See infra* pp. 15-17 and notes 26-32. In this case, for example, President Trump removed two Democratic FTC commissioners. The remaining three are Republicans.

using its one-party status to issue statements attacking Democrats and the Biden Administration, without response or dissent.[12]

If sanctioned by this Court, Democratic presidents may pursue a similar strategy, as evidenced by President Biden's removal of officials from the Administrative Conference of the United States.[13] To the extent that voices representing one party are missing from a commission's decision-making processes or public statements, Congress's intent to maintain partisan balance is thwarted.

In addition, removal protections for independent commissions with quorum requirements are essential for the agency to operate. Unlike with single-headed agencies, removal protections safeguard the quorum required to ensure the law is enforced. A single removal may leave a commission able to function so long as the body retains a quorum, but it (or subsequent removals) may also leave the agency without the ability to write rules, adjudicate cases, initiate enforce-

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[12] *See, e.g.*, Statement of Chairman Andrew N. Ferguson Joined by Commissioner Melissa Holyoak, *Ryan, LLC v. FTC* (Sept. 5, 2025), www.ftc.gov/system/files/ftc_gov/pdf/ferguson-holyoak-statement-re-noncompete-acceding-vacatur.pdf; Statement of Chairman Andrew N. Ferguson Joined by Commissioner Melissa Holyoak In the Matter of Non-Alcoholic Beverages Price Discrimination Investigation, Matter Number 2210158 (May 22, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/Pepsi-Dismissal-Ferguson-Statement-05-22-2025.pdf.

[13] *See* Matthew Choi, *Trump Appointee Sues Biden over Alleged Ouster from Advisory Board*, Politico (Feb. 3, 2021, at 21:34 ET), https://www.politico.com/news/2021/02/03/trump-appointee-biden-advisory-board-465732.

ment actions, or undertake the other activities Congress expects of the commission.[14] By enacting removal protections, Congress ensured independent commissions with quorum requirements can function.

Thus, when Congress made independent commissions subject to quorum requirements, it balanced the benefits of multimember decision-making against the risk that vacancies would render the commission unable to function as Congress intended. In making that determination, Congress relied on an interpretation of the Constitution that allowed it to enact removal protections.

C. The history of the Vacancies Act is additional evidence that Congress distinguished between executive departments and commissions.

Since President Washington's first term, the President has had limited authority to appoint acting officials to fill vacancies. *NLRB v. SW General, Inc.*, 580 U.S. 288, 294 (2017). The earliest statutes authorized acting officials to serve in the Departments of State, Treasury, and War. *Ibid.* Congress thereafter passed the Vacancies Act, which applied to "any executive department." Act of July 23, 1868, ch. 227, 15 Stat. 168.

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[14] Although many commissions' staff have been delegated authority to undertake certain activities, it is unlikely that staff can make use of all authorities granted to their commissions by statute as some delegations retain certain authorities for use by presidentially appointed policymakers. *See, e.g.*, Fed. Deposit Ins. Corp., Delegations of Authority—Filings (Mar. 20, 2024), https://www.fdic.gov/regulations/laws/matrix/delegations-filings.pdf (identifying certain actions as "Reserved to Board").

The Vacancies Act has never authorized the President to appoint acting officials to fill temporary vacancies in independent commissions. After *Humphrey's Executor*, Congress continued to create multimember commissions but did not amend the Vacancies Act to apply to them. Rather, Congress explicitly constrained the Act's application. In 1966, it defined "executive department" to mean ten listed departments and separately defined an "independent establishment" to mean an establishment in the executive branch that is *not* an executive department, military department, or government corporation. Act of Sept. 6, 1966, Pub. L. No. 89-554, 80 Stat. 378, 378-79; *see Williams v. Phillips*, 360 F. Supp. 1363, 1370 (D.D.C. 1973) (Vacancies Act did not apply to agency that was not one of the listed executive departments).

In the 1980s, a dispute arose between the Department of Justice and the Comptroller General. The DOJ argued the head of an executive department had independent authority to fill vacancies; the Comptroller General rejected that position. *See* Hon. William Proxmire U.S. Sen., B-220522, 65 Comp. Gen. 626, 631-33 (1986). Congress sought to resolve this dispute in favor of the Comptroller General. *See* S. Rep. No. 100-317, at 14 (1988). It replaced the phrase "Executive department" in the Vacancies Act with "Executive agency (other than the General Accounting Office)." Presidential Transitions Effectiveness Act, Pub. L. No. 100-398, § 7(a), 102 Stat. 985, 988 (1988). This amendment failed to resolve the dispute. In 1989, the DOJ's Office of Legal Counsel indicated that

the 1988 amendment did not alter its views concerning the appointment of officers.[15]

Later, Congress enacted the Federal Vacancies Reform Act of 1998 (FVRA), Pub. L. No. 105-277, div. C, tit. I, § 151, 112 Stat. 2681-611. The FVRA preserved the substitution of "executive department" with "executive agency" (5 U.S.C. § 3345(a)), but clarified that its provisions did not apply to multimember commissions or boards (*id.* § 3349c(1)). The Senate Committee on Governmental Affairs report accompanying the FVRA explained that "[t]he Committee believes that this has always been the case with the respect to the Vacancies Act," but included the provision "to avoid any confusion." S. Rep. No. 105-250, at 22 (1998). Thus, the FVRA applies to single-member independent agencies such as the Consumer Financial Protection Bureau,[16] but not multimember commissions.

As the history of the Vacancies Act in all its iterations makes clear, Congress has long treated commissioners of multimember commissions differently from other Senate-confirmed positions, in that the President cannot designate an acting official to serve in their place. Only one independent commission, the Export-Import Bank of the United States, may act under the governance of a temporary board. 12 U.S.C.

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[15] *See* Application of Vacancy Act Limitations to Presidential Designation of an Acting Special Couns., 13 Op. O.L.C. 144, 146 (1989); *see also* Morton Rosenberg, Cong. Rsch. Serv., 98-892, *The New Vacancies Act: Congress Acts to Protect the Senate's Confirmation Prerogative* 3-4 (1998).

[16] *See English v. Trump*, 279 F. Supp. 3d 307, 317-19 (D.D.C. 2018).

§ 635a(c)(6)(B). This is the exception that proves the rule: Congress knew how to authorize acting officials for independent commissions but, for every other one, it chose not to do so.

II. The President's position, if accepted, would enable the President to disable or restructure commissions at will.

There is no legal mechanism to compel the President to make appointments, so any vacancy lasts as long as the President chooses, or until another president takes office. Vacancies can prevent or hobble the intended operation of independent commissions by eliminating bipartisan commission leadership and required quorums.

This is not a hypothetical concern. In some cases, presidents have strategic incentives to leave positions vacant.[17] A president who opposes a commission's mission may decide not to nominate any commissioners, depriving the commission of the quorum needed to operate. During his first term, President Trump refused to appoint commissioners to the U.S. Chemical Safety and Hazard Investigation Board and restore its quorum because he had vowed to eliminate the

[17] *See* Christina M. Kinane, *Control Without Confirmation: The Politics of Vacancies in Presidential Appointments*, 115 Am. Pol. Sci. Rev. 599, 612 (2021).

Board.[18] On average, presidents take longer to nominate individuals to commissions compared to single-headed agencies.[19]

Even when the President has chosen a nominee, confirmation delays can prevent the restoration of a quorum. Confirmation delays have increased exponentially over the last century,[20] and nominations to commissions have much higher failure rates compared to other agencies.[21]

Theoretically, the President could use his constitutional recess-appointments authority (U.S. Const. art. II, § 2) to fill commissions temporarily.[22] But legal

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[18] Alexia Fernández Campbell, *A Small Federal Agency Focused on Preventing Industrial Disasters Is on Life Support. Trump Wants It Gone.*, Ctr. Pub. Integrity (July 28, 2020), https://publicintegrity.org/politics/system-failure/agency-industrial-chemical-safety-board-disasters-life-support-trump-deregulation.

[19] *See* Nicholas R. Bednar & David E. Lewis, *Presidential Investment in the Administrative State*, 118 Am. Pol. Sci. Rev. 442, 449 (2024) (presenting statistical results showing that commissions are far less likely to receive nominations compared to other agencies).

[20] *See* Neal Devins & David E. Lewis, *Not-So Independent Agencies: Party Polarization and the Limits of Institutional Design*, 88 Boston Univ. L. Rev. 459, 474 (2008).

[21] *See* Anne Joseph O'Connell, *Shortening Agency and Judicial Vacancies Through Filibuster Reform? An Examination of Confirmation Rates and Delays from 1981 to 2015*, 64 Duke L.J. 1645, 1652 (2015).

[22] *See* Michael B. Rappaport, *The Original Meaning of the Recess Appointments Clause*, 52 UCLA L. Rev. 1487, 1490 (2005) (explaining current understandings of the President's ability to use recess appointments).

and political limitations reduce the likelihood a president may use recess appointments to restore a quorum. First, commissioners serving recess appointments cannot serve after the expiration of the subsequent session of Congress.[23] In one instance, the National Labor Relations Board lost its quorum for over two years after two recess appointments expired.[24] Second, the modern Senate can block all recess appointments by not adjourning for a recess of ten days or longer.[25]

Thus, if presidents have unlimited removal power, they are likely to use it. And the resulting vacancies may not be filled promptly or at all, with serious consequences for affected commissions. The current administration's actions show that when presidents claim or have at-will removal authority, they can quickly disable or restructure independent commissions as they see fit.

Since President Trump took office in January 2025, he has partially or entirely disabled seven multimember commissions by removing their members without cause and leaving them without a statutorily

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[23] U.S. Const. art. II, § 2, cl. 3.

[24] *See New Process Steel, L.P. v. NLRB*, 560 U.S. 674, 676-78 (2010) (describing the events).

[25] *See NLRB v. Noel Canning*, 573 U.S. 513, 538 (2014).

required quorum for lengthy periods or indefinitely. The seven commissions are:

(1) National Labor Relations Board[26]

(2) Merit Systems Protection Board[27]

(3) Equal Employment Opportunity Commission[28]

(4) U.S. Institute of Peace[29]

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[26] *See Wilcox v. Trump*, 775 F. Supp. 3d 215, 222 (D.D.C. 2025). The NLRB has for-cause removal and quorum requirements. 29 U.S.C. § 153(a), (b).

[27] *See Harris v. Bessent*, 2025 WL 980278 (D.C. Cir. Mar. 28, 2025), *vacated*, 2025 WL 1021435 (D.C. Cir. Apr. 7, 2025). The MSPB has for-cause removal and quorum requirements. 5 U.S.C. § 1202(d); 5 C.F.R. § 1200.3; MSPB, *Frequently Asked Questions about the Lack of a Quorum Period and Restoration of the Full Board* (Apr. 9, 2025), www.mspb.gov/FAQs_Absence_of_Board_Quorum_4-9-25.pdf.

[28] *See* Alexandra Olson & Claire Savage, *Trump Fires Two Democratic Commissioners of Agency That Enforces Civil Rights Laws in the Workplace*, AP News (Jan. 29, 2025, at 12:22 ET), https://apnews.com/article/trump-eeoc-commissioners-firings-crackdown-civil-rights-c48b973cb32bad97e9da9e354ba627db. Commissioner Samuels sued; the district court has stayed that litigation pending the outcome of this case. *See Samuels v. Trump*, No. 25-cv-01069 (D.D.C. Oct. 24, 2025) (minute order). The EEOC has a three-member quorum requirement. 42 U.S.C. § 2000e-4(c).

[29] *See U.S. Inst. of Peace v. Jackson*, 783 F. Supp. 3d 316, 330-31 (D.D.C. 2025), *stay granted*, 2025 WL 1840572 (D.C. Cir. June 27, 2025). The Institute of Peace has a for-cause removal provision. 22 U.S.C. § 4605(f).

(5) Tennessee Valley Authority[30]

(6) U.S. African Development Foundation[31]

(7) Inter-American Foundation[32]

The most prominent example is the President's removal without cause of Gwynne Wilcox of the National Labor Relations Board. *See Trump v. Wilcox*, 145 S. Ct. 1415 (2025). Wilcox's removal deprived the NLRB of the quorum required to operate. *Wilcox*, 775 F. Supp. 3d at 222 (citing 29 U.S.C. § 153(b)).

Especially given that federal law occupies the field of "industrial relations" (*Wis. Dep't of Indus., Lab. & Hum. Rels. v. Gould Inc.*, 475 U.S. 282, 286 (1986)), disabling the NLRB lets federal law fall into desuetude. Disabling a large swath of federal law carried out by a federal agency is fundamentally inconsistent with the President's duty to take care that the law be faithfully executed. As this Court has stated, "[t]o contend that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the constitution, and entirely inadmissible." *Kendall v. United States ex rel. Stokes*, 37 U.S. (12 Pet.) 524, 613 (1838).

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[30] *See* Katie Myers, *TVA Board Lacks Quorum After Trump Fires 2 Board Members in a Week*, Blue Ridge Pub. Radio (Apr. 3, 2025, at 16:27 ET), https://www.bpr.org/bpr-news/2025-04-03/tva-board-lacks-quorum-after-trump-fires-2-board-members-in-a-week. The TVA requires five members to constitute a quorum for the transaction of business. 16 U.S.C. § 831a(e)(1).

[31] *See Brehm v. Marocco*, 786 F. Supp. 3d 179, 181-82 (D.D.C. 2025).

[32] *See Aviel v. Gor*, 780 F. Supp. 3d 1, 6 (D.D.C. 2025).

The President might argue that any statute governing a multimember commission's size, quorum, or partisan balance is unconstitutional on the ground that all agencies necessarily exercise "executive power," which is vested in him alone. Or he may argue that Congress must have understood, when it enacted independent-commission requirements, that it was effectively delegating the power to the President to decide whether the agency would be operational or not. If the Court sustains either one of these claims, it will facilitate a historic one-way transfer of power from Congress to the President, putting shared control of agencies within the realm of constitutional law and beyond the reach of the People's democratically enacted laws.

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LIST OF INDEPENDENT COMMISSIONS WITH REMOVAL PROTECTIONS

The following independent commissions (as defined *supra* p. 2 and note 3) have express statutory removal protections for members.

1. Chemical Safety and Hazard Investigation Board.[33]
2. Commission on Civil Rights.[34]
3. Commodity Futures Trading Commission.[35]
4. Consumer Product Safety Commission.[36]
5. Federal Energy Regulatory Commission.[37]
6. Federal Labor Relations Authority.[38]
7. Federal Maritime Commission.[39]
8. Federal Mine Safety and Health Review Commission.[40]
9. Federal Reserve Board of Governors.[41]
10. Federal Trade Commission.[42]

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[33] 42 U.S.C. § 7412(r)(6)(B).

[34] 42 U.S.C. § 1975(e).

[35] 7 U.S.C. § 2(a)(2)(A).

[36] 15 U.S.C. § 2053(a).

[37] 42 U.S.C. § 7171(b)(1).

[38] 5 U.S.C. § 7104(b).

[39] 46 U.S.C. § 46101(b)(5).

[40] 30 U.S.C. § 823(b)(1).

[41] 12 U.S.C. § 242.

[42] 15 U.S.C. § 41.

11. Foreign Claims Settlement Commission.[43]
12. Legal Services Corporation.[44]
13. Merit Systems Protection Board.[45]
14. Metropolitan Washington Airports Authority.[46]
15. National Association of Registered Agents and Brokers.[47]
16. National Consumer Cooperative Bank.[48]
17. National Indian Gaming Commission.[49]
18. National Labor Relations Board.[50]
19. National Mediation Board.[51]
20. National Transportation Safety Board.[52]
21. Nuclear Regulatory Commission.[53]
22. Occupational Safety and Health Review Commission.[54]
23. Postal Regulatory Commission.[55]

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[43] 22 U.S.C. § 1622(c).

[44] 42 U.S.C. § 2996c(e).

[45] 5 U.S.C. § 1202(d).

[46] 49 U.S.C. § 49106(c)(6)(C).

[47] 15 U.S.C. § 6759(a).

[48] 12 U.S.C. § 3013(a).

[49] 25 U.S.C. § 2704(b)(6).

[50] 29 U.S.C. § 153(a).

[51] 45 U.S.C. § 154.

[52] 49 U.S.C. § 1111(c).

[53] 42 U.S.C. § 5841(e).

[54] 29 U.S.C. § 661(b).

[55] 39 U.S.C. § 502(a).

24. Puerto Rico Financial Oversight and Management Board.[56]
25. State Justice Institute.[57]
26. U.S. Institute of Peace.[58]
27. U.S. Postal Service Board of Governors.[59]

In addition to the independent commissions above, other independent commissions likely provide implicit protection against removal without cause based on their structure and authority.

28. Federal Election Commission.[60]
29. International Trade Commission.[61]
30. National Credit Union Administration.[62]
31. Securities and Exchange Commission.[63]

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[56] 48 U.S.C. § 2121(e)(5)(B).

[57] 42 U.S.C. § 10703(h).

[58] 22 U.S.C. § 4605(f).

[59] 39 U.S.C. § 202(a)(1).

[60] *See FEC v. NRA Pol. Victory Fund*, 6 F.3d 821, 826 (D.C. Cir. 1993).

[61] *See supra* pp. 5-6.

[62] *See Harper v. Bessent*, --- F. Supp. 3d ----, 2025 WL 2049207, at *1 (D.D.C. July 22, 2025), *petition for cert. before judgment pending*, No. 25-367 (filed Sept. 25, 2025).

[63] *Free Enter. Fund*, 561 U.S. at 487; *SEC v. Blinder, Robinson & Co.*, 855 F.2d 677, 681 (10th Cir. 1988).

CONCLUSION

The judgment should be affirmed.

Respectfully submitted,

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