

In the Supreme Court of the United States

DONALD J. TRUMP,
President of the United States, et al.,
Applicants,

v.

LISA D. COOK,
Respondent.

**AMENDED BRIEF OF *AMICI CURIAE* FLORIDA,
21 OTHER STATES, AND THE ARIZONA
LEGISLATURE IN SUPPORT OF APPLICANTS**

JAMES UTHMEIER
Attorney General

JEFFREY PAUL DESOUSA
Acting Solicitor General
Counsel of Record

NATHAN A. FORRESTER
Chief Deputy Solicitor General

CALEB STEPHENS
Assistant Solicitor General

OFFICE OF THE ATTORNEY GENERAL
State of Florida

PL-01, The Capitol

Tallahassee, FL 32399-1050

(850) 414-3300

jeffrey.desousa@myfloridalegal.com

October 29, 2025

Counsel for Amicus State of Florida

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTEREST OF AMICI CURIAE.....	1
SUMMARY OF ARGUMENT	1
ARGUMENT	2
I. The President’s decision to remove Cook “for cause” is entitled to deference	2
A. Restrictions on the President’s authority to remove an executive officer, particularly a principal officer, should be construed narrowly to avoid constitutional concerns	3
B. Prior to the Federal Reserve Act, many courts, including this Court, viewed “cause” as a question left to the discretion of the executive	5
II. Even if the President’s decision to remove Cook were reviewable, Cook is not entitled to reinstatement.....	11
A. Cook did not invoke the exclusive avenue for challenging a federal officer’s removal: a writ of quo warranto	11
B. Even if Cook could seek relief outside of the quo-warranto process, the federal courts cannot grant her requested relief	15
CONCLUSION	20

TABLE OF AUTHORITIES

Cases

<i>Andrade v. Lauer</i> , 729 F.2d 1475 (D.C. Cir. 1984)	2, 13, 19
<i>Armstrong v. Exceptional Child Ctr.</i> , 575 U.S. 320 (2015)	11
<i>Attorney General v. Earl of Clarendon</i> , 17 Ves. Jr. 491, 34 Eng. Rep. 190 (Ch. 1810)	16
<i>Baker v. Carr</i> , 369 U.S. 186 (1962)	18
<i>Bd. of Regents of State Colleges v. Roth</i> , 408 U.S. 564 (1972)	10
<i>Bd. of Street Comm’rs of Hagerstown v. Williams</i> , 53 A. 923 (Md. 1903)	9
<i>Beebe v. Robinson</i> , 52 Ala. 66 (1875)	17
<i>Berry v. Reagan</i> , 732 F.2d 949 (D.C. Cir. 1983)	18
<i>Berry v. Reagan</i> , No. 83-3182, 1983 WL 538 (D.D.C. Nov. 14, 1983)	18
<i>Bittner v. United States</i> , 143 S. Ct. 713 (2023)	15
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	18
<i>City of Hoboken v. Gear</i> , 27 N.J.L. 265 (Sup. Ct. 1859)	8, 9
<i>Cochran v. McCleary</i> , 22 Iowa 75 (1867)	17
<i>Cook v. Bessent</i> , No. 1:25-cv-00903 (D.D.C. Aug. 28, 2025)	14

<i>Crenshaw v. United States</i> , 134 U.S. 99 (1890)	10
<i>Delahanty v. Warner</i> , 75 Ill. 185 (1874)	17
<i>Delgado v. Chavez</i> , 140 U.S. 586 (1891)	12
<i>Elgin v. Dep't of Treasury</i> , 567 U.S. 1 (2012)	14
<i>Georgia v. Stanton</i> , 73 U.S. (6 Wall.) 50 (1867)	16
<i>Gregory v. Ashcroft</i> , 501 U.S. 452 (1991)	15
<i>Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.</i> , 527 U.S. 308 (1999)	15, 19
<i>Hagner v. Heyberger</i> , 7 Watts & Serg. 104 (Penn. 1844)	16, 17
<i>Humphrey's Ex'r v. United States</i> , 295 U.S. 602 (1935)	4, 11
<i>In re Carter</i> , 74 P. 997 (Cal. 1903)	9, 10
<i>In re Sawyer</i> , 124 U.S. 200 (1888)	16, 17, 18
<i>Lucia v. SEC</i> , 585 U.S. 237 (2018)	18
<i>Middlesex Cnty. Sewerage Auth. v. Nat'l Sea Clammers Ass'n</i> , 453 U.S. 1 (1981)	11, 12
<i>Morrison v. Olson</i> , 487 U.S. 654 (1988)	4
<i>Newman v. United States ex rel. Frizzell</i> , 238 U.S. 537 (1915)	13
<i>Northwest Airlines, Inc. v. Transport Workers Union of America, AFL-CIO</i> , 451 U.S. 77 (1981)	11

<i>Patton v. Vaughan</i> , 39 Ark. 211 (1882)	9
<i>People ex rel. Belch v. Bearfield</i> , 35 Barb. 254 (N.Y. Gen. Term 1861)	8
<i>People ex rel. Platt v. Stout</i> , 19 How. Pr. 171 (N.Y. Gen. Term 1860)	7, 8
<i>Reagan v. United States</i> , 182 U.S. 419 (1901)	2, 6, 9
<i>Seila Law LLC v. Consumer Fin. Prot. Bureau</i> , 591 U.S. 197 (2020)	3, 4
<i>Sheridan v. Colvin</i> , 78 Ill. 237 (1875)	17
<i>State ex rel. Att’y Gen. v. Doherty</i> , 25 La. Ann. 119 (1873)	9
<i>State ex rel. McCaffery v. Aloe</i> , 54 S.W. 494 (Mo. 1899)	17
<i>Steel Co. v. Citizens for a Better Env’t</i> , 523 U.S. 83 (1998)	19
<i>Tappan v. Gray</i> , 9 Paige Ch. 506 (Ch. Ct. N.Y. 1842)	17
<i>Taylor v. Beckham</i> , 178 U.S. 548 (1900)	10
<i>Taylor v. Kercheval</i> , 82 F. 497 (C.C.D. Ind. 1897)	17
<i>Transamerica Mortg. Advisors, Inc. v. Lewis</i> , 444 U.S. 11 (1979)	14
<i>Trump v. Wilcox</i> , 145 S. Ct. 1415, 1415 (2025)	4
<i>U.S. Shipping Bd. Emergency Fleet Corp. v. W. Union Tel. Co.</i> , 275 U.S. 415 (1928)	5
<i>United States ex rel. Garland v. Oliver</i> , 6 Mackey 47 (D.C. 1887)	6, 7

<i>United States v. Perkins</i> , 116 U.S. 483 (1886)	4
<i>Vitarelli v. Seaton</i> , 359 U.S. 535 (1959)	18
<i>Walton v. House of Representatives of</i> , <i>Okla.</i> , 265 U.S. 487 (1924)	15, 18
<i>Whitcomb v. Chavis</i> , 403 U.S. 124 (1971)	15
<i>White v. Berry</i> , 171 U.S. 366 (1898)	18
<i>Wiener v. United States</i> , 357 U.S. 349 (1958)	4
Statutes and Regulations	
12 C.F.R. § 204.1(c)	5
12 U.S.C. § 242	1
12 U.S.C. § 3105(a)(1)	5
15 U.S.C. § 1681m(e)(1)	5
15 U.S.C. § 1693o-2	5
42 U.S.C. § 1983	12
42 U.S.C. § 2000e-5	2
D.C. Code § 16-3501	2, 12, 13
D.C. Code § 16-3545	14
D.C. Code § 16-3546	14
D.C. Code § 16-3547	14
D.C. Code § 16-3547	14
D.C. Code § 16-3548	14
Pub. L. 88-241 (1963)	12

Pub. L. No. 63-203.....	10
Pub. L. No. 63-43.....	5
Pub. L. No. 74-305.....	10
Other Authorities	
Claire Greene and Oz Shy, <i>Payment Card Adoption and Payment Choice</i> 5, Federal Reserve Bank of Atlanta’s Policy Hub No. 10-2022 (July 2022).....	5
Eugene McQuillin, <i>A Treatise on the Law of Municipal Corporations</i> (1911)	18
Federal Reserve System Publication, <i>The Fed Explained: What the Central Bank Does</i> 113–20 (11th ed. 2021).....	5
Floyd R. Mechem, <i>A Treatise on the Law of Public Offices and Officers</i> § 454, at 287 (1890)	9
Howard Clifford Joyce, <i>A Treatise on the Law Relating to Injunctions</i> (1909)	18
James L. High, <i>Extraordinary Legal Remedies</i> (1896).....	12
James L. High, <i>Treatise on the Law of Injunctions</i> (2d ed. 1880)	18
John Norton Pomeroy, <i>A Treatise on Equity Jurisprudence</i> § 1760 (4th ed. 1918).....	18
Joseph Story, <i>Commentaries on Equity Pleadings and the Incidents Thereof</i> (2d ed. 1840).....	16
Montgomery H. Throop, <i>A Treatise on the Law Relating to Public Officers and Sureties in Official Bonds</i> § 396 (1892)	9
Nikolas Bowie, <i>Why the Constitution Was Written Down</i> , 71 Stan. L. Rev. 1397 (2018).....	16
Seth Davis, <i>Empire in Equity</i> , 97 Notre Dame L. Rev. 1985 (2022)	16
U.S. Const. art. II, § 1	3
U.S. Const. art. II, § 3	3
W.S. Holdsworth, <i>English Corporation Law in the 16th and 17th Centuries</i> , 31 Yale L.J. 382 (1922)	16

INTEREST OF AMICI CURIAE

Pursuant to Supreme Court Rule 37, the Attorney General of Florida—on behalf of the State of Florida, 21 other States (listed below at page 21), and the Arizona Legislature—respectfully submits this brief as *amici curiae* in support of the stay applicants. *Amici* have an interest in ensuring that federal officials exercising significant executive authority are removable by the President, and thus democratically accountable to the people. Anything less is inconsistent with the Framers’ design and risks intrusion on state sovereignty.

SUMMARY OF ARGUMENT

This Court should grant the President’s application for a stay of the preliminary injunction directing the reinstatement of respondent Lisa Cook to her position as a Governor of the Federal Reserve Board. The President is likely to succeed in establishing that the award of a preliminary injunction was in error for two reasons.

First, in challenging her removal, Cook is invoking a provision of the Federal Reserve Act that authorizes the President to remove her “for cause,” without further limitation. 12 U.S.C. § 242. Any such restriction on the President’s authority to remove should be construed as narrowly as possible to avoid the constitutional doubts raised by interference with the President’s presumptive power to remove executive officers under Article II, particularly principal officers. On top of that, the history of how courts, including this Court, have understood “for cause” removal restrictions counsels strongly against the judiciary’s second-guessing the decision of the President to remove Cook. Prior to the Federal Reserve Act, “for cause” removal restrictions that included no further specification of particular causes were generally

understood to leave the determination of what constituted “cause” to the discretion of the executive. *See, e.g., Reagan v. United States*, 182 U.S. 419, 425 (1901). Although some state courts did rule that an officer removed under such a provision was entitled to pre-deprivation notice and a hearing, those courts apparently understood the office in question to be the property right of the officeholder. That premise should not apply to a principal officer such as Cook.

Second, even if Cook’s removal were subject to some form of judicial review, Cook would not be entitled to a preliminary injunction. Federal courts cannot use their equitable powers to remedy unlawful removals absent an act of Congress. *See, e.g.,* 42 U.S.C. § 2000e-5(g) (authorizing courts to “reinstate[]” employees who suffer discrimination). No statute authorizes injunctive relief here. To the contrary, Congress has channeled right-to-office claims into the quo warranto process, D.C. Code § 16-3501 *et seq.*, which affords “the exclusive remedy” for “direct[ly] attack[ing]” one’s removal, *Andrade v. Lauer*, 729 F.2d 1475, 1497 (D.C. Cir. 1984). Cook ignored this remedy. She is therefore not entitled to injunctive relief. This Court should grant the President’s stay application.

ARGUMENT

I. The President’s decision to remove Cook “for cause” is entitled to deference.

For two reasons, the President’s decision to remove Cook is entitled to substantial deference. First, background principles of constitutional law reflect that,

ordinarily, the President would have plenary authority to remove an executive officer. Second, history shows that the term “for cause” in the Federal Reserve Act would have been understood to accord substantial discretion to the President.

A. Restrictions on the President’s authority to remove an executive officer, particularly a principal officer, should be construed narrowly to avoid constitutional concerns.

“‘[T]he ‘executive Power’—all of it—is ‘vested in a President, who must ‘take Care that the Laws be faithfully executed.’” *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 203 (2020) (quoting U.S. Const. art. II, § 1, cl. 1; *id.* § 3). And “if any power whatsoever is in its nature Executive, it is the power of appointing, overseeing, and controlling those who execute the laws.” 1 Annals of Cong. 463 (1789) (J. Madison). That necessarily includes the authority to remove executive officers. Indeed, “lesser officers must remain accountable to the President,” for it is his “authority they wield.” *Seila Law*, 591 U.S. at 213. Without the power to remove, the President lacks the ability to compel compliance with his directives, *id.* at 213–14, and thus to fulfill his oath to execute the law, U.S. Const. art. II, § 3.

Given the “necessity of an energetic executive,” *The Federalist* No. 70, at 472 (A. Hamilton) (Jacob E. Cooke, ed., 1961), and the legislative branch’s historic tendency to “draw[] all power into its impetuous vortex,” *The Federalist* No. 48, at 333 (J. Madison) (Jacob E. Cooke, ed., 1961), it is critical that the President’s authority to direct and supervise the executive branch in the performance of its functions be protected from legislative encroachment. As a result, this Court has recognized only

two exceptions to the President’s otherwise “exclusive and illimitable power of removal.” *Humphrey’s Ex’r v. United States*, 295 U.S. 602, 627 (1935); *see also Seila Law*, 591 U.S. at 215 (referring to the President’s “unrestricted removal power”).

The first exception—for certain inferior officers, *see United States v. Perkins*, 116 U.S. 483 (1886); *Morrison v. Olson*, 487 U.S. 654 (1988)—would not cover the Governors on the Federal Reserve Board, because they are principal officers. The second exception, recognized in *Humphrey’s Executor* and later in *Wiener v. United States*, 357 U.S. 349 (1958), is for “a multimember body of experts, balanced along partisan lines, that perform[s] legislative and judicial functions and [i]s said not to exercise any executive power.” *Seila Law*, 591 U.S. at 216. That exception does not apply to the Federal Reserve Board either, because it is neither balanced along partisan lines, nor “charged with the enforcement of no policy except the policy of law.” *Humphrey’s Ex’r*, 295 U.S. at 624.

Citing this Court’s recent opinion in *Trump v. Wilcox*, Cook argues that “the Federal Reserve’s ‘unique[] structure[]’ and ‘quasi-private’ status distinguish it from other agencies when assessing ‘the constitutionality of for-cause removal protections.’” Stay Opp. 28 (quoting 145 S. Ct. 1415, 1415 (2025)). While the Federal Reserve Board may fairly be described as “unique,” it is still an executive agency. Its Governors are appointed by the President with the advice and consent of the Senate and are endowed with significant regulatory and administrative authority.¹ The

¹ The Federal Reserve Board and the Federal Open Market Committee differ in these respects from the Federal Reserve Banks, which have been characterized

Board establishes reserve requirements for all banks in the United States, 12 U.S.C. § 3105(a)(1); 12 C.F.R. § 204.1(c), and monitors financial institutions to ensure their regulatory compliance—issuing orders, assessing civil monetary penalties, and providing remedies to consumers. Federal Reserve System Publication, *The Fed Explained: What the Central Bank Does* 113–20 (11th ed. 2021). The Board may also prescribe regulations under the Fair Credit Reporting Act to prevent identity theft, 15 U.S.C. § 1681m(e)(1), and may regulate “any person who issues a debit card[] or credit card,” 15 U.S.C. § 1693o-2(a)(1), (c)(9). The latter category, when including the holders of debit or credit cards, directly affects 94 percent of American consumers. See Claire Greene and Oz Shy, *Payment Card Adoption and Payment Choice* 5, Federal Reserve Bank of Atlanta’s Policy Hub No. 10-2022 (July 2022). These functions all fall within the executive domain. Given the Board’s executive nature, any restriction on the President’s authority to remove Board members must be construed narrowly.

B. Prior to the Federal Reserve Act, many courts, including this Court, viewed “cause” as a question left to the discretion of the executive.

When it created the Federal Reserve Board of Governors in 1913 and provided that Governors would be removable “for cause,” Federal Reserve Act, Pub. L. No. 63-43, § 10, 38 Stat. 251, 260, Congress did not choose that language in a vacuum. Many state and federal courts, including this Court, had interpreted such provisions

as “private corporations in which the government has an interest” rather than “departments of the government.” *U.S. Shipping Bd. Emergency Fleet Corp. v. W. Union Tel. Co.*, 275 U.S. 415, 426 (1928). The Reserve Banks bear a closer resemblance to the First and Second Banks of the United States.

already and had concluded that a statute authorizing removal “for cause,” without specifying any particular cause, left the decision to remove to the discretion of the executive.

Chief among these cases was *Reagan v. United States*, 182 U.S. 419 (1901). That decision addressed a statute authorizing U.S. courts in Indian territories to appoint commissioners to exercise the powers of justices of peace, “subject to removal by the judge of the district where said commissioners reside, *for causes prescribed by law*.” *Id.* at 423–24 (emphasis added). No subsequent law had specified what these “causes” might be. A commissioner who had been removed by the judge of his district court sought backpay after his removal, claiming that the judge had unlawfully removed him because the judge had not afforded notice of the charge against him and a hearing. This Court ruled that the commissioner was entitled to notice and a hearing only if “there were any causes of removal prescribed by law.” *Id.* at 425. Because the law did not prescribe particular causes, “the appointing power could remove at pleasure or for such cause as it deemed sufficient.” *Id.* The ex-commissioner was therefore not entitled to backpay.

To similar effect was a decision by the D.C. Supreme Court in 1887. *See United States ex rel. Garland v. Oliver*, 6 Mackey 47, 53 (D.C. 1887). Several years earlier, Congress had enacted a statute providing that

the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint fifteen justices of the peace within and for the District of Columbia. Their term of office shall be four years, *subject to removal for cause*.

Id. (emphasis added). In 1887, President Cleveland informed a justice of the peace that he was “hereby removed from the office,” without specifying a reason. *Id.* at 50. The justice challenged the removal, contending that the D.C. Supreme Court alone had authority to remove him “after due notice and an opportunity to be heard.” *Id.* at 51.

The D.C. Supreme Court rejected that claim, concluding that removal authority belonged to the President. The court further opined that it could not “review [the President’s] action for the purpose of determining the sufficiency of the causes which induce him to remove an officer.” *Id.* at 56. The latter conclusion indicated a common understanding that the executive had discretion to determine the sufficiency of the cause and that courts ought not “presume that the President acted without cause, simply because none [wa]s specified in the order of removal.” *Id.*

Numerous state court cases in the immediate post-Civil War era share this understanding. In *People ex rel. Platt v. Stout*, 19 How. Pr. 171 (N.Y. Gen. Term 1860), a former chamberlain for the City of New York who claimed he had been wrongfully removed sought a writ of quo warranto to oust the current chamberlain from office. The city charter provided that a chamberlain could be removed “for cause” by the mayor, with the consent of the board of aldermen. It did not further elaborate which cause. *Id.* at 172–73 (opinion of Leonard, J.); *id.* at 181 (opinion of Sutherland, J.). A three-member court was unanimous in denying the writ, and two members of the court wrote to explain that in such a case the executive possessed

unreviewable discretion to determine cause. The first justice opined that “the exercise of this authority is of a discretionary or judicial nature, and is not the subject of examination or review by any other tribunal, either in respect to the cause, or its sufficiency, or existence, or in any respect whatever.” *Id.* (Leonard, J.). The second justice similarly reasoned that “we have no control, nor can we adjudicate upon the sufficiency or goodness of the cause, because the statute does not designate any cause, and there is no standard, or rule, or definition, by or according to which one can determine the assigned cause to be good or sufficient.” *Id.* (Sutherland, J.). He concluded that “the cause not being defined or designated, by the statute, the whole subject is left to the discretion of the mayor and the Board of Aldermen.” *Id.*; see also *People ex rel. Belch v. Bearfield*, 35 Barb. 254, 254 (N.Y. Gen. Term 1861) (following *Stout*).

The New Jersey Supreme Court reached a similar conclusion in 1859, concerning a city charter provision stating that the city council “for cause[] may remove any person appointed by them under the provisions of this act.” *City of Hoboken v. Gear*, 27 N.J.L. 265, 285 (Sup. Ct. 1859), *abrogated on other grounds by State v. Int’l Fed’n of Prof’l & Tech. Engineers, Local 195*, 780 A.2d 525 (N.J. 2001). The New Jersey Supreme Court rejected the removed official’s contention that, “by using the terms ‘for cause may remove,’ the legislature intended to erect the council into a kind of judicial tribunal, which could not get jurisdiction of the person without no-

tice.” *Id.* at 286. It also ruled that the legislature’s decision not to specify any particular cause “left the validity of the cause solely to the discretion of the [removing authority], making them responsible only to public opinion.” *Id.* at 288.²

To be sure, some later state court cases went the other way, ruling that statutes authorizing removal “for cause” entitled the removed official to notice and a hearing, even if the statute did not prescribe such a process. *See, e.g., Bd. of Street Comm’rs of Hagerstown v. Williams*, 53 A. 923 (Md. 1903); *In re Carter*, 74 P. 997, 998 (Cal. 1903) (canvassing cases).³ The courts holding that a “for cause” removal provision entitled the officeholder to notice and a hearing appear to have taken the view the officeholder possessed a property right in the office. *See Carter*, 74 P. at 997–98. In *Carter*, the California Supreme Court called this position “erroneous,” concluding that “if [the officer] is removed in strict accordance with the law it is no

² Some state cases from this era went so far as to rule that even when the statute specified particular causes for removal, the question whether such cause existed remained within the discretion of the executive. *See, e.g., State ex rel. Att’y Gen. v. Doherty*, 25 La. Ann. 119, 120 (1873); *Patton v. Vaughan*, 39 Ark. 211, 214–15 (1882). That view does not seem to have prevailed, *see Reagan*, 182 U.S. at 423–25, but the existence of these cases counsels against an expansive interpretation of the bare “for cause” removal protection in the Federal Reserve Act.

³ Prominent treatises took conflicting views of the issue. *Compare* Montgomery H. Throop, *A Treatise on the Law Relating to Public Officers and Sureties in Official Bonds* § 396, at 387 (1892) (“[W]here a statute gives a power of removal ‘for cause,’ without any specification of the causes, this power is of a discretionary and judicial nature; and unless the statute otherwise specially provides, the exercise thereof cannot be reviewed by any other tribunal.”), *with* Floyd R. Mechem, *A Treatise on the Law of Public Offices and Officers* § 454, at 287 (1890) (“[W]here the appointment or election is made for a definite term or during good behavior, and the removal is to be for cause, it is now clearly established by the great weight of authority that the power of removal can not, except by clear statutory authority, be exercised with notice and hearing.”).

objection to the validity of the removal to say that it was done without notice or investigation, if the law does not require it.” *Id.* That accords with the position of this Court at the time. *See Taylor v. Beckham*, 178 U.S. 548, 577 (1900) (“The decisions are numerous to the effect that public offices are mere agencies or trusts, and not property as such.”). The district court below (Stay App. App’x 53a) distinguished *Taylor* as a case about elected officials and suggested that *Taylor* had been eroded by more recent decisions treating certain kinds of government employment as property rights. *See, e.g., Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972). But *Taylor* cited earlier precedents of this Court, *e.g., Crenshaw v. United States*, 134 U.S. 99 (1890), applying this principle to appointed offices, and these decisions would all have been part of the relevant backdrop to enactment of the Federal Reserve Act in 1913. In any event, as Judge Katsas recognized, Cook “is no mere civil-service employee”; she is a principal officer, serving “in a position of public ‘trust.’” Stay App. Appx. 17a–18a. There is no historical warrant for attaching due process rights to high offices of this nature.

The history preceding the enactment of the Federal Reserve Act is particularly significant given that Congress reenacted the Board’s “for cause” removal provision in 1935, Pub. L. No. 74-305, sec. 203(b), § 10, 49 Stat. 704, at a time when it had authorized the removal of other officers at the head of independent agencies for specified causes. Multiple statutes by that time, including the Federal Trade Commission Act at issue in *Humphrey’s Executor*, permitted removal only for “inefficiency, neglect of duty, or malfeasance in office.” *See* Federal Trade Commission Act, Pub. L. No. 63-203, § 1, 38 Stat. 717, 718 (1914) (quoted in *Humphrey’s Executor*,

295 U.S. at 620); Act of Feb. 4, 1887, ch. 104, § 11, 24 Stat. 379, 383 (creating Interstate Commerce Commission). Had it wanted to restrain the President’s authority to remove the Governors of the Federal Reserve Board, Congress could easily have enacted such language. It did not. In light of the substantial contemporaneous case law indicating that such language left the determination of “cause” to the President’s discretion, this Court should at a minimum take a deferential posture in reviewing the President’s choice to remove Cook from her position.

II. Even if the President’s decision to remove Cook were reviewable, Cook is not entitled to reinstatement.

In no event is Cook entitled to reinstatement to office. She failed to pursue any remedies she may have through the quo-warranto process, and the relief she seeks is unavailable in equity.

A. Cook did not invoke the exclusive avenue for challenging a federal officer’s removal: a writ of quo warranto.

Congress may “foreclose” freestanding legal avenues for relief and instead channel legal challenges through a statutory enforcement scheme. *Armstrong v. Exceptional Child Ctr.*, 575 U.S. 320, 328–29 (2015); see *Middlesex Cnty. Sewerage Auth. v. Nat’l Sea Clammers Ass’n*, 453 U.S. 1, 19–20 (1981). To express such an “intent,” *Armstrong*, 575 U.S. at 328, Congress typically codifies a “comprehensive” enforcement and “remedial scheme” for a given context, *Nw. Airlines, Inc. v. Transp. Workers Union of America, AFL-CIO*, 451 U.S. 77, 93–94 (1981). In *Sea Clammers*, for instance, this Court determined that two federal environmental laws were “elaborate enforcement provisions” sufficient to foreclose alternative enforcement through other causes of action. 453 U.S. at 13–15. Those federal laws “conferr[ed]

authority to sue . . . both on government officials and private citizens” for violations of those laws, and “specified procedures” and available remedies. *Id.* at 13–14. Given that “comprehensive enforcement scheme,” the Court concluded that Congress “must be chary” in allowing other means of enforcement—even other express causes of action like 42 U.S.C. § 1983. *Id.* at 14–15, 20.

Congress has similarly erected a broad remedial scheme for federal officers challenging their removals: the D.C. Code’s quo-warranto process. *See* D.C. Code § 16-3501 *et seq.*

Historically, the writ of quo warranto was the exclusive process for clearing one’s title to office. *Delgado v. Chavez*, 140 U.S. 586, 590 (1891) (“[Q]uo warranto is a plain, speedy, and adequate, as well as the recognized, remedy for trying the title to office[.]”). That writ derived from ancient England and was used by “the king, against one who usurped or claimed any office, franchise or liberty of the crown, to inquire” into whether that individual had the right to exercise that office, franchise, or liberty. James L. High, *Extraordinary Legal Remedies* §§ 591–92 (1896) (quo warranto literally means “by what right”). The king’s attorney general “prosecuted” the suit, *id.* § 603, though eventually private individuals were able to use the writ to litigate their own disputes over title to office and “quiet the possession” of that office, *id.* § 602.

Congress built upon that common law in enacting the modern quo-warranto framework. *See* Pub. L. No. 88-241, § 1, 77 Stat. 602 (1963). The result is a reticu-

lated process for a removed federal officer to challenge his or her removal. *See Andrade v. Lauer*, 729 F.2d 1475, 1497–98 (D.C. Cir. 1984). It dictates what situations are covered: where a person “usurps, intrudes into, or unlawfully holds or exercises” a federal office. D.C. Code § 16-3501. It provides how the law is enforced: a “civil action” against the intruder, *id.*, with rules for pleading, *id.* §§ 16-3541, 3544, and “notice” to the alleged intruder, *id.* § 16-3542. And the Code tells litigants where to sue: in “the United States District Court for the District of Columbia.” *Id.* § 16-3501.

What is more, the statute details who may enforce the provisions: usually, the Attorney General or a United States attorney. *Id.* §§ 16-3502, 3503. But “[i]f the Attorney General or United States attorney refuses” to sue, an “interested person may apply to the court” to proceed anyway. *Id.* § 16-3503; *see also Newman v. United States ex rel. Frizzell*, 238 U.S. 537, 544, 550–51 (1915) (explaining that the Code “gives a person who has been unlawfully ousted before his term expired, a right, on proof of interest, to the issuance of the writ”).

Last, as critical here, the Code outlines the available remedies. If quo warranto is issued, the district court must “oust[] and exclude[]” the intruder from office and allow “the relator [to] recover his costs” from the litigation. *Id.* § 16-3545. And the Code authorizes compensatory damages, permitting the “relator” to sue “the party ousted and recover the damages sustained by the relator” after obtaining judgment in the initial quo-warranto case. *Id.* § 16-3548.

“Given the painstaking detail with which the [D.C. Code] sets out the method” for challenging a removal, “Congress intended” the Code to be the “exclusive” process for testing one’s title to office. *Elgin v. Dep’t of Treasury*, 567 U.S. 1, 11–13 (2012). Yet Cook did not so much as mention “quo warranto” in her complaint, let alone invoke the D.C. Code’s quo warranto process or allege facts showing that she has complied with its procedural requirements. *See Cook v. Bessent*, No. 1:25-cv-00903, Compl. (D.D.C. Aug. 28, 2025), ECF No. 1.

One way or another, the Code does not permit the reinstatement Cook seeks. It authorizes just three remedies for federal officers challenging their removals: (1) legal “oust[er]” of the “intrude[r],” (2) physical “exclu[sion]” of the intruder from the office, and (3) “damages” for the removed official. D.C. Code §§ 16-3545, 3548. Nowhere does the code authorize reinstatement, either through an injunction or a writ of mandamus. *See Transamerica Mortg. Advisors, Inc. v. Lewis*, 444 U.S. 11, 19 (1979) (explaining that a statute that “expressly provides a particular remedy or remedies” typically excludes other remedies). That silence is deafening here, seeing that Congress *did* authorize reinstatement in the Code for quo-warranto proceedings involving D.C.-based corporations. *See* D.C. Code § 16-3547 (“[T]he court may render judgment . . . that the relator, if entitled to be declared elected, be admitted to the office.”), 3546 (authorizing the court to “perpetually restrain[] and enjoin[] [defendants] from the commission or continuance of the acts complained of”). “When Congress includes particular language in one section of a statute but omits it from

a neighbor, we normally understand that difference in language to convey a difference in meaning.” *Bittner v. United States*, 143 S. Ct. 713, 720 (2023). Here, the difference is that Congress permitted reinstatement for *corporate* officers but left to the President the power to reinstate *federal* officers. *Cf. Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991) (“[T]he character of those who [may] exercise government authority” “is a decision of the most fundamental sort for a sovereign entity[.]”).

In sum, Cook failed to travel under the D.C. Code—Congress’s chosen mechanism for adjudicating federal-officer removals. Nor would the Code authorize the relief she seeks in any event. For either reason, the Court should stay the district court’s reinstatement order.

B. Even if Cook could seek relief outside of the quo-warranto process, the federal courts cannot grant her requested relief.

Independent of that, Cook’s claims fail because courts sitting in equity have never been empowered to reinstate public officials. “The remedial powers of an equity court . . . are not unlimited.” *Whitcomb v. Chavis*, 403 U.S. 124, 161 (1971). Federal courts may issue only equitable remedies “traditionally accorded by courts of equity.” *Bessent v. Dellinger*, 145 S. Ct. 515, 517 (2025) (Gorsuch, J., joined by Alito, J., dissenting) (quoting *Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 319 (1999)). And history teaches that “[a] court of equity has no jurisdiction over the appointment and removal of public officers.” *Walton v. House of Representatives of Okla.*, 265 U.S. 487, 490 (1924); *Dellinger*, 145 S. Ct. at 517

(Gorsuch, J., dissenting) (finding it “well settled that a court of equity has no jurisdiction over the appointment and removal of public officers” (quoting *In re Sawyer*, 124 U.S. 200, 212 (1888))).

That rule flows from English common law. Recognizing the critical “distinction between judicial and political power,” English courts would not wield equity to vindicate a litigant’s “political right[]” to office. *Georgia v. Stanton*, 73 U.S. (6 Wall.) 50, 71, 76 & n.20 (1867) (collecting cases); see *Sawyer*, 124 U.S. at 212 (collecting cases, including *Attorney General v. Earl of Clarendon*, 17 Ves. Jr. 491, 498, 34 Eng. Rep. 190, 193 (Ch. 1810)). In *Earl of Clarendon*, for instance, the English Court of Chancery declined to remove public-school officers for lack of necessary legal qualifications. 34 Eng. Rep. at 191. According to that court, a court of equity “has no jurisdiction with regard either to the election or the [removal] of” officers. *Id.* at 193. Contemporary English cases agreed. See Joseph Story, *Commentaries on Equity Pleadings and the Incidents Thereof* §§ 467–70 (2d ed. 1840) (explaining that equity courts would not adjudicate rights of a “political nature”); Seth Davis, *Empire in Equity*, 97 Notre Dame L. Rev. 1985, 2011–12 (2022).⁴

⁴ Although *Earl of Clarendon* and some cases cited in *Sawyer* involved corporate officers, those legal entities were treated more like governments and public entities. Colonial governments, for example, were created through corporate charters, with “shareholders” acting like modern-day voters and voting for corporate boards that looked like modern-day state and local governments. Nikolas Bowie, *Why the Constitution Was Written Down*, 71 Stan. L. Rev. 1397, 1416–21 (2018); see also Letter from John Adams to the Inhabitants of the Colony of Massachusetts-Bay, Apr. 1775, <https://founders.archives.gov/documents/Adams/06-02-02-0072-0015>. And as noted in *Hagner v. Heyberger*, limits on equitable jurisdiction that applied to “private corporations” apply “à fortiori” to “public officer[s] of a municipal character.” 7 Watts & Serg. 104, 105 (Penn. 1844); see also W.S. Holdsworth, *English Corporation Law in the 16th and 17th*

American courts imported that principle after the Framing. In the early 19th century, courts nationwide denied equitable relief to removed officials, even when the official's ouster was illegal and unauthorized. *Tappan v. Gray*, 9 Paige Ch. 506, 508–09 (Ch. Ct. N.Y. 1842); *see also Hagner*, 7 Watts & Serg. at 105; *Sawyer*, 124 U.S. at 212 (collecting cases). *Hagner* is emblematic. There, the Supreme Court of Pennsylvania declined to enjoin a defendant from unlawfully acting as a school director because it possessed no more power than “an English court of chancery.” *Hagner*, 7 Watts & Serg. at 106–07. Because chancery courts traditionally “would not sustain the injunction proceeding to try the election or [removal] of corporators of any description,” Pennsylvania's high court held that it could not either. *Id.* Other courts took a similar tack throughout Reconstruction.⁵

This Court confirmed that equitable constraint in *Sawyer*. A locally elected officer there obtained a federal injunction barring local officials from removing him. 124 U.S. at 204–06. After the local officials were held in contempt of that injunction, the Court issued a writ of habeas corpus to vacate their convictions because the injunction was issued without jurisdiction. This Court explained that a federal eq-

Centuries, 31 Yale L.J. 382, 383–84 (1922) (For both public and private corporations, “creation by and subordination to the state are the only terms upon which the existence of large associations of men can be safely allowed to lead an active life.”).

⁵ *See, e.g., Cochran v. McCleary*, 22 Iowa 75, 91 (1867) (“The right to a public office or franchise cannot, as the authorities above cited show, be determined in equity.”); *Delahanty v. Warner*, 75 Ill. 185, 186 (1874) (similar); *Sheridan v. Colvin*, 78 Ill. 237, 247 (1875) (similar); *Beebe v. Robinson*, 52 Ala. 66, 73 (1875) (similar); *Taylor v. Kercheval*, 82 F. 497, 499 (C.C.D. Ind. 1897) (similar); *State ex rel. McCaffery v. Aloe*, 54 S.W. 494, 496 (Mo. 1899) (similar).

uity court “has no jurisdiction . . . over the appointment and removal of public officials.” *Id.* at 210.⁶ A wall of contemporary treatises echoed that understanding.⁷ As one 19th-century commentator put it, “[n]o principle of the law of injunctions” “is more definitely fixed or more clearly established than that courts of equity will not interfere by injunction to determine questions concerning the appointment of public officers or their title to office.” 2 High, *Law of Injunctions* § 1312.

By contrast, there is no established tradition of equity courts’ remedying unlawful removals, at least not without express statutory authorization. *See Dellinger*, 145 S. Ct. at 517 (Gorsuch, J., dissenting) (“‘No English case’ involved ‘a bill for an injunction to restrain the appointment or removal of a municipal officer.’” (quoting *Sawyer*, 124 U.S. at 212)). We know of only two cases⁸ in which a federal court sitting in equity reinstated a removed officer, all of which were decided in the later 20th century, and none of which grappled with limits on federal remedial power.

⁶ *See also White v. Berry*, 171 U.S. 366, 377 (1898); *Walton*, 265 U.S. at 490; *Baker v. Carr*, 369 U.S. 186, 231 (1962).

⁷ *See* 2 James L. High, *Treatise on the Law of Injunctions* § 1312 (2d ed. 1880); 1 Howard Clifford Joyce, *A Treatise on the Law Relating to Injunctions* § 55 (1909); 4 John Norton Pomeroy, *A Treatise on Equity Jurisprudence* § 1760 (4th ed. 1918); 2 Eugene McQuillin, *A Treatise on the Law of Municipal Corporations* § 582 n.98 (1911).

⁸ *Berry v. Reagan*, No. 83-3182, 1983 WL 538 (D.D.C. Nov. 14, 1983), *vacated as moot*, 732 F.2d 949 (D.C. Cir. 1983); *Vitarelli v. Seaton*, 359 U.S. 535 (1959). *Vitarelli*, moreover, addressed the removal of an employee of the Department of the Interior serving “as an Education and Training Specialist in the Education Department of the Trust Territory of the Pacific Islands.” 359 U.S. at 536. It is not clear that this individual was even an officer. *See Lucia v. SEC*, 585 U.S. 237, 245 (2018) (to be an officer, the individual must “exercis[e] significant authority pursuant to the laws of the United States” (quoting *Buckley v. Valeo*, 424 U.S. 1, 126 (1976) (*per curiam*))).

See Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 91 (1998) (“[D]rive-by” rulings have “no precedential effect.”). The lack of historical pedigree for removal-related remedies proves that they were “unknown to traditional equity practice.” *Grupo Mexicano*, 527 U.S. at 327.

The absence of a historical equitable remedy is confirmed by the presence of a historical *legal* remedy: the writ of quo warranto. “[T]he exclusive remedy” for “direct[ly] attack[ing]” one’s removal has traditionally been “a *quo warranto* action.” *Andrade*, 729 F.2d at 1497; *see also Johnson v. Horton*, 63 F.2d 950, 953 (9th Cir. 1933) (“the question of the title to the office cannot be tried by a proceeding in equity, but that the exclusive remedy is by a writ of quo warranto” (quotation omitted)). And because a “court of equity will not entertain a case for relief where the complainant has an adequate legal remedy,” quo warranto undercuts any “novel equitable power to return an agency head to his office.” *Dellinger*, 145 S. Ct. at 517 (Gorsuch, J., dissenting) (quoting *Case v. Beauregard*, 101 U.S. 688, 690 (1880)). Again, Cook failed to pursue a writ of quo warranto. She is therefore not entitled to equitable relief.

CONCLUSION

The Court should grant the Government's application to stay the preliminary injunction of the district court.

Respectfully submitted,

JAMES UTHMEIER
Attorney General

JEFFREY PAUL DESOUSA
Acting Solicitor General
Counsel of Record

NATHAN A. FORRESTER
Chief Deputy Solicitor General

CALEB STEPHENS
Assistant Solicitor General

OFFICE OF THE ATTORNEY GENERAL
State of Florida
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300
jeffrey.desousa@myfloridalegal.com

October 29, 2025

Counsel for Amicus State of Florida

ADDITIONAL SIGNATORIES

STEVE MARSHALL
Attorney General of Alabama

AUSTIN KNUDSEN
Attorney General of Montana

STEPHEN J. COX
Attorney General of Alaska

MICHAEL T. HILGERS
Attorney General of Nebraska

TIM GRIFFIN
Attorney General of Arkansas

DREW H. WRIGLEY
Attorney General of North Dakota

STEVE MONTENEGRO
Speaker of the Arizona
House of Representatives

GENTNER DRUMMOND
Attorney General of Oklahoma

WARREN PETERSON
President of the Arizona Senate

ALAN WILSON
Attorney General of South Carolina

CHRISTOPHER M. CARR
Attorney General of Georgia

MARTY JACKLEY
Attorney General of South Dakota

RAÚL R. LABRADOR
Attorney General of Idaho

JONATHAN SKRMETTI
Attorney General of Tennessee

THEODORE E. ROKITA
Attorney General of Indiana

KEN PAXTON
Attorney General of Texas

BRENNA BIRD
Attorney General of Iowa

JOHN MCCUSKEY
Attorney General of West Virginia

KRIS KOBACH
Attorney General of Kansas

RUSSELL COLEMAN
Attorney General of Kentucky

LIZ MURRILL
Attorney General of Louisiana

LYNN FITCH
Attorney General of Mississippi

CATHERINE HANAWAY
Attorney General of Missouri